Discussion and Approval of

Potential Subcommittee Findings

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Local Authority for

Business Property Tax Credits

Pros and Cons of Enhanced Local Authority for Business Property Tax Credits

Pros

- Allows counties to offer incentives specific to the industries targeted for that particular county

- Supports diverse economic development initiatives across the State

- Allows counties greater ability to prioritize property tax incentives within overall county budget

- May increase pressure for similar authority for residential property tax credits

Cons

- May work at cross purposes with State's economic development programs

- May create "race to the bottom" among counties

- May increase pressure for similar authority for residential property tax credits

Maryland Association of Counties

Proposed Legislation on

Local Authority for

Business Property Tax Credit

A BILL ENTITLED

AN ACT concerning

Property Tax Credit – Economic Development

FOR the purpose of authorizing the Mayor and City Council of Baltimore City or the governing body of a county or of a municipal corporation to grant, by law, a property tax credit against the county or municipal corporation property tax imposed on certain real property to promote economic development in a county or municipal corporation; authorizing the county or municipal corporation to provide, by law, for the amount and duration of the credit and for certain provisions necessary to carry out this Act; defining a certain term; and generally relating to a local property tax credit for certain property to promote economic development in a county or municipal corporation.

BY adding to

Article – Tax – Property
Section – 9-252
Annotated Code of Maryland
(2007 Replacement Volume and 2009 Supplement)

SECTION 1. BE IT FURTHER ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Tax – Property

9-252

(A) IN THIS SECTION, “ECONOMIC DEVELOPMENT” MEANS:

1. THE ATTRACTION, EXPANSION, OR RELOCATION OF A BUSINESS TO A JURISDICTION; OR
2. A PROJECT THAT MEETS SPECIFIED ECONOMIC DEVELOPMENT PRIORITIES AS ESTABLISHED BY THE JURISDICTION.

(B) THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY OR THE GOVERNING BODY OF A COUNTY OR OF A MUNICIPAL CORPORATION MAY GRANT, BY LAW, A PROPERTY TAX CREDIT AGAINST THE COUNTY OR MUNICIPAL CORPORATION PROPERTY TAX IMPOSED ON REAL PROPERTY OWNED OR LEASED BY A BUSINESS ENTITY TO PROMOTE ECONOMIC DEVELOPMENT.

(C) A COUNTY OR MUNICIPAL CORPORATION MAY PROVIDE, BY LAW, FOR:

1. THE AMOUNT AND DURATION OF A PROPERTY TAX CREDIT UNDER THIS SECTION;

2. THE ELIGIBILITY CRITERIA AND QUALIFICATIONS NECESSARY TO RECEIVE THE TAX CREDIT UNDER THIS SECTION;

3. REGULATIONS AND PROCEDURES FOR THE APPLICATION AND UNIFORM PROCESING OR REQUESTS FOR THE TAX CREDIT; AND

4. ANY OTHER PROVISION NECESSARY TO CARRY OUT THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2011, and shall be applicable to <u>all</u> taxable years beginning after June 30, 2011.

Pros and Cons

Single Sales Apportionment Formula

Generally Accepted Pros and Cons of Single Sales Apportionment Formula

Pros

- Eliminates an economic disincentive to create, or expand, capital and payroll in Maryland
- Competitive with other states
  - 14 out of 47 states allow some sort single sales option
  - 5 out of 47 states allow a heavily weighted sales option (>75%)
  - 16 out of 47 states allow a double weighted sales option (50%)

Cons

- Creates an incentive for firms with small payroll and property allocations to abandon those factors, and therefore nexus
- Alters the tax burden among companies and industries
- A firm’s tax burden may be less commensurate to the services/benefits it receives from state services

Measuring Cost of

Business Tax Credits

Pros and Cons of Options for Improving the Measurement of Business Tax Credit Effectiveness

Enact legislation prioritizing credits, including carryforward credits

Pros	Cons
• This is a prerequisite for the accurate measurement of the cost to the State of each individual tax credit	• May be perceived as indicating that some credits are more important than others from a policy perspective

Capture data from Form 500CR

Pros	Cons
• Would eliminate some or all manual data capture • Would allow for more timely analysis	• Would require additional resources, possibly substantial, for the Comptroller • Additional systems changes still needed to determine actual cost (largely due to pass-through entity issues) • Cannot be accomplished until new tax processing system is implemented

Require mandatory electronic filing in order to claim credits

Pros	Cons
• Would eliminate all manual data capture • Would allow for more timely analysis • With proper design, would eliminate PTE and carryforward issues • May allow for easier connection to credit certifications • May allow for determination of unclaimed credits • Could enhance compliance programs	• Would require additional substantial resources for the Comptroller • May increase burden on taxpayers • Cannot be accomplished until new tax processing system is implemented • Costs may outweigh benefits of additional knowledge

Other States'

Studies of Tax Credit

Effectiveness

Other States' Studies of Tax Credit Effectiveness

<table>
<tr><th>State</th><th>Who is responsible</th><th>Structure of Analysis</th></tr>
<tr><td></td><td></td><td></td></tr>
<tr><td>CT</td><td>A commission comprised of:
The chairpersons and ranking members of the joint standing committee of the General Assembly having cognizance of matters relating to finance, revenue and bonding, or their designees;
one member each appointed by the Governor and six legislative leaders; and
the Commissioners of Revenue Services, Economic and Community Development, Labor, or their designees.
* Commission is law but has not yet been appointed</td><td>Evaluate all business tax credits for the following information:

(1) Has the credit or policy provided a benefit to the state in terms of (A) measurable economic development, (B) new investments in the state, (C) new jobs or retention of existing jobs, or measurable benefits for the workforce in the state;
(2) is there sufficient justification to continue the credit or policy as it currently exists or is it obsolete;
(3) could the credit or policy be more efficiently administered as part of a broad-based credit or policy; and
(4) does the credit or policy add unnecessary complexity in the application, administration and approval process for the corporation business tax.

The committee shall also:

(5) Analyze of the history, rationale and estimated revenue loss as a result of each tax credit or policy change, and
(6) recommend revisions necessary to change the tax by eliminating or changing any redundant, obsolete or unnecessary tax credit or any credit or tax policy that is not providing a measurable benefit sufficient to justify any revenue loss to the state.

http://www.cga.ct.gov+/ofa/WhatsNew.asp</td></tr>
<tr><td>DE</td><td>Delaware Department of Finance, Division of Revenue</td><td>For each tax expenditure, includes:

(1) Provision of law establishing expenditure
(2) Summary of expenditure
(3) Estimated revenue loss
(4) Goal/intent of expenditure
(5) Inadvertent effects

http://www.finance.delaware.gov/publications/Tax_Reports.shtml</td></tr>
</table>

Other States' Studies of Tax Credit Effectiveness

State	Who is responsible	Structure of Analysis
IA	Iowa Department of Revenue – with an advisory panel made up of: • the state's Department of Economic Development and Department. of Management; • a professor from the University of Iowa; and • a member of the Iowa Taxpayers Association	"Periodic" evaluations required using funds appropriated in 2005: • State Earned Income Tax Credit • Biofuel Retailers' Tax Credit • Biofuel Producers' Tax Credit • Historical Preservation Tax Credit • Research Activities Tax Credit • Job Training Programs Studies include: (1) A history of the incentive (2) Literature review (3) Comparison to other states (4) Number & amount claimed in state by size, frequency, industry (5) Economic benefit of the credit (6) Proposed changes in the structure of the credit Example of findings: Using regression analysis, a study on Iowa's R&D credit found correlation, but not necessarily causality, between the intent of the credit and R&D activity (e.g., types of businesses and jobs created, type of academic research conducted in the state, etc.) http://www.iowa.gov/tax/taxlaw/creditstudy.html
MN	Minnesota Department of Revenue – with a group of five local public finance economists and a former Finance Commissioner	A report is due by February 15, 2011, to include: (1) A definition of tax expenditure (and the tax base against which they are defined); (2) Criteria to be used in an evaluation, including a list of information needed; and (3) A process by which the evaluation should be done, including who should do the evaluation, whether or not there should be sunsets, which expenditures should be included, and a timeline for completion.

Other States' Studies of Tax Credit Effectiveness

State	Who is responsible	Structure of Analysis
NC	North Carolina Department of Commerce	Report on Job Development Investment **Grants** includes: (1) Summary of the incentive program (2) Name of applicants and amount awarded (3) Detailed description of the business activity of each applicant and how the business is using the credit, including the # of jobs it will create (4) Geographical distribution of credits (5) Estimated annual economic impact (tracks direct and indirect jobs created and retained, wage levels of those jobs, estimates revenue gained from those jobs) http://www.nccommerce.com/en/AboutDOC/PublicationsReports/EconomicDevelopmentIncentiveReports.htm
RI	Rhode Island Department of Revenue – Division of Taxation	Current report analyzes **six** of the state's tax credits and grants on an annual basis. Study includes: (1) name & address of taxpayers claiming the credit; and (2) amount claimed * Does not include an analysis of the economic impact and effectiveness of the credits – that analysis was scheduled to be complete in October 2008, but has not yet been produced http://www.tax.state.ri.us/reports/index.php
TX	Texas Office of the Comptroller	Requires a distributional analysis of all tax expenditures (business and individual) http://www.window.state.tx.us/publications/

Other States' Studies of Tax Credit Effectiveness

State	Who is responsible	Structure of Analysis
WA	The Citizen Commission for Performance Measurement of Tax Preferences: • A seven-member Commission with two House appointees, two Senate appointees, one appointed by governor; and, two non-voting members: the State Auditor and the Chair of the Joint Legislative Audit and Review Committee.	Studies include: (1) Analysis of tax incentives for ALL tax types (2) Current law summary and legal history of the tax incentive (3) Public policy objectives of the incentive and if the tax incentive meets the stated objectives (4) Beneficiaries of the tax incentive (5) Historical, current and estimated revenue and economic impact of the tax incentive (6) Comparison to states with a similar tax incentive (7) Recommendation whether the tax incentive should be continued amended http://www.citizentaxpref.wa.gov/

Options for Improving the Measurement

of

Business Tax Credit Effectiveness

Pros and Cons of Options for Improving the Measurement of Tax Credit Effectiveness

The report should be independent, possibly with academic participation

Pros	Cons
• Ensures bias does not enter the analysis • Allows for expertise in developing I-O models, inputting data and analyzing results	• Requires time and input from a variety of sources, resulting in time coordination difficulties • May require additional resources • Must be cognizant of disclosure/taxpayer privacy concerns

Report done primarily by the agency administering the credit

Pros	Cons
• Agencies generally have access to detailed information about the activity generated by the credit • Agencies have credit certification information	• Tying agency analysis to credits actually claimed may be difficult • In many instances, would likely impose greater burden on agencies and taxpayers

The report could be undertaken on a regular basis (e.g., every 5 years, at sunset, annually on a rotating basis, etc.)

Pros	Cons
• Provides regular feedback as economic conditions, industry make-up and economic development goals of the State change • Credits can be modified or repealed based on permanent macroeconomic changes	• Economic cycles must be taken into account to avoid repealing or altering a credit due to temporary conditions • Not all credits are currently subject to sunset

If time limitations are such that all credits cannot be studied, the report could be prioritized based on the aggregate size of the credit (either budgeted amount or historical claims), with the largest being examined first

Pros	Cons
• Ensures that the credits costing the State the most are providing sufficient return to justify continuance of the credit	• Would subject large credits to unbalanced scrutiny • Smaller credits may never be studied

Report should include data regarding the number of credits certified and awarded

Pros	Cons
• Reflects potential expenditure to the State for certain incentives • Allows for analysis of credit ineffectiveness—why certifications are not ultimately claimed as credits • Aids in prioritizing which credits to analyze	• Difficult to know whether a certified credit is ever claimed, how much of what is certified is claimed, and when it is claimed – therefore, the actual cost is not known for sure

Report should include a comparison to neighboring states

Pros	Cons
• Allows Maryland to see how its incentives compare to its competitors • Looking at best practices in other states may help with policy recommendations	• Will likely be difficult to obtain data to research the efficacy of credits in neighboring states • Different state tax structures complicate the analysis model

Report should include recommendations on whether to amend, repeal or continue current policy

Pros	Cons
• Should lead to a more efficient system of tax incentives • Credit programs can be amended to reflect the most current economic make-up of the State • Credit amounts can be adjusted for inflation	• May be difficult to repeal or amend credits, even those that are rarely used or are shown to be not achieving their goals

Report should be public

Pros	Cons
• Allows for accountability and open government	• Results may be difficult to understand if not presented clearly and carefully, which may open the door to unwarranted criticism or support of incentive programs