Department of Legislative Services

Maryland General Assembly
2001 Session

FISCAL NOTE

House Bill 1257 (Delegates Rosenberg and Taylor)
Ways and Means

Renewal Communities and New Markets Tax Credits

This bill establishes a State New Markets tax credit.

The bill is effective July 1, 2001, and applies to all taxable years beginning after December 31, 2000.

Fiscal Summary

State Effect: General fund and Transportation Trust Fund (TTF) revenues would decline in FY 2002 and following years to the extent that communities are designated in Maryland and the credit is claimed. However, the impact cannot be determined at this time.

Local Effect: Local government revenues would decrease to the extent that credits are claimed against corporate income tax.

Small Business Effect: Potential meaningful. The bill supplements the federal New Markets tax credit, which provides capital to businesses in low-income areas.

Analysis

Bill Summary: The bill allows an individual or a corporation to claim a State New Markets credit against the State income tax that is equivalent to the federal New Markets credit. The credit can be claimed for a qualified equity investment in a qualified State community development entity for low-income communities or low-income individuals.

The credit must be allocated among the partners, members, or shareholders of an entity, regardless of the federal allocations of the federal New Markets credit among those persons or whether the persons receiving the State allocation are also allowed any portion of the federal credit. The bill applies the federal definitions of a qualified equity investment and community development entity (CDE) to the State credit. It also allows a federally designated renewal community to be considered a State enterprise zone, thus making those areas eligible for the Enterprise Zone and Job Creation Tax Credits.

If the entity's federal tax credit is recaptured with respect to a State community development entity, a portion of the State credit must also be recaptured, and be in proportion to the federal recapture amount. If recapture is required, the CDE must file a statement with the Comptroller that includes the proportion of the State credit required to be recaptured, the identity of each taxpayer subject to recapture, and the amount of the State credit previously allocated to each taxpayer.

The State New Market credit cannot exceed the taxpayer's State income tax liability. Any unused portion of the credit can be carried forward for up to five years.

The bill directs the Department of Housing and Community Development (DHCD) and the Comptroller to jointly adopt regulations to administer the credit.

Current Law: The federal New Markets program provides a tax credit for stock investments in a qualified CDE. A CDE is defined as any domestic corporation or partnership whose primary mission is serving or providing investment capital for low-income communities or persons; maintains accountability to residents of low-income communities through representation on governing or advisory boards of the CDE; and is certified by the U.S. Treasury Department as an eligible CDE. A low-income community is defined as a census tract with a poverty rate of at least 20% or median family income that does not exceed 80% of the metropolitan area or statewide median family income, whichever is greater.

It allows a 5% credit to the investor for the year in which the equity interest is purchased from the CDE and for the first two anniversary dates that purchase, as well as a 6% credit on each anniversary date thereafter for next four years. The credit is recaptured if the entity fails to continue to be a CDE or interest is redeemed within seven years. The cap on equity investments that can be claimed for the credit increases from $1 billion in 2001 to $3.5 billion in 2006.

Areas designated as federal renewal communities are eligible for certain tax benefits not available to enterprise or empowerment zones. An empowerment zone that is designated as a renewal community is no longer considered an empowerment zone.

Background: The federal Consolidated Appropriations Act of 2001 (Public Law No: 106-554), contains the New Markets tax credit designed to provide businesses in economically distressed areas access to capital.

DHCD advises that the Department of Housing and Urban Development (HUD) has awarded 40 areas as renewal communities and that priority is given to empowerment zones in making those awards. Baltimore City is the only empowerment zone in the State -- no renewal communities have been designated in Maryland.

The maximum federal credits that can be authorized are $1.0 billion in federal fiscal 2001, $1.5 billion in 2002 and 2003, $2.0 billion in 2004 and 2005, and $3.5 billion in 2006 and 2007. According to estimates provided by the Joint Committee on Taxation, the cost of the federal program would be:

Federal Fiscal Year	**Estimated Cost ($ in millions)**
2001	$2.0
2002	18.0
2003	115.0
2004	246.0
2005	365.0
2006	531.0
2007	725.0

State Effect: General fund and Transportation Trust Fund revenues would decrease to the extent that the New Market credit is claimed against corporate and personal income taxes. This impact cannot be reliably estimated and depends on the number, if any, of renewal community development entities established in Maryland.

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 is distributed to the general fund and 25% is distributed to the TTF, credits taken on corporate income tax returns will reduce general fund revenues by 75% of the amount of the credits taken, and TTF revenues will be reduced by 25% of the credits taken. In addition, 30% of the 25% of revenue distributed to the TTF is distributed to local governments. At this time, the number of credits expected to be claimed on personal or corporate income tax returns cannot be reliably estimated.

DHCD advises that since the U.S. Department of Housing and Urban Development has not yet adopted regulations for this program, it is unclear what the fiscal impact on the agency will be. DHCD may be required to assume more responsibilities, including the preparation of applications for renewal communities and oversight of the State and federal tax credits.

Local Revenues: Local government revenues would decrease to the extent that credits are claimed against the corporate income tax. Potential revenue gain to the extent that the bill increases economic development in economically distressed areas.

Small Business Effect: To the extent that small businesses either claim the New Markets credit against their income tax liability or receive equity investments, they will benefit.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Office of the Comptroller, Department of Housing and Community Development, Department of Legislative Services

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