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BILL ANALYSIS



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Senate Bills 625 and 626 (as introduced 9-12-95)
Sponsor: Senator John J.H. Schwarz, M.D.
Committee: Finance

Date Completed: 5-21-96

CONTENT

Senate Bill 625 would amend the Income Tax Act, and Senate Bill 626 would amend the Single Business Tax Act, to allow a “qualified taxpayer” to claim a credit against either or both taxes for “qualified expenditures” made for the rehabilitation of a “historical resource”, that is, a publicly or privately owned historic building, structure, site, object, feature, or open space located within a historic district as designated by the National Register of Historic Places, the State Register of Historic Sites, or a local unit that established a historic district under the Local Historic Districts Act; or, a historic building, structure, etc., that was listed individually on the National or State Register. The credit would be equal to 25% of the “qualified expenditures”, and could be claimed for the 1995 tax year and thereafter.

“Qualified expenditures” would be capital expenditures that were paid within five years after initial certification of a rehabilitation plan was approved by the Bureau of Michigan History, and that were paid after December 31, 1994, for the rehabilitation of a historic resource. Qualified expenditures would not include capital expenditures for nonhistoric additions to a resource, except an addition that was required by State or Federal regulations related to historic preservation, safety, or accessibility. “Qualified taxpayer” would mean a person that owned the resource to be rehabilitated or that had a long-term lease agreement (a lease term of at least 27.5 years for a residential site or at least 31.5 years for a nonresidential site) with the owner of the resource and that had qualified expenditures for the rehabilitation of the resource equal to or greater than 10% of the State equalized valuation (SEV) of the property. If the historic resource were a portion of a historic or nonhistoric resource, the assessor for the appropriate local tax assessing unit would have to determine the SEV of only that portion. If the SEV of that portion could not be determined, qualified expenditures would have to be equal to or greater than 10% of the appraised value as determined by a certified appraiser.

The Credit

A taxpayer with expenditures that were eligible for the Federal rehabilitation credit could not claim the credits proposed in the bills for qualified expenditures, unless the taxpayer had claimed and received the Federal credit. Further, a credit taken under the bills would have to be reduced by the amount of credit the taxpayer received for the Federal credit, for the same qualified expenditures in the same tax year. (Under Section 47 of the Internal Revenue Code a taxpayer can claim a rehabilitation credit for 20% of the qualified expenditures made for a certified historic structure. The rehabilitation credit, along with the energy credit and the reforestation credit, comprise the Federal investment tax credit, as prescribed in the Code.)

The total credit allowed under both bills together could not exceed the total qualified expenditures of the taxpayer for a tax year. If the credit allowed for the tax year, and any unused carryforward of the credit, exceeded the taxpayer's tax liability for the tax year, the portion that exceeded the tax liability could not be refunded but could be carried forward to offset tax liability in subsequent tax years, for 10 years or until used up, whichever occurred first.

If the taxpayer sold the historic resource for which a credit had been taken, less than five years after the year in which the credit was claimed, the following percentage of the credit would have to be added back to the tax base of the taxpayer in the year of the sale: If the sale were less than one year after the year in which the credit was claimed, 100%; if the sale were at least one year but less than two years after the year in which the credit was claimed, 80%; at least two years but less than three years after the year in which the credit was claimed, 60%; at least three years but less than four years after the year in which the credit was claimed, 40%; and at least four years but less than five years, 20%.

The credit could be claimed in the year in which a rehabilitated historic resource was placed in service; or the year in which a final payment of qualified expenditures was made if the project were a phased project and construction were planned for two to five years.

Certification

To be eligible for the credit, a taxpayer would have to apply to and receive from the Bureau of Michigan History (within the Department of State) certification that the historical significance, a "rehabilitation plan", and the completed rehabilitation of the historic resource met either of the following criteria and the historic resources criteria (described below):

- The historic resource contributed to the significance of the historic district in which it was located; both the rehabilitation plan and completed rehabilitation of the historic resource met the Secretary of the Interior's standards for rehabilitation and guidelines for rehabilitating historic buildings in the Code of Federal Regulations (36 C.F.R. 67); and all rehabilitation work had been done to or within the envelope of the historic resource or to historic resources located within the property boundaries of the resource.
- The taxpayer had received certification from the National Park Service that the historic resource's significance, the rehabilitation plan, and the completed rehabilitation qualified for the Federal investment tax credit.

If a qualified taxpayer had filed for certification with the Bureau to qualify for the Federal tax credit, additional filing for the credit under the bill would not be required.

The Bureau could inspect a historic resource at any time during the rehabilitation process and revoke certification if the rehabilitation were not undertaken as represented in the rehabilitation plan, or if unapproved alterations to the completed rehabilitation were made during the five years after the tax year in which the credit was claimed. The Bureau would promptly have to notify the Department of Treasury of a revocation.

Historic Resources Criteria

A taxpayer's qualified expenditures could be used to calculate the credit if, within 30 months after the end of the tax year in which a credit was claimed, the historic resource were individually listed on the National Register of Historic Places or State Register of Historic Sites; a contributing resource located within a historic district listed on the National or State Register, or a contributing resource located within a historic district designated by a local unit pursuant to an ordinance adopted under the Local Historic Districts Act. In addition, the historic resource would have to be

located in one of the following: a historic district in a local unit of government with an existing ordinance under the Local Historic Districts Act; an *incorporated* local unit of government that did not have an ordinance under that Act and had a population of less than 5,000 (in which case, a historic designation by the local unit of government would not be required); an incorporated local unit of government that did not have an ordinance under the Act (but if the population of the local unit were 5,000 or more, *only* if the resource were located in a historic district designated by ordinance); or an unincorporated local unit that had no ordinance under the Act.

Fee/Report/Rules

The bills would allow the Department of State, through the Bureau of Michigan History, to impose a fee to cover the cost of implementing the bills' provisions. The Department would have to submit proposed rules to implement the bills' provisions. Further, the Department would have to report to the Legislature each year, for the immediately preceding State fiscal year, the fee schedule used and the total fees collected; a description of each project certified; and the location of each new and ongoing project.

Historic Resources

A "historic resource" or "resource" (defined above) would include all of the following:

- An owner-occupied personal residence or a historic resource located within the property boundaries of the personal residence.
- An income-producing commercial, industrial, or residential resource or a historic resource located within the property boundaries of the resource.
- A resource owned by a governmental body, nonprofit organization, or tax-exempt entity, that was used primarily by a taxpayer lessee in a trade or business unrelated to the governmental body, nonprofit organization, or tax-exempt entity, and that was subject to the income tax or the single business tax.
- A resource that was occupied or used by a governmental body, nonprofit organization, or tax-exempt entity pursuant to a long-term lease or lease with option to buy agreement.
- Any other resource that could benefit from rehabilitation.

Proposed MCL 206.266 (S.B. 625)
Proposed MCL 208.39b (S.B. 626)

Legislative Analyst: G. Towne

FISCAL IMPACT

The income tax credit proposed in Senate Bill 625 would directly reduce income tax revenue by an estimated \$300,000 in FY 1996-97, and the single business tax (SBT) credit proposed in Senate Bill 626 would directly reduce SBT revenue by an estimated \$500,000 in FY 1996-97. These estimates are based on information from the Michigan Historical Preservation Network. Given the current distribution of the income tax revenue, the estimated \$300,000 reduction in income tax revenue would have an impact on the following budget areas: General Fund/General Purpose (GF/GP) revenue would be reduced \$209,000, School Aid Fund revenue would be decreased \$69,000, and revenue sharing would be reduced \$22,000. The estimated \$500,000 reduction in SBT revenue would reduce only GF/GP revenue in FY 1996-97, but in subsequent years revenue sharing also would be reduced.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.