MARYLAND BUSINESS TAX REFORM COMMISSION

Raymond S. Wacks, Chairman

BUSINESS INCENTIVES IN THE TAX CODE SUBCOMMITTEE
Minutes of Meeting
November 12, 2009

A meeting of the Maryland Business Tax Reform Commission, Business Tax Reporting Subcommittee was held in the Louis L. Goldstein Treasury Building on Thursday, November 12, 2009 at 1:30 p.m.

Those present were:

Raymond S. Wacks, Chairman
James Kercheval
Christain Johansson
Steven Banks
Linda Tanton
Joseph Glorioso representing C. John Sullivan
Paul Nolan

David Roose, Bureau of Revenue Estimates
Marc Nicole, Department of Budget Management

Speakers present were:

Keith Akers, Chief Auditor

The meeting was open to the public and members of local government, state government, media, as well as others, were in attendance.

Chairman Raymond Wacks opened the meeting at 10:08 a.m. and asked for approval of the minutes of the 10/29/2009. Linda Tanton so moved to adopt the minutes and motion seconded. The minutes were approved.

Business Tax Incentives Presentation – Secretary Christain Johansson

Secretary Christain Johansson began the presentation on Business Tax Incentives. “There may be some [who are] more fundamentally and philosophically opposed to any type of an incentive; I respect their opinion but I respectfully disagree because when you look at economic development, incentives play a critical role. Those who believe Maryland should unilaterally dissolve all incentives and focus on simply the core selling aspects of the state such as location, workforce, infrastructure; that is not the world we live in or the environment we are operating in. In fact, if we were only to compete on those factors, Maryland would run among the top five states almost every time. However, most other states have some sort of incentive program. Tax incentives are inducements to motivate a particular kind of behavior.

We are seeking to motivate firms that are in Maryland to expand while they grow here, seeking to motivate firms that may not be in the state to consider the state as they consider other options. Often we are trying to make sure [that] – for the growth that occurs in the state – we take full consideration of distressed areas that may have higher barriers to economic growth, or particular industries/clusters that we may want to incentivize because we think that we have a long term competitive advantage in those industries. The competition for expansion for growth has never been greater; every single state wants to be the hub, every single state wants new jobs, every single state wants an environment where business is investing in their communities. Incentives in this environment have become more important rather than less important. What you are seeing is [that] globalization is affecting this as well; companies have much a greater volume of choices of as they make decisions of where to locate or where to invest. Incentives are playing a role earlier in the decision making process, and part of that is due to practices that use consultants in making decisions. These consultants, as they are helping companies to evaluate the options/alternatives, first look at: What it is the state's inclination towards providing inducements or incentives? You might get ruled out before the competition even started in many of those cases. As far as businesses go, they have a fiduciary responsibility to maximize return to shareholders, not to states. Keeping all of those things in mind, incentives are critical, and what we like to see incentives do is [promote] job creation or a capital investment goal. When we look at why these incentives are becoming more important to Maryland, [we find that it] is because our discretionary funds have dwindled as the recession takes hold. We have fewer resources as a state to directly put money into transactions, so tax incentives become more important in our choices and options.

We have a long history of incentives:

1982 - Maryland Enterprise Zone – revitalize distressed areas in the state.
1990's – Maryland Heritage Structure
2005 - Biotechnology Tax Credit

When you think about these incentives, they are not just for large employers or for the ones considering investing from out of state. Many of these incentives are aimed for companies that arrive here in our state and are the margin of making a decision.

The key priorities for our incentives are:

- Job creation
- Revitalization
- Focusing on a particular industry activity
- Capital investment

These are the lenses we use to apply the incentives to. I think it is important to recognize that these are the tools in our tool kit that we have to motivate these types of behavior. As we have less discretionary dollars, these are our best tools.

Secretary Johansson went on to talk about some very real stories about how these incentives work and the impact they have had. The Job Creation Tax Credit since 2001 has created almost 11,000 jobs; aggregate payroll of over a half a billion [dollars] and about a cost to the state of around $5.6 million, generates $15.2 million in personal income revenue for the state annually. Pretty good return while the credit is only a one time credit of $1,000 or $1,500 per job. R & D Tax Credit capped at $6 million that is matched by roughly $1.2 billion in research and development investments. The Biotech Investment Incentive Tax Credit has been available since 2006 has a total of $24 million in state funding available to investors. [It] has leveraged an additional $24 million of private sector funding for start-up biotechnology companies. This has helped put Maryland on the map for biotech investment, often encouraging out of state investors.

We often sell the State using a combination of these tax credits in order to market the State: Job Creation Tax Credit, One Maryland, and Enterprise Zone Tax Credit. It's one of the effective ways to make the case that we are serious about wanting the companies here in our state. Jurisdictions that have benefitted:

- Prince George's County – Comcast – 500 employees
- Advanced Telecommunications Center in Largo
- Gaylord Entertainment – 1,000 [employees at the] National Harbor
- Morgan Stanley – 600 employees - Regional Financial Services Center in Baltimore City
- American Woodmark – 200 employees
- Federal Express – 400 employees – Hagerstown

The point I am making is [that] these are real jobs, they are all over the state, they are making a big impact and they are making an even bigger impact now that our direct investment programs are significantly down due to the revenues in the state.

I wanted to touch on one more program; Brownfields revitalization incentive tax program. Many of you have seen this very directly how this has played a role in revitalization neighborhoods that you thought was gone forever. The Brownfields program is becoming ever more important because we cannot afford to build the infrastructure for development in the way we used to. When you look at building highways and roads out to greenfields, there is a lot of infrastructure that has to be built that is not in the transportation trust fund. If we can leverage sites that have these existing infrastructures available, if we can incentivize the growth to take place there, that is a huge savings for the state and those communities as a whole. There are a wide variety of programs that Mark Vulcan will discuss, but the point of all this is [that] regardless of where you fall philosophically on this, these programs work, these programs are adding real jobs, we can account for the jobs and where they are, [these programs] make a difference, and companies use them to make investment decisions. For Maryland to consider unilaterally disarming [them] would be a very bad economic strategy when your neighbor is trying to double up on what they have available and our resources are less than what we used to have.

"How do we compete against Virginia, Pennsylvania, Delaware and West Virginia when it comes to tax credits?" asked Chairman Wacks.

> Secretary Johansson : It depends what area it's in; I would recommend just having a meeting on that and present some of those things because in some areas, like the Biotechnology Tax Credit, we pioneered this and the rest of the country is saying 'Wow this is a great idea.' But I'm not sure any other state has followed our lead on this tax credit.

Asked Chairman Wacks: Are we putting together, when it comes to competing in this region, are we putting together an effective package of incentive tax credits? Are there better things to do? How can we justify the loss of revenue from those things?

Secretary Johansson: I think the question should be asked: What type of behavior is the tax incentive stimulating, what is the track record of having generating revenue from the state?

Business Tax Incentives – Mark Vulcan

Mark Vulcan thanked members of the Business Tax Incentives subcommittee thanked them for the opportunity to address some of their business tax incentives.

Maryland has a long tradition of working with tax incentives designed for a specific objective – beginning with the Enterprise Zone back in the early 1980's – incentives designed to encourage job creation, incentives to revitalize communities, credits designed to procure capital investments and also to promote specific industry growth. Mr. Vulcan went on to discuss in depth the following tax credits and presented each subcommittee member a binder detailing each of the following credits:

- Job Creation Tax Credit
- One Maryland Tax Credit
- Enterprise Zone Tax Credit
- Arts & Entertainment Districts
- Brownfield's Tax Incentive
- Biotechnology Investment Tax Credit
- Research & Development Tax Credit
- Cellulosic Ethanol Technology R & D Tax Credit
- Film Production Sales & Use Tax Exemption

There are other tax incentives that are popular; Greenfields Tax Credit, Bio Heating Oil Tax Credit, Clean Energy Tax Credit, DHCD Community Investment Tax Credit, Commuter Tax Credit, Heritage Structure Tax Credit, as well as others.

"I would like to address some of the administrative challenges DBED has with the credits. This is not to put the spotlight at all on any fault with the Comptroller's Office, because Comptroller is under legal directives and is not allowed to share tax data with us. We would like to have the data to be able to say XX number of entities claimed a credit during this industry [or] geographic region. Unfortunately, they cannot do that.

"That is not entirely accurate," stated Deputy Comptroller Linda Tanton.

David Roose: Most of these credits are claimed by a relatively small amount of taxpayers, and once you get industry and county [data], for example, you are probably talking three or fewer taxpayers, which we cannot disclose. It doesn't matter who is claiming the tax credits, except from the perspective of revenue loss to the State. What matters is which taxpayers are doing this activity, and that is information [that] we don't have. By and large, that is information that Department of Business and Economic Development has. Credits that have to have certification – which taxpayers have qualified for or been approved for the credit, how many jobs, etc. It is the case that many of these credits are certified by other agencies. [With these agencies is the] best place to measure what the credit actually is accomplishing, because for a variety of reasons, it may not show up on a tax return.

"While we do certify, we don't get a copy of the tax return and we do not know whether or not the credits are ever claimed," stated Mark Vulcan.

"What tools do you want to have in your toolbox that the subcommittee ought to be looking at that will increase our payback, in terms of the state, in terms of incentives?" asked Chairman Wacks.

- Secretary Johansson: Job creation is #1 by far, especially in these tough economic times, although it is very difficult to place one incentive above another.

Questions:

1. What's the best mix of tax credits?
2. Is there a broader type of economic job credit?

The commission continued their discussion on tax credits in regards to common measurements of benefits of the tax incentives, financial models used to measure the tax credits, time period measurements using models, a balance of understanding regarding long-term growth of investments versus immediate results, such as jobs, etc.

Foundation: Which industries Maryland is looking to attract. Does Department of Business and Economic Development have a list of these industries? A few examples:

- Biotechnology
- Education
- Feds, Meds, Eds and Beds (Federal Government, Health Care sector, Education sector, Hospitality industry)
    - Unique strengths to different areas.

Chairman Wacks thanked Secretary Johansson and his staff for their presentation. Chairman Raymond Wacks introduced Matthew Caminiti, Bureau of Revenue Estimates.

Business Tax Credits – Matthew Caminiti

Matt went on to discuss other tax credits that DBED does not administer, as well as the fiscal impact of the tax credits/incentives. Please refer to the Summary of Maryland's Business Tax Credits document. Other points of reference are http://business.marylandtaxes.com/taxinfo/taxcredit/2009_tax_credit_guide.pdf as well as the administering agency.

Next meeting of the subcommittee will be on Thursday, December 3, 2009 @ 2:00 p.m.

/liv/mjc