MINUTES
Tax Expenditure Committee

Wednesday, November 18, 2015

MEMBERS PRESENT

Senator Joe Bolkcom, Co-chairperson
Senator William A. Dotzler Jr.
Senator Herman C. Quirmbach
Senator Roby Smith

Representative Thomas R. Sands, Co-chairperson
Representative Chris Hagenow
Representative Dave Jacoby
Representative Jerry A. Kearns
Representative Matt W. Windschitl

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I. Procedural Business

Call to Order. The first of two meetings of the 2015 Tax Expenditure Committee was called to order at 10:00 a.m. on Wednesday, November 18, 2015, in Room 103 (Supreme Court Chamber) at the State Capitol Building in Des Moines by Co-chairperson Sands. The meeting was adjourned at 3:00 p.m.

II. Charge and Opening Remarks

Charge. In 2010, the Legislative Tax Expenditure Committee was established pursuant to Iowa Code sections 2.45(5) and 2.48. The committee is required to conduct regular reviews of all tax credit, withholding credit, and revenue division programs. The committee may review any tax expenditure at any time but is required to review specific tax expenditures during specified years. In 2015, the committee is required to review the agricultural assets transfer tax credit, the custom farming contract tax credit, the claim of right tax credit, the S corporation apportionment tax credit, the Iowa alternative minimum tax credit, the assistive device corporate tax credit, the charitable conservation contribution tax credit, the fuel tax credit, and the new jobs tax credit.

Opening Remarks. Co-chairperson Sands stated that it was an ambitious agenda and Co-chairperson Bolkcom noted that the committee was scheduled to meet for two days during 2015 and that he expected the meetings to be productive. The co-chairpersons offered an opportunity to any member of the public in attendance to address the committee with comments following each presentation and committee questions.

III. Franchise Tax and Moneys and Credits Tax

Presentation. Dr. Amy Rehder Harris, Administrator and Chief Economist, Tax Research and Program Analysis Section, Iowa Department of Revenue (IDR) was recognized by the committee. Dr. Harris presented an overview of the franchise tax imposed on financial institutions and the moneys and credits tax imposed on credit unions. The franchise tax is imposed at a flat rate of 5 percent on the “net income” of financial institutions in Iowa. Net income is measured similarly to the corporation income tax, with one notable difference being that the franchise tax net income includes earnings on all government securities. S corporations are subject to the franchise tax at the entity level, but Iowa provides a franchise tax credit to shareholders to avoid double taxation. There are 13 tax credits available against the franchise tax.

The moneys and credits tax is imposed on credit unions at the rate of one-half cent on each dollar of a credit union’s required legal and special reserves less an annual $40,000 exemption amount. The tax is imposed by the county board of supervisors and collected by the county treasurer. Proceeds are shared between cities, counties, and the state according to a statutory formula and depending on the location of the credit union. There are nine tax credits available against the moneys and credits tax.

Dr. Harris provided a hypothetical comparison of the two taxes and provided data on the number of entities paying the taxes, annual tax revenues, and tax credit claims by amount and type.

Committee Questions and Comments. In response to committee questions, Dr. Harris discussed deposit requirements, the collection of the tax revenues, and the method of collecting tax revenues. She noted that the collection process resembles the collection of property taxes. She also discussed tax credit claims and comparisons between the franchise tax rate and the moneys and credits tax rate. Co-chairperson Bolkcom discussed the popularity of the repealed wage-benefit tax credit. Representative Jacoby raised concerns regarding certificate of deposit rates. Dr. Harris noted that IDR does not have information gathered by counties when collecting the moneys and credits tax. Co-chairperson Sands noted the confidential nature of such information as compared to property taxes.

Public Comments. A number of persons provided public comments to the committee, including Mr. Jeff Disterhoft, President and Chief Executive Officer of the University of Iowa Community Credit Union; Mr. Justin Hupfer, Vice President, Iowa Credit Union League; and Ms. Kenia Alejandra Calderon Ceron, credit union member. Mr. Hupfer stated that there were 103 credit unions holding approximately $13.2 billion in assets and serving more than 1 million members. He also stated that credit unions hold approximately 12 percent of deposits in the state. Mr. Disterhoft emphasized that credit unions give back to their communities and take chances on borrowers. Ms. Ceron spoke about how a credit union helped her to go to college. The Committee also heard comments from Mr. John Sorensen, President and Chief Executive Officer of the Iowa Bankers Association; Ms. Sharon Presnall, Senior Vice President of the Iowa Bankers Association; and Mr. Bryan Vander Lee, Chief Financial Officer of Fidelity Company, located in Dubuque. Mr. Sorensen discussed tax advantages currently enjoyed by credit unions and stated that this advantage impacts the marketplace by allowing one sector to grow at the expense of the other sector. He also discussed how banks contribute to their communities. He noted how many banks are going out of business while large credit unions are moving into prosperous communities.

IV. Agricultural Assets Transfer Tax Credit and Custom Farming Contract Tax Credit

Presentations. Ms. Lori Beary, Community Development Director, Iowa Finance Authority (IFA), and Dr. Anthony Girardi, Senior Fiscal Policy Analyst, Tax Research and Program Analysis Section, IDR, were recognized by the committee. Ms. Beary presented background information on the agricultural assets transfer tax credit and the custom farming contract tax credit, which together comprise the Beginning Farmer Tax Credit Program administered by the Iowa Agricultural Development Authority (IADA), a division of IFA. Both credits are nonrefundable but may be carried forward for up to 10 years. IFA may not issue more than $12 million in total credits each year under the program, and may not issue more than $50,000 per taxpayer, per credit.

The agricultural assets transfer tax credit is available to owners of agricultural assets (land, equipment, breeding livestock) who lease those assets to qualified beginning farmers. Ms. Beary outlined the age, residency, ownership, training, net worth, and other requirements to qualify as a beginning farmer under the credit, and the requirements for a lease to qualify under the credit. The credit equals 7 percent for a lease made on a cash basis and 17 percent for a lease made on a crop share basis, with an additional percentage point available if the beginning farmer is a military veteran. Ms. Beary explained how the tax credit is calculated for both a cash rent lease and a crop share lease.

The custom farming contract tax credit was enacted in 2013 for landowners who hire beginning farmers for custom work. The credit equals 7 percent of the amount paid on the contract, with an additional percentage point available if the beginning farmer is a military veteran. Ms. Beary outlined the requirements that the landowner, beginning farmer, and contract must satisfy in order to qualify for the credit.

Ms. Beary provided data on the total number of tax credit certificates and tax credit amounts issued under the Beginning Farmer Tax Credit Program. Additionally, she explained the 2015 marketing efforts undertaken by IFA in relation to the program, including attendance at certain workshops and conferences, and the placement of advertisements in certain publications.

Dr. Anthony Girardi, Senior Fiscal Policy Analyst, Tax Research and Program Analysis Section, IDR, provided background information on the Beginning Farmer Tax Credit Program, including recent legislative changes, eligibility for both credits under the program, and similar state and federal tax incentive programs. Dr. Girardi compared beginning farmers and established farmers on a range of topics including farm type, farm production, federal payments received, farm income, major occupation, length of experience, age, and farm net worth. He provided data on tax credit awards and claims by year for each tax credit and for the entire Beginning Farmer Tax Credit Program. Additionally, Dr. Girardi analyzed projects (leases and contracts) under the program per beginning farmer and per land owner, and also analyzed agricultural assets transfer tax credit leases by county and acre, as a percentage of harvested cropland per county, and as a percentage of tenant-operated acres by county. He also provided data on annual agricultural asset transfer tax credit lease income, and data to demonstrate how tax credit amounts are related to crop yields and prices. Finally, the three different types of agricultural asset transfer tax credit leases (cash rent, crop share, hybrid) were analyzed according to number, acreage, and percentage by county.

Committee Questions and Comments. In response to committee questions, Ms. Beary discussed eligibility requirements and IFA's review of financial statements submitted by applicants. It was noted that in 2014, approximately $6.6 million out of the $12 million annual appropriation was committed to finance the two tax credits. Ms. Beary and Mr. Girardi noted that the tax credits are not transferrable. Members discussed the extent to which the tax credits were actually influencing decision-making to lease land to beginning farmers. Co-chairperson Bolkcom also commented that a high number of tax credits may be awarded to nonfarmers.

V. Charitable Conservation Contribution Tax Credit

Presentation. Mr. John Good, Fiscal Policy Analyst, Tax Research and Program Analysis Section, IDR, was recognized by the committee. Mr. Good presented a report on the charitable conservation contribution (CCC) tax credit available against the individual and corporate income tax for certain qualifying contributions to conservation organizations in the form of conservation easements, bargain sales of land, or easement bargain sales. The credit is equal to 50 percent of the fair market value of the qualifying donated property, not to exceed $100,000 per taxpayer, per contribution. The tax credit is nonrefundable and nontransferable, but may be carried forward for up to 20 years. Amounts not qualifying for the tax credit may be claimed as an itemized charitable deduction. Mr. Good compared Iowa's CCC tax credit to similar CCC tax credits in other states and to similar federal tax incentives. He also provided data on donations by county and donee organization. The tax credits were analyzed according to year, household adjusted gross income, claimant's age and residency, number, amount, and the timing of the claims. Mr. Good further analyzed the tax credit's cost to the state of Iowa and its usage in relation to all similar donations. Finally, Mr. Good discussed some conclusions from his analysis, notably that donations are clustered in geologically significant areas of the state, that claimants tend to be older, higher income individuals, that over 80 percent of claimants are Iowa residents, and that the 20-year carryforward appears to be sufficient for most claimants to fully utilize the credit.

Committee Questions and Comments. In response to committee questions, Mr. Good discussed whether a land owner was responsible for paying property taxes on the land. Mr. Good noted that the beneficiary of an easement must be a nonprofit entity. He also discussed the availability of a similar federal deduction available to taxpayers.

Public Comments. Ms. Anita O'Gara, Vice President and Development Director, Iowa Natural Heritage Foundation, expressed support for the tax credit. She stated that the tax credit is used throughout the state, stretches tax dollars, and spurs landowners to take action in order to preserve land that is set aside in trust for future generations.

VI. New Jobs Tax Credit

Presentation. Dr. Zhong Jin, Senior Fiscal Policy Analyst, Tax Research and Program Analysis Section, IDR, and Mr. Tim Whipple, General Counsel, Economic Development Authority, were recognized by the committee. Dr. Jin presented background information and statistical analysis on the new jobs tax credit. The new jobs tax credit was originally enacted in 1985 and is available against the individual or corporate income tax for taxpayers who enter into an Industrial New Jobs Training Program contract with an Iowa community college and who create jobs above a certain base employment level. The tax credit equals 6 percent of the taxable wages of each created job, not to exceed the qualifying taxable wage for unemployment purposes ($27,300 in 2015). The tax credit is nonrefundable and nontransferable but may be carried forward for up to 10 years. Dr. Jin analyzed the number and amount of tax credit claims by tax year and tax type, and compared the new jobs tax credit claims to investment tax credit claims. The investment tax credit is a different tax credit available under the High Quality Jobs Program, which is a highly utilized job creation program administered by the Economic Development Authority (EDA).

Dr. Jin used data gathered from the Industrial New Jobs Training Program database maintained by EDA to categorize tax credits according to their association with each community college and the industry within which each claiming business operates. He used this database and Iowa Workforce Development unemployment insurance payment data to present three different estimates of jobs created from the new jobs tax credit. Dr. Jin compared business growth rates of Industrial New Jobs Training Program participants with and without new jobs tax credit claims. Finally, he highlighted that on average only one-third of businesses eligible to claim the new jobs tax credit actually do so.

Mr. Whipple spoke briefly on the new jobs tax credit and EDA's relationship to the credit. EDA neither awards new jobs tax credits nor administers the associated Industrial New Jobs Training Program, but it does play a limited role in reviewing the program. Mr. Whipple expressed support for a legislative review of the new jobs tax credit, especially given its 30-year existence, and stressed that such a review should be done in the context of all the state's current job creation programs. He noted that in recent years many tax incentives for job creation have been consolidated within EDA in an effort to increase effectiveness and efficiency, and reduce duplication.

Committee Questions and Comments. In response to committee questions, Dr. Jin discussed the extent to which employers were following through with job creation requirements and IDR's administration and enforcement mechanisms. He noted that there must be at least a 10 percent increase in employment created by the employer-taxpayer. He also discussed the usage of new tax credits associated with community colleges and the average wage associated with jobs. Mr. Whipple discussed a lower than expected participation rate in the program. Mr. Whipple noted the possibility of businesses taking advantage of more modern tax incentive programs. Mr. Whipple discussed how the tax credit is used to hire new employees with ungraded skills. Senator Dotzler expressed support for training Iowa's workforce. Senator Quirmbach discussed the success of the "Iowa Jobs Training Act" codified in Iowa Code chapter 260F.

VII. Assistive Device Corporate Tax Credit

Presentation. Mr. Whipple was again recognized by the committee. Mr. Whipple presented a brief background of the assistive device corporate tax credit, which is equal to 50 percent of the first $5,000 expended by a corporation for obtaining assistive device technology to aid an employee who is an individual with a disability. The tax credit is awarded by EDA. Mr. Whipple noted that the tax credit was originally available under both the individual and corporate income taxes. Both credits were repealed by the General Assembly in 2009 (see 2009 Iowa Acts, ch. 179, §§134, 151), but the Governor item vetoed the repeal of the corporate tax credit. Mr. Whipple stated that the corporate tax credit has never been claimed.

Committee Questions and Comments. Committee members discussed SF 509 considered during the prior legislative session which, if passed, would have provided a tax credit to motor fuel sites installing assistive devices.

VIII. Iowa Alternative Minimum Tax Credit

Presentation. Ms. Angela Gullickson, Senior Fiscal Policy Analyst, Tax Research and Program Analysis Section, IDR, was recognized by the committee. Ms. Gullickson presented a report on the Iowa alternative minimum tax (AMT) credit available against individual, corporate, and franchise taxes, and equal to the amount of Iowa AMT paid by the taxpayer in previous years. In order to claim the AMT credit the taxpayer must not owe AMT in that same tax year. The AMT credit is nonrefundable and may be carried forward indefinitely. Ms. Gullickson gave a brief background of the Iowa AMT and the federal AMT and AMT credit and then reviewed how the AMT and AMT credit is imposed or offered in other states. She also analyzed the amounts of AMT paid and AMT credits claimed by year and tax type, and categorized the percentage of total individual taxpayers paying AMT or claiming the AMT credit by adjusted gross income.

Committee Questions and Comments. In response to committee questions, Ms. Gullickson discussed how the tax credit was applied. Ms. Gullickson noted that many taxpayers are never able to claim the tax credit. Members discussed the small number of claims outstanding for any tax year.

IX. Claim of Right Tax Credit

Presentation. Ms. Gullickson was again recognized by the committee. Ms. Gullickson presented a report on the claim of right tax credit, available to individual taxpayers who are required to repay income in the current tax year that was reported and taxed on a prior Iowa tax return. The credit is equal to the amount of tax paid on the repaid income and is refundable and nontransferable. Alternatively, a taxpayer may deduct the repaid income from Iowa net income. Ms. Gullickson provided background on the federal claim of right tax credit and similar tax credits in other states. She analyzed the tax credit and alternative tax deduction according to year, number of claims, amount claimed, and average claim.

Committee Questions and Comments. In response to committee questions, Ms. Gullickson discussed the extent to which income tax refunds are considered taxable income for purposes of state tax liability. Co-chairperson Sands and Ms. Gullickson discussed the average number of claims received by IDR.

X. S Corporation Apportionment Tax Credit

Presentation. Dr. Harris was again recognized by the committee. Dr. Harris presented a report on the S corporation apportionment tax credit available to individual taxpayers who are shareholders of an S corporation that conducts business in Iowa and other states. In lieu of including all the S corporation income in net income and then claiming the out-of-state tax credit for taxes paid on that income to other states, S corporation shareholders may apportion the relevant income in the same manner as C corporations do under the corporation income tax. The S corporation apportionment tax credit equals the amount of total income tax attributable to S corporation income earned outside of Iowa.

Dr. Harris outlined some of the benefits of the S corporation apportionment tax credit and discussed how other states apportion income from pass-through business entities. She provided data by year on the number of tax credit claims made, the total amount of tax credits available and claimed, the average tax credit claim, and the percentage of available tax credits claimed. She also provided data on the household adjusted gross income distribution for all taxpayers versus claimants of the S corporation apportionment tax credit.

XI. Fuel Tax Credit

Presentation. Ms. Gullickson was again recognized by the committee. Ms. Gullickson presented a report on the fuel tax credit available against the individual and income taxes equal to the amount of Iowa fuel tax paid relating to purchases for tax-exempt off-road uses. The tax credit is refundable and nontransferable. Ms. Gullickson examined how neighboring states handle the overpayment of fuel taxes, described the requirements for claiming the tax credit and the manner in which it is claimed, and provided data by year on the number of fuel tax credit claims, the total amount of fuel tax credits claimed, and the average fuel tax credit claim.

XII. Committee Discussion

Ms. Victoria Daniels, Policy and Communications Division Administrator, IDR, was recognized to address a question regarding efforts to streamline tax filing for the out-of-state workers who come to Iowa in times of emergency to restore utility service.

XIII. Materials Filed with the Legislative Services Agency

The materials listed were distributed at or in connection with the meeting and are filed with the Legislative Services Agency. The materials may be accessed from the “Committee Documents” link on the committee’s Internet Site: https://www.legis.iowa.gov/committees/committee?ga=85&groupID=594

1. Beginning Farmer Tax Credit Program — Department of Revenue.
2. Beginning Farmer Tax Credit Program — Iowa Finance Authority.
3. Charitable Conservation Contribution Tax Credit — Department of Revenue.
4. Franchise Tax and Moneys and Credits Tax — Department of Revenue.
5. Fuel Tax Credit — Department of Revenue.
6. Iowa Alternative Minimum Tax Credit — Department of Revenue.
7. Iowa Bankers Association Handout.
8. Iowa Credit Union League Handout.
9. New Jobs Tax Credit — Department of Revenue.
10. REVISED Claim of Right Tax Credit — Department of Revenue.
11. S Corporation Apportionment Tax Credit — Department of Revenue.

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