Revenues Subcommittee  
House Ways and Means Committee  
Delegate Eric Luedtke, Chair

Agenda  
Friday, November 6, 2020  
1:30 p.m.  
Virtual Meeting

I. Call to Order and Opening Remarks

II. Briefing by the Department of Legislative Services on Maryland’s Tax Credit Evaluation Procedures
   - George Butler, Jr., Policy Analyst
   - Robert Rehrmann, Policy Analyst

III. Briefing by The Pew Charitable Trusts
   - Josh Goodman, Senior Officer

IV. Closing Remarks and Adjournment
Maryland’s Tax Credit Evaluation Procedures

Presentation to the Revenues Subcommittee of the Committee on Ways and Means

Department of Legislative Services
Office of Policy Analysis
Annapolis, Maryland

November 6, 2020
Overview of Tax Credit Evaluation Act

• Since the mid-1990s, the number of State business tax credits has grown significantly as have related concerns about the actual benefits and costs of many of these credits.

• Although tax credits comprise a small percentage of total income tax revenues, the number and amount of credits claimed have significantly increased over time.

• The total amount expended for credits has increased from a little less than $50 million in tax year 1994 to about $300 million in tax year 2019.

• In response to concerns about the fiscal impact of tax credits on State finances, Chapters 568 and 569 of 2012, the Tax Credit Evaluation Act, established a legislative process for evaluating certain tax credits.
Overview of Tax Credit Evaluation Act

• The evaluation process is conducted by a legislative evaluation committee and must be done in consultation with the Comptroller’s Office, the Department of Budget and Management, the Department of Legislative Services, and the agency that administers each tax credit.

• The committee is appointed jointly by the President of the Senate and the Speaker of the House of Delegates and must include at least one member of the Senate Budget and Taxation Committee and one member of the House Ways and Means Committee.
Overview of Tax Credit Evaluation Act

• Section 1-303 of the Tax – General Article specifies the schedule for conducting evaluations of tax credits in accordance with the Act.

– July 1, 2014 – Enterprise Zone and One Maryland economic development credits;
– July 1, 2015 – Earned Income and Film Production Activity credits;
– July 1, 2016 – Sustainable Communities Tax Credit (now designated the Historic Revitalization Tax Credit Program);
– July 1, 2017 – Businesses That Create New Jobs and Job Creation credits;
– July 1, 2018 – Research and development expenses and biotechnology investment incentive tax credits;
– July 1, 2019 – Regional Institution Strategic Enterprise (RISE) Zone Program;
– July 1, 2021 – More Jobs for Marylanders tax credit;
– July 1, 2023 – Cybersecurity investment incentive and purchase of cybersecurity technology or service tax credits.

• Generally, the continuation of a tax credit designated for evaluation is for a 7-year period and the credit is subject to reevaluation 7 years after the previous evaluation.
Overview of Tax Credit Evaluation Act

• By June 30 of the year prior to a tax credit’s evaluation date, the evaluation committee is required to meet with the Comptroller’s Office, DBM, DLS, and the agency that administers the credit to prepare a plan for evaluation.

• By November 15 of the same year, DLS is required to publish a report evaluating the tax credit that discusses:
  – the purpose for which the tax credit was established;
  – whether the original intent of the tax credit is still appropriate;
  – whether the tax credit is meeting its objectives;
  – whether the goals of the tax credit could be more effectively carried out by other means; and
  – the cost of the tax credit to the State and local governments.
Overview of Tax Credit Evaluation Act

• By December 31 of the same year, the evaluation committee must hold a public hearing on the evaluation report, at which the public may submit testimony.

• By the twentieth day of the legislative session before the evaluation date of a tax credit, the committee is required to submit a report to the General Assembly.

• The report must state whether or not the tax credit should be continued, with or without changes, or terminated and shall be accompanied by any legislation that is needed to accomplish the recommendations in the report.
Challenges in Executing Tax Credit Evaluation Act

As DLS has conducted evaluations under the Act, several challenges have emerged:

• The statute does not reflect the actual practice for how evaluations have been conducted
  – Although the evaluation committee is tasked in statute to meet with specified agencies to prepare a plan for an evaluation, DLS has undertaken the responsibility to consult with these agencies.

• The timeline for evaluations prescribed in statute may not be practical under some circumstances
  – With respect to new programs, DLS has found some deadlines to have been set too early and therefore lacked sufficient data to conduct a thorough evaluation of the program
  – In other instances, statutory deadlines may not be ideal when coinciding with recent statutory changes to a program

• The statutory deadlines for publishing reports may not provide an adequate period of time for stakeholders to comment on findings and recommendations
Proposed Alterations to Tax Credit Evaluation Procedures

• During the 2020 legislative session, this committee undertook an effort to examine multiple tax credit programs.

• As part of that effort, leadership of the committee and this subcommittee engaged DLS to craft a different way going forward that would ensure that the General Assembly continues to receive the information that it requires to evaluate the effectiveness of the State's tax credit programs but also allow DLS to more dynamically respond to inquiries by the legislature about specific components of tax credit programs or other tax incentives.

• The newly revamped Joint Audit and Evaluation Committee statute served as a model to the proposed alterations.
Proposed Alterations to Tax Credit Evaluation Procedures

• As amended by this committee, House Bill 565 altered the Tax Credit Evaluation Act by:

  – Eliminating the Tax Credit Evaluation Committee and instead requiring DLS to conduct evaluations on request from the Senate Budget and Taxation Committee, House Ways and Means Committee, Executive Director of DLS, or Director of the Office of Policy Analysis of DLS;

  – Expanding the scope of the TCEA to include not only tax credits but also tax exemptions and preferences; and

  – In light of the expanded scope of the program and the requirement for DLS to conduct evaluations on request, removing the schedule of evaluations to be conducted from statute.
Evaluating Tax Incentives: Options for Maryland

Josh Goodman
jgoodman@pewtrusts.org
The Pew Charitable Trusts
11/6/2020
Why evaluate tax incentives

- Tax incentives are one of states’ primary economic development tools
- Tax incentives collectively cost states billions of dollars per year
- Evaluation is a proven way to improve the effectiveness of incentives
- With tax incentives, the details matter
States regularly evaluating major tax incentives
A well-designed evaluation process should...

- Regularly examine all major economic development tax incentives
- Provide lawmakers with reliable, detailed information and analysis
- Lead to improvements to incentive policy
- Allow for refinements to the process over time to ensure that it is meeting the needs of policymakers
High-quality evaluations include...

- A description of the incentive, its history, and its goals
- An assessment of the incentive’s design and administration
- An estimate of the incentive’s economic and fiscal impact
- Policy recommendations
Observations about Maryland’s evaluation process

- The evaluations are detailed and high-quality
- The scope of the process is narrow
- Evaluations could contribute to policy discussions and changes more consistently
Tax expenditures v. economic development tax incentives

Economic development incentives
- Examples: business loan program, job creation cash grant

Economic development tax incentives
- Examples: film tax credit, job creation tax credit, R&D tax credit

Tax expenditures
- Examples: sales tax exemption on prescription drugs, mortgage interest deduction
Options to make a broader scope manageable

- Allow for expedited reviews when warranted
- Consider whether new evaluations are necessary for programs the state has studied previously
- Reduce the frequency of evaluations
- Increase staffing for evaluations
Evaluation schedule options

- Group similar programs together
- Evaluate programs prior to sunset dates
- Allow for flexibility
Strategies to elevate evaluation findings

- Hold legislative hearings on evaluations
- Use sunset dates
- Communicate findings to executive agencies
- Conduct follow-up reviews
Washington state’s new 10-year schedule: Considerations

- Industry grouping
- Amount of the preference
- Expiration date of the preference
- Whether the legislature explicitly directed a review of the preference
- Whether the preference is considered critical to the state’s tax structure
- Results of previous reviews
Example of an expedited review: Washington State

Marital Deduction (Estate Tax)

Current statute: RCW 83.100.047

Department of Revenue 2020 Tax Exemption Report (page 260)

Description: The decedent’s estate may deduct the value of property passed to a surviving spouse or state registered domestic partner for:
- Property passing outright; and
- Property providing an income interest for the life of the surviving spouse or domestic partner when the proper election is made.

Purpose: Postpones exposure to estate tax for assets passed to a surviving spouse until the surviving spouse’s death.

Category/Year Enacted: 2005

Primary Beneficiaries: Surviving spouses.

Possible Program Inconsistency: None evident.

Estimated Beneficiary Savings ($ in millions):

<table>
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<tr>
<td>Local taxes</td>
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Repealing this exemption would increase revenues.
Washington dashboard of evaluation findings

IMPLEMENTED RECOMMENDATIONS

Recap of Legislative Actions on Prior Reviews (2010 - 2019)
Legislature has implemented 124 recommendations from the Legislative Auditor or Citizen Commission

Note: Citizen Commission column includes only preferences where the Citizen Commission recommendation differed from the Legislative Auditor.

Implemented
Legislative Auditor or Citizen Commission recommendations were implemented by the Legislature in the following manner:

Yellow: A bill signed into law
Blue: Preference was terminated or allowed to expire
Gray: Preference was allowed to continue

Not implemented
Legislature did not implement the Legislative Auditor or Citizen Commission recommendation

Pending
Recommendation relates to a future date

Click buttons below to view details

LEGISLATIVE AUDITOR
Preference revised
Expired or terminated
Continue

CITIZEN COMMISSION
Preference revised
Continue

Not implemented
Pending
View all details

pewtrusts.org/taxincentives
Questions?

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