Tax Expenditure Review Commission Public Meeting Minutes

Friday, February 12, 2021

Via Teleconference

10:00AM

Commission Members in Attendance:

Chairman Kevin Brown, MA Department of Revenue

Auditor Suzanne Bump, MA Auditor

Chairman Adam Hinds, Joint Revenue Committee, Senate Co-Chair

Ryan Sterling, Designee, Joint Revenue Committee, House Co-Chair

Professor Matthew Weinzierl, Governor’s Appointee

David Sullivan, Designee, Senate Ways and Means Committee

Greg Sullivan, Designee, Senate Minority Leader

Commission Members Absent:

Chairman Aaron Michlewitz, House Ways and Means Committee

Sue Perez, Designee, MA Treasurer

Professor Michelle Hanlon, Governor’s Appointee

William Burke, Designee, House Minority Leader

List of Documents:

1. Meeting Agenda
2. Draft Minutes – January 29, 2021 Meeting
3. Tax Evaluation Expenditure Ranking Assignment Spreadsheet

Members were asked to announce themselves and a quorum was recognized by Chairman Brown. The meeting via teleconference was called to order at 10:05AM.

Chairman Brown advised that the meeting is public, but due to the COVID-19 State of Emergency, public participation is limited to listening without posing questions during the meeting. Chairman Brown put the Commission and public on notice that the meeting is recorded for purposes of minutes. Once the minutes are approved, the recording will be deleted.

Chairman Brown requested that Commission members provide any changes to the January 29, 2021 draft meeting minutes. Hearing none, members voted unanimously to approve the January 29, 2021 meeting minutes with a correction to the start time.

Chairman Brown provided an overview of his thoughts on the outline of the report due to the legislature next month. Chairman Brown suggested providing background on the development of the review template, the process by which members reviewed and discussed each tax expenditure, and a summary of recommendations reflective of the actual review templates, which would also be included. More detail would be provided on tax expenditures that received negative reviews by members. Members had previously agreed to also include a discussion of transferable credits.

David Sullivan led a discussion on the Exemption for Materials, Tools, Fuels and Machinery Used in Manufacturing. The intent of the tax expenditure is to avoid double-taxation by providing tax exemptions on components of manufacturing, then placing a sales tax on the final product only. Since a number of other states have a similar tax expenditure, there are competitiveness and jobs retention goals.

Chairman Brown stated that administering the tax expenditure can be challenging and has generated a good deal of litigation and auditing. For example, a manufacturer may buy office supplies and claim them as eligible for the exemption as being part of the manufacturing process. Professor Weinzierl stated that given that certain business sectors are afforded exemptions, such as commercial fisheries and agricultural production, the Commission might want to suggest a broad legislative review of the application of the sales tax. Members voted to approve the review template with a change from ease of administering to Somewhat Disagree, and the inclusion of a note of explanation.

Chairman Brown led a discussion of the Unequal Weighting of Sales, Payroll and Property in Apportionment Formula (e.g. Single Sales Factor), as reviewed by Professor Hanlon and William Burke. The original three-factor formula was developed in Massachusetts over a century ago with the goal of avoiding taxation by multiple states where corporations are doing business. The weighted formula consisted of taking a fraction of payroll costs, tangible property, and sales location to determine how much income is taxable. In recent years Massachusetts and other states have dropped the property and payroll factors. The shift toward weighting the sales factor exclusively has a significant revenue cost. Members agreed that more information is needed before they are ready to vote on this tax expenditure. Dr. Kazim Ozyurt, DOR Chief Economist, agreed to provide a breakdown of the costs of double-weighted sales versus single-weighted sales for manufacturers and mutual funds.

Professor Weinzierl led a discussion on Exemption for Materials, Tools, Fuels and Machinery Used in Research and Development (R&D), which he reviewed with Sue Perez. While R&D is a critical economic engine for Massachusetts, there is already the Research Credit (previously reviewed by the Commission), so it may be worthwhile for the legislature to simplify by combining the two. Members voted to approve the review with a change of ease of administration to Somewhat Disagree and claimed by a broad group of taxpayers to Somewhat Disagree, as well as noting that the data is limited on determining the level of success of the R&D industry but for this tax expenditure.

Auditor Bump led a discussion of the Exemption for Newspapers and Magazines. Members agreed that the goal is to support the free exchange of ideas. Given that the news is largely online now, members discussed the relevance of this expenditure and voted to approve the review with a change to Somewhat Agree that it is relevant today.

Professor Weinzierl and Greg Sullivan led a discussion of the Exemption for Vessels, Materials, Fuels, and Machinery Used in Commercial Fishing. The industry is identified in the Administration’s strategic economic plan as a “key cluster” due to its tourism draw and cultural history. Members voted to approve the review as presented.

Senator Hinds led a discussion of the Economic Development Incentive Program (EDIP) Credit reviewed by Chairman Cusack. The EDIP is for incentivizing investment in projects. The average benefit per claimant is $100,000. Claimants are typically companies of 100 or fewer employees, so the benefit is impactful on whether a project moves forward or not. The EDIP was noted by the 2012 Tax Expenditure Review Commission as a well-structured model. Members voted to approve the review with the addition of competitiveness as a goal and note that beneficiaries may be limited due to an annual funding cap in the state budget.

Auditor Bump led the discussion of the Exemption for Coin-Operated Vending Machines, as reviewed by Professor Hanlon and William Burke. There are likely fewer vending machines than when the expenditure was adopted in 1977; however, it remains impractical for the owner to charge sales tax at point of sale. Members voted to approve the review with a change to Somewhat Disagree that the expenditure provides a meaningful benefit because it does do so for the vendor.

Members agreed to schedule another meeting for mid-February. Chairman Brown concluded the meeting at 12:04PM.