



MINUTES

Tax Credit Review Committee

Wednesday, October 30, 2019

MEMBERS PRESENT

Senator Jake Chapman, Co-chairperson
Senator Joe Bolkcom
Senator Jason Schultz
Senator Zach Wahls
(Appearing on behalf of Senator Giddens)
Senator Zach Whiting

Representative Lee Hein, Co-chairperson
Representative Pat Grassley
Representative Chris Hall
Representative Dustin Hite

Representative Dave Jacoby

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I. Procedural Business

Call to Order. The Tax Credit Review Committee was called to order at 10:03 a.m. on October 30, 2019, in Room 103, Supreme Court Chamber, of the State Capitol.

Election of Permanent Co-chairpersons. Members of the committee unanimously elected temporary co-chairpersons Representative Hein and Senator Chapman as permanent co-chairpersons.

Adoption of Rules. Members of the committee unanimously adopted the proposed rules.

Adjournment. Upon conclusion of the presentations and discussion by the committee, the meeting was adjourned at 12:02 p.m.

II. Charge and Introductory Comments from Co-chairpersons

Charge. The committee is required to evaluate tax credits available under Iowa law and consider new or different tax credits, incentive programs, or tax rate or structure changes. The committee is required to coordinate its efforts with the Tax Expenditure Committee.

Introductory Comments. The co-chairpersons each made brief introductory comments regarding the committee's role of learning and gathering information about tax credits.

III. Review of the History, Enactment, Purpose, and Growth of State Tax Credits

Mr. Jeff Robinson, Senior Legislative Analyst, Legislative Services Agency, provided some historical background information related to the development and growth of tax credits, and the present-day use of such credits. Mr. Robinson stated that in 1983 the phrase "economic development" did not appear in the Iowa Code, there were 20 sales tax exemptions, and there were no business or economic development credits that impacted the state's General Fund. Mr. Robinson noted that the only Iowa-specific tax credits or deductions available in 1983 were the Child and Dependent Care Tax Credit; Individual Taxpayer, Dependent, Age 65 Plus, and Blind Tax Credits; and the Adoption Expense Deduction. Today, state government is involved in economic development and there are 106 sales tax exemptions in the Iowa Code.

Mr. Robinson stated that the first significant tax credits were enacted during the 1983 Legislative Session in response to a recession, and included a Job Training Tax Credit, a Venture Capital Fund Investment Tax Credit, and a Research Activities Tax Credit. The Department of Economic Development was created in 1986 and is now known as the Economic Development Authority. The Tuition and Textbook Tax Credit was created in 1987. During the 1989 Legislative Session, the State Earned Income Tax Credit and the New Jobs Tax Credit were created. In 1994, the General Assembly created Quality Jobs Enterprise Zones and the New Jobs and Income Program, both of which have tax exemptions and tax credits associated with them. The New Jobs and Income Program was replaced by the High Quality Jobs Program in 2005. Other significant tax credits created in the previous 20 years include the Redevelopment Tax Credit, the Biodiesel Blended Fuel Tax Credit, the Wind Energy Production Tax Credit, the School Tuition Organization Tax Credit, the Endow Iowa Tax Credit, and the Historic Preservation Tax Credit.

Mr. Robinson stated tax credits reduced state revenues by \$373 million for FY 2019 and overall state revenues have been reduced by \$4.245 billion between FY 2005 and FY 2019.



IV. Presentation on Tax Credit Mechanics

Dr. Amy Rehder Harris, Research Policy Division Administrator, Department of Revenue, stated that Iowa has 31 tax credits that may be claimed against income tax returns, including 5 tax credits that have expired but for which claims have been made in the previous three years. Dr. Rehder Harris suggested that tax credits can be classified into three concepts: awarded, automatic, and administrative.

Awarded tax credits involve an application and an award process that requires a taxpayer to apply to a state agency for a tax credit prior to the taxpayer commencing any work on a project that may make the applicant eligible for a tax credit award. If the taxpayer meets the requirements of the agency and the agency awards the taxpayer a tax credit certificate, the taxpayer may claim the credit on the taxpayer's taxes. There are 18 awarded tax credits in Iowa and awarded tax credits are often statutorily capped on a fiscal or a calendar year basis. Instituting a cap allows the Department of Revenue to more easily estimate the value of the tax credits that will be claimed by taxpayers in a given tax year.

Automatic tax credits may be claimed on any eligible taxpayer's income tax return by the taxpayer completing a form that describes the taxpayer's eligibility and calculates the appropriate tax credit. There are 13 automatic tax credits in the Iowa Code. An automatic tax credit is difficult for the Department of Revenue to forecast.

Administrative tax credits are tax credits provided to avoid double taxation. There are five administrative tax credits. Dr. Rehder Harris used an example of a bank that passes income through to the bank's shareholders. If the bank has paid tax on the income, the shareholder receives a tax credit against the pass-through income in order to avoid double taxation on that same income.

Dr. Rehder Harris also explained that tax credits may be refundable or nonrefundable. If a tax credit is nonrefundable, the tax credit may only be used to reduce a taxpayer's Iowa income tax liability to \$0, but not reduce the tax liability to less than \$0. If a tax credit is refundable, and the tax credit reduces a taxpayer's Iowa income tax liability to less than \$0, the Department of Revenue issues a refund to the taxpayer for the balance of the tax credit in excess of the amount used to reduce the taxpayer income tax liability. For FY 2019, there were \$211 million in refundable income tax claims and \$118 million in nonrefundable income tax claims.

There are six awarded tax credits that are transferable. A transferable tax credit allows a taxpayer awarded a tax credit to sell the tax credit to another taxpayer. The amount received from the sale of the credit by the transfer is not considered income for Iowa tax purposes; and the amount paid for purchasing the tax credit by the transferee is not deductible for Iowa tax purposes.

Dr. Rehder Harris noted that some tax credits remain unclaimed by a taxpayer because the tax credit expires before the taxpayer has enough tax liability to use the full amount, or taxpayers are put on wait lists to claim the tax credit in future tax years and forget to use the tax credit. Dr. Rehder Harris noted that 24 percent of High Quality Jobs Tax Credits expire and are never claimed and 6.5 percent of Endow Iowa Tax Credits go unclaimed.

V. Presentation on Contingent Liabilities Report and the State Budget

Ms. Angela Gullickson, Senior Fiscal and Policy Analyst, Department of Revenue, discussed the Contingent Liabilities Report issued by the Department of Revenue. The report tracks and analyzes tax credits with the goal of providing a repository for information concerning the awarding, usage, and effectiveness of tax credits. The first contingent liabilities report was published in 2007 and included 19 awarded credits, 33 forecasted credits, and a contingent liabilities projection. The most recent report in October 2019 forecasts 19 awarded credits, 37 forecasted credits, and includes expected claims



projections. There are currently 20 capped tax credits and 20 uncapped tax credits forecast each year. There are five expired capped tax credits that continue to be forecast due to carryforward credits rolling in after the expiration of the tax credit program.

Ms. Gullickson noted that expected tax credit liability for each fiscal year for capped tax credits is based on historical tax credit award information and observed claim utilization. She noted that it is harder to make assumptions for uncapped tax credits due to the uncertainty involved when credits are either automatic or there is no legislative limit on the amount of awards that can be issued.

VI. Review of Tax Credit Evaluations

Dr. Rehder Harris stated that Iowa has completed 37 income tax credit evaluations since 2007. Many tax credit evaluations are done in conjunction with the Tax Expenditure Committee established in Iowa Code section 2.48. When a tax credit is evaluated within the Department of Revenue, most of the time an advisory panel is created to help complete a thorough, unbiased review. The panel consists of program administrators, stakeholders, and academics. The advisory panel meets three times during the review process. The review compares similar programs across other states and the federal government, reviews statistics on tax credit claimants, and performs economic analysis of the tax credit. Dr. Rehder Harris noted that The Pew Charitable Trusts cites Iowa's tax credit evaluation process as a leader among the states.

Dr. Rehder Harris discussed several oversubscribed tax credits including the Investment Tax Credit, the Redevelopment Tax Credit, and the Endow Iowa Tax Credit. She also discussed several undersubscribed tax credits including the Farm to Food Donation Tax Credit, the High Quality Jobs Program, the Innovation Fund Investment Tax Credit, and the Renewable Chemical Production Tax Credit.

VII. Presentation on Tax Credit Sunsets and the State Budget

Mr. Michael Mertens, Policy Director for Pass-Through Entities, Department of Revenue, stated that when considering a tax credit sunset, it is important to consider the tax year applicability of the sunset, and whether the applicability is retroactive, immediate, or prospective. Mr. Mertens also stated that when a tax credit is being reviewed for repeal, the state should consider the following prior to repeal: whether a tax credit award is memorialized in a contract between a state agency and a taxpayer; whether multiyear performance by a taxpayer may be required prior to the issuance of a tax credit; and the impact on existing contracts.

If a tax credit is repealed, in addition to the fiscal impact and contract considerations, Mr. Mertens also stated that due consideration should be given by the General Assembly relating to transferability, carryforwards, and wait lists. Transferable credits often are sold or used as collateral in other transactions so a repeal could affect a prior sale of a credit or a pledge to transfer a credit. Tax credit carryforward periods range from 3 to 20 tax years (most common carryforward is 7 tax years), thus, a repeal could affect a taxpayer's ability to carry forward a credit or to claim any remaining unused credits.

Mr. Mertens also discussed the effect a tax credit repeal may have on an applicant who has been placed on a wait list and whether a wait listed applicant has a vested right to a tax credit.

VIII. Committee Discussion

The committee discussed whether another meeting should be scheduled and whether a more formal review of tax credits during each legislative session would be beneficial.



IX. Materials Filed With the Legislative Services Agency

The following materials were distributed at or in connection with the meeting and are filed with the Legislative Services Agency. In addition, the meeting was livestreamed and recorded. The material and video may be accessed from the link on the committee's website: www.legis.iowa.gov/committees/meetings/documents?committee=33681&ga=ALL

1. Meeting Notice, Legislative Services Agency
2. Agenda
3. State General Fund Tax Credits, Legislative Services Agency
4. LSA Summary of 2019 Contingent Liability Report, Legislative Services Agency
5. Iowa Income Tax Credit Mechanics, Iowa Department of Revenue
6. Contingent Liabilities Report and the Budget, Iowa Department of Revenue
7. Iowa Income Tax Credits Evaluations, Iowa Department of Revenue
8. Tax Credits Expected Claim Projections, Iowa Department of Revenue
9. Expected Claim Projections if Tax Credits are Repealed as Soon as Possible, Iowa Department of Revenue
10. Expected Revenue Gain if Tax Credits are Repealed as Soon as Possible, Iowa Department of Revenue
11. Tax Credit Sunsets and the State Budget, Iowa Department of Revenue
12. Tax Credit Review Committee Meeting, Iowa Legislature Videos