



STATE OF MICHIGAN
DEPARTMENT OF TREASURY
LANSING

RICK SNYDER
GOVERNOR

NICK A. KHOURI
STATE TREASURER

REVENUE ADMINISTRATIVE BULLETIN 2017-11

Approved: June 1, 2017

**MICHIGAN BUSINESS TAX
COMMUNITY AND EDUCATION FOUNDATION TAX CREDITS**

(Replaces Revenue Administrative Bulletin 1995-10)

Pursuant to MCL 205.6a, a taxpayer may rely on a Revenue Administrative Bulletin issued by the Department of Treasury after September 30, 2006, and shall not be penalized for that reliance until the bulletin is revoked in writing. However, reliance by the taxpayer is limited to issues addressed in the bulletin for tax periods up to the effective date of an amendment to the law upon which the bulletin is based or for tax periods up to the date of a final order of a court of competent jurisdiction for which all rights of appeal have been exhausted or have expired that overrules or modifies the law upon which this bulletin is based.

RAB 2017-11. This Revenue Administrative Bulletin (RAB) replaces RAB 1995-10 and updates the requirements for claiming community foundation and/or education foundation tax credits under the Michigan Business Tax (MBT)¹.

Summary of Tax Credit. The community foundation and education foundation tax credits originated under the Single Business Tax (SBT) Act and the Income Tax Act. When the SBT was repealed, the credits were retained under the Michigan Business Tax Act. As a result of 2011 PA 38, the community and education foundation tax credits can no longer be claimed under the Income Tax Act after tax year 2011 and are not available under Corporate Income Tax (Part 2 of the Income Tax Act). While community and education foundation tax credits may be claimed under the MBT, the taxpayer must have made a timely MBT election under MCL 208.1500. The taxpayer is allowed to claim up to 50% of the amount contributed to the endowment fund of a certified community foundation or a certified education foundation, not to exceed 5% of the taxpayer's overall tax liability for the tax year before claiming any credits allowed by the MBT or \$5,000.00, whichever is less.² The credit is not refundable.

Written Acknowledgement Required. A certified community foundation and an education foundation must provide a contributor with a written acknowledgement containing the contribution amount, date, and its eligibility for the MBT tax credit. Taxpayers claiming credit must provide this written acknowledgement to the Michigan Department of Treasury (Department) upon request. If the certified community foundation or education foundation mistakenly acknowledges a nonpermanent fund gift as an endowment fund gift, the taxpayer's claim for credit will be disallowed, and the foundation could lose its certified status.

Community Foundation Certification. A community foundation seeking certification by the Department must meet all of the following statutory requirements:

¹ MCL 208.1425.

² MCL 208.1425(2).

1. Qualify for exemption from federal income taxation under IRC 501(c)(3).
2. Support a broad range of charitable activities within a specific geographic area of this state , such as a municipality or county.

NOTE: Foundations whose charitable activities have a few targeted and specified activities, rather than serving a general charitable purpose of the specific geographic area, do not qualify.

3. Maintain an ongoing program to attract new endowment funds by seeking gifts and bequests from a wide range of potential donors in the community or area served.
4. Is “publicly supported” as defined by Treas. Reg. 1.170A-9(f)(10).³ To maintain certification, the community foundation must submit documentation to the Department annually that demonstrates compliance with this subparagraph.
5. Is not a “supporting organization” as defined under IRC 509(a)(3) and Treas. Reg. 1.509(a)-4 and 1.509(a)-5.
6. Meets the requirements for treatment as a single entity contained in Treas. Reg. 1.170A-9(f)(11).⁴
7. Is incorporated or established as a trust at least 6 months before the beginning of the tax year for which the credit is claimed and has an endowment value of at least \$100,000.00 before the expiration of 18 months after the community foundation is incorporated or established.
8. Has an independent governing body representing the general public’s interest and not appointed by a single outside entity.
9. Provides evidence to the Department that before the expiration of 6 months after incorporation or establishment, the community foundation has at least one part-time or full-time employee.
10. Community foundations with an endowment value greater than or equal to \$1,000,000.00 must undergo an annual independent financial audit and provide copies of that audit to the Department within 3 months of completion. Community foundations with an endowment value of less than \$1,000,000.00 are subject to an annual review and an audit every third year.

³ MCL 208.1425(6)(a)(iv) references Treas. Reg. 1.170A-9(e)(10), but due to amendments to the federal regulation, the correct citation is Treas. Reg. 1.170A-9(f)(10).

⁴ MCL 208.1425(6)(a)(vi) references Treas. Reg. 1.170A-9(e)(11), but due to amendments to the federal regulation, the correct citation is Treas. Reg. 1.170A-9(f)(11).

11. For a community foundation incorporated or established after January 9, 2001, it must operate in a county of this state that was not served by a community foundation when the community foundation was incorporated or established or operates as a geographic component of an existing certified community foundation.

Education Foundation Certification. Similar to a community foundation tax credit, education foundation tax credits may only be claimed under the MBT. In addition to sharing some of the requirements listed above⁵, an education foundation has additional requirements to become certified by the Department:

1. All funds, gifts, and bequests are exclusively dedicated to a school district or public school academy.
2. The education foundation is incorporated or established as a trust at least 6 months before the beginning of the tax year for which the credit is claimed.
3. Is subject to a program review each year and an independent financial audit every 3 years and provides copies of the reviews and audits to the Department within 3 months of completion.

To Request Certification. Certification by the Department is an annual process for both community foundations and education foundations. Application materials are due by April 1 for education foundations and May 15 for community foundations. Materials may be obtained by contacting the Community/Education Foundation Unit at Treas_Tax_Policy@Michigan.gov.

The Department compiles and publishes lists of certified community foundations and education foundations yearly and makes them available in RABs.

⁵ Requirements numbered 1, 3, 4, 6, and 8 listed under community foundations also apply to education foundations.