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House Bill 4264 (Substitute H-2 as passed by the House)
Sponsor: Representative Robert Jones
House Committee: Tax Policy
Senate Committee: Finance

Date Completed: 10-22-09

CONTENT

The bill would amend the Michigan Business Tax Act to allow an unused carryforward of a taxpayer's historic preservation credit to be reduced by the amount that otherwise would be added back to the taxpayer's tax liability due to revocation of the credit or sale of the historic resource. The bill also would require a portion of the credit to be added to tax liability if a taxpayer's preapproval letter were revoked.

The bill would be retroactive and effective for tax years beginning after December 31, 2007.

Carryforward Reduction

Under the Act, a taxpayer that owns and rehabilitates a historic resource may claim a credit against the Michigan Business Tax (MBT) for a percentage of the taxpayer's qualified expenditures, if the taxpayer receives a certificate of completed rehabilitation and other criteria are met. Typically, the credit equals 25% of qualified expenditures (reduced by the amount of a Federal historic preservation credit). If the credit for a tax year exceeds the taxpayer's MBT liability, the excess may not be refunded but may be carried forward to offset tax liability for up to 10 subsequent tax years.

Under certain circumstances, a portion of the credit must be added back to the taxpayer's MBT liability. This applies if the certificate of completed rehabilitation is revoked because rehabilitation was not undertaken or unapproved alterations are made, or the taxpayer sells or disposes of the historic resource less than five years after the credit was claimed (for tax years beginning before 2009) or less than five years after the historic resource was placed in service (for tax years beginning after 2008). The amount that must be added to the taxpayer's MBT liability ranges from 20% if the sale or revocation is at least four years but less than five years after the year the credit was claimed or the historic resource was placed in service, to 100% if the sale or revocation is less than one year after the credit was claimed or the historic resource was placed in service.

Under the bill, if the taxpayer had an unused carryforward of the credit, the amount otherwise added to MBT liability instead could be used to reduce the taxpayer's carryforward.

Preapproval Letter Revocation

In addition to the standard credit for 25% of qualified expenditures, the Act allows a taxpayer to claim a credit for 10% to 15% of qualified expenditures if the taxpayer has a

preapproval letter issued by the Director of the Department of History, Arts, and Libraries. (A preapproval letter indicates the maximum percentage of expenditures on which a credit may be based.) This credit is available for tax years beginning on and after January 1, 2009, and the preapproval letter must be issued by December 31, 2013. The Director may revoke a preapproval letter if there has not been substantial progress toward completion of the taxpayer's rehabilitation plan or the plan cannot be completed. (These responsibilities now belong to the Michigan State Housing Development Authority.)

Under the bill, for tax years beginning after 2008, a percentage of the credit would have to be added to the taxpayer's MBT liability if a preapproval letter were revoked.

MCL 208.1435

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: David Zin

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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.