SB 523

Department of Legislative Services

Maryland General Assembly
2001 Session

FISCAL NOTE
Revised

Senate Bill 523 (Senators Middleton and Hoffman)
Budget and Taxation Ways and Means

Heritage Structure Rehabilitation Tax Credit

This bill alters the State Heritage Structure Rehabilitation Tax Credit. The bill provides that any excess amounts of the existing credit in a taxable year that exceed an individual or a business entity's tax liability may be claimed in refund. The bill also provides that an organization that is exempt from taxation under Section 501 (c)(3) of the Internal Revenue Code (IRC) is eligible for the refundable credit.

In addition the bill allows partners and shareholders of a business entity to allocate the Heritage Credit in any manner agreed to by those persons. The bill provides for the recapture of the heritage credit within four years after the credit was claimed if "disqualifying work" is performed after the credit was granted.

Finally, the bill requires the Director of the Maryland Historic Trust to report annually to the General Assembly and the Governor each January on: (1) the number of applications for certification of rehabilitations; (2) the number of rehabilitations certified; and (3) the total and average qualified rehabilitation expenditures during the prior calendar year.

The bill takes effect July 1, 2001 and applies to all taxable years beginning after December 2000 for certified heritage structure rehabilitations that are certified on or after July 1, 2001.

Fiscal Summary

State Effect: General fund and Transportation Trust Fund (TTF) revenue decreases could be accelerated as a result of the refundable credit because the full amount of the credit can be taken in the year the credit is claimed. However, the total revenue loss associated with the credit would not be affected.

Local Effect: To the extent that credits are taken by corporations, local revenues would decline. A portion of the corporate income tax is distributed to the TTF, from which a distribution to local governments is made.

Small Business Effect: Potential meaningful. Small businesses that transfer or receive credits could benefit from either payments for credits or reduced income tax liabilities resulting from the transfer of credits.

Analysis

Current Law: A person may claim a tax credit in an amount equal to 25% of the taxpayer’s qualified rehabilitation expenditures for the rehabilitation of a certified heritage structure, for the taxable year in which a certified rehabilitation is completed (Chapter 601 of 1996).

Background: The Internal Revenue Code (IRC) allows a taxpayer to claim a credit for qualified rehabilitation expenditures made for qualified rehabilitated buildings.

For certified historic structures, the credit is equal to 20% of qualified rehabilitation expenditures. This credit is available for both residential and nonresidential buildings that are listed in the National Register or that are located in a registered historic district and certified as being of historic significance to the district.

For buildings first placed in service before 1936, other than certified historic structures, the credit is equal to 10% of qualified rehabilitation expenditures. The credit for nonhistoric structures is generally available only for nonresidential property.

A rehabilitation project is entitled to the rehabilitation expenditures credit if the building is substantially rehabilitated, if the building was placed in service before the beginning of the rehabilitation, and, in the case of buildings other than certified historic structures, if the rehabilitation project meets the following structural tests: (1) 50% or more of the existing external walls must be retained in place as external walls; (2) 75% or more of the existing external walls must be retained in place as internal or external walls; and (3) 75% or more of the existing internal structural framework is retained in place.

A building is considered to be substantially rehabilitated if the qualified rehabilitation expenditures incurred during a two-year period selected by the taxpayer exceed the greater of $5,000 or the building’s adjusted basis. For purposes of this rule, the adjusted basis of the building is the aggregate adjusted bases of all parties who have an interest in the building.

Qualified rehabilitation expenditures are expenses properly chargeable to a capital account and incurred with respect to depreciable real property and made in connection with the rehabilitation of a qualified rehabilitated building.

The following table summarizes total expenditures for approved and completed rehabilitation projects and the State tax credits claimed for tax years 1998-2000.

Tax Year	Expenditures for Approved Projects	State Income Tax Credits Claimed
1998	$1,088,782	$207,331
1999	$50,196,552	$1,897,904
2000	$18,323,059	Not Available

Source: Department of Housing and Community Development

State Fiscal Effect: The bill makes the heritage credit refundable. As a result, general fund and TTF revenue decreases resulting from the credit could be accelerated because the full amount of the credit can be taken in the year the credit is claimed. As a result, revenues could decrease in the full amount of the credits claimed in the year the credits are claimed. Under current law, any excess credit amount exceeds the tax payable in the taxable year may be carried for up to ten years. However, the total revenue loss associated with the credit would not be affected.

Credits taken on personal income tax returns would reduce general fund revenues in the amount of the credits. Because 75% of all corporate income tax revenues are distributed to the general fund and 25% are distributed to the TTF, credits taken on corporate income tax returns would reduce general fund revenues by 75% of the amount of the credits taken, and TTF revenues would be reduced by 25% of the credits taken. In addition, 30% of the

Finally, some of the potential revenue loss associated with the bill could be potentially offset to the extent that credits are recaptured.

Local Fiscal Effect: Local government revenues would decline as a result of corporate taxpayers claiming the credits proposed in the bill. As mentioned above, 75% of corporate tax revenues are distributed to the general fund and 25% are distributed to the TTF. Of the 25% distributed to the TTF, approximately 30% is distributed to local jurisdictions. Also, local revenues would be reduced by 2.77% of the total State subtraction for tax years 2002 and 2003, falling to 2.75% for tax years 2004 and later.

Additional Information

Prior Introductions: None.

Cross File: HB 1109 (Delegate Rudolph, *et al.*) – Ways and Means.

Information Source(s): Comptroller of the Treasury (Bureau of Revenue Estimates), Department of Housing and Community Development, Department of Legislative Services

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