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SFA**BILL ANALYSIS**

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Senate Bills 888 and 889 (as enrolled)
Sponsor: Senator John J. H. Schwarz, M.D.
Senate Committee: Finance
House Committee: Tax Policy

PUBLIC ACTS 213 and 214 of 1999

Date Completed: 1-20-00

CONTENT

Senate Bill 888 amended the Single Business Tax (SBT) Act, and Senate Bill 889 amended the Income Tax Act to extend the period during which taxpayers may claim credits for historic preservation, and to make other revisions concerning the credits.

Under the law, a qualified taxpayer may claim a credit against either or both taxes for qualified expenditures made for the rehabilitation of a "historic 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 is listed individually on the National or State Register. The credit is equal to 25% of the qualified expenditures.

Previously, the credit could be claimed for tax years that began after 1998 and before 2003; and 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 was a phased project and construction was planned for two to five years. The bills eliminated these provisions and provide instead that a qualified taxpayer with a rehabilitation plan certified after 1998 and before January 1, 2003, may claim a credit for qualified expenditures in the year in which the certification of completed rehabilitation of a historic resource is issued, provided that the certification was issued within five years after the rehabilitation plan was certified by the Michigan Historical Center. Further, expenditures made after 2002 and within five years after certification of a rehabilitation plan will be considered qualified expenditures (eligible for the credit) only if the plan received certification by the Center before January 1, 2003. Under the Act, if the credit allowed for the tax year, and any unused carryforward of the credit,

exceeds the taxpayer's tax liability for the tax year, the portion that exceeds the tax liability may not be refunded but may be carried forward to offset tax liability in subsequent tax years, for 10 years or until used up, whichever occurs first. Under the bills, for a credit based on a rehabilitation plan certified before 2003, a carryforward may be claimed in tax years that begin after 2002.

The bills provide that if a qualified taxpayer is a partnership, limited liability company, or Subchapter S corporation, the qualified taxpayer may assign all or any portion of the credit to its partners, members, or shareholders, based on a partner's, member's, or shareholder's proportionate share of ownership, or based on an alternative method approved by the Department of Treasury. A credit assignment is irrevocable and must be made in the tax year in which a certificate of completed rehabilitation is issued. A qualified taxpayer may claim a portion of a credit and assign the remaining credit amount. A partner, member, or shareholder that is an assignee may not subsequently assign the credit or any portion of it to the partner, member, or shareholder under this provision. A credit amount assigned may be claimed against the partner's, member's, or shareholder's tax liability under the SBT Act or the Income Tax Act. A credit assignment must be made on a form prescribed by the Department. The qualified taxpayer and assignees must send a copy of the completed assignment form to the Department in the tax year in which the assignment is made, and attach a copy of the completed assignment form to the annual return for that year.

Previously, under the Acts, a person who claimed the credit had to do so on a separate form prescribed by the Department, rather than on the taxpayer's income tax or SBT return. The bills deleted this provision.

Under the Acts, the Michigan Historical Center may inspect a historic resource at any time during the

rehabilitation process and revoke certification if the rehabilitation is not undertaken as represented in the rehabilitation plan, or if unapproved alterations to the completed rehabilitation are made during the five years after the tax year in which the credit was claimed. The bills provide that if a certificate of completed rehabilitation is revoked less than five years after a credit was claimed, a percentage of the credit amount previously claimed will have to be added back to the tax liability of the taxpayer in the year of the revocation. If the revocation is less than one year after the year in which the credit was claimed, the taxpayer must add back 100% of the credit. If the revocation is made at least one year but less than two years after the credit was claimed, the taxpayer must add back 80%; between two and three years, 60%; three and four years, 40%; or four and five years, 20%. After five years the taxpayer will not have to add back to his or her liability.

Under the Acts, to claim a credit a qualified taxpayer must have 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 is a portion of a historic or nonhistoric resource, the SEV of only that portion of the property must be used. If the assessor for the appropriate local tax assessing unit determines the SEV of that portion, that determination must be used; if the assessor does not determine the SEV, then qualified expenditures must be equal to or greater than 5% of the appraised value as determined by a certified appraiser. The bills further provide that if the historic resource to be rehabilitated does not have an SEV, qualified expenditures must be equal to or greater than 5% of the appraised value of the resource as determined by a certified appraiser.

MCL 208.39c (S.B. 888)
206.266 (S.B. 889)

Legislative Analyst: G. Towne

BACKGROUND

Public Acts 534 and 535 of 1998 amended the SBT Act and the Income Tax Act, respectively, to create tax credits for rehabilitation expenses incurred by the owner of historic resources, under specified qualification requirements. According to the Michigan Historic Preservation Network, over 50 local units of government in Michigan have designated portions of their jurisdictions as historic districts, under the Local Historic Districts Act. Under that Act a local unit of government may, by ordinance, establish a historic district, in which the

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local unit can regulate the construction, alteration, repair, and moving of resources (public or private historic or nonhistoric buildings, structures, sites, open spaces, etc. within the district). The purpose of the ordinance must be to safeguard local heritage, stabilize and improve property values, foster civic beauty, strengthen the local economy, or promote the use of historic districts for the education, pleasure, and welfare of local and State residents. There also are numerous resources in Michigan that are listed on the State Register of Historic Sites and/or on the National Register of Historic Places. The Federal government also offers tax credits for the restoration of historic sites. In addition, approximately 40 states reportedly offer some form of tax incentives, such as credits, abatements, or reduced property assessments, to the owners of historic resources for rehabilitation expenses.

FISCAL IMPACT

As originally enacted, these income tax and single business tax historic preservation tax credits were each expected to reduce revenue about \$1 million to \$2 million each year. These bills will not have an immediate measurable impact on the cost of these tax credits; however, they do extend the period during which taxpayers may claim the credit. Previously, these credits expired after tax year 2002. Under these bills, qualified taxpayers may claim the credit after 2002, as long as their rehabilitation plan is certified before January 1, 2003.

Fiscal Analyst: J. Wortley