

CONTINUE SBT CREDITS AFTER SBT REPEAL

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House Bill 6183 as passed by the House

Sponsor: Rep. Glenn Steil, Jr.

Committee: Tax Policy

First Analysis (6-19-06)

BRIEF SUMMARY: The bill would permit taxpayers to claim credits for brownfield redevelopment and historic preservation after the SBT's possible repeal at the end of 2007.

FISCAL IMPACT: The bill would allow brownfield and historic preservation single business tax credits for tax years 2008 and 2009 to be taken on a 2007 return, if the Single Business Tax Act is repealed for tax years beginning after December 31, 2007. These credits average \$60 million annually, but can vary widely between years. All single business tax revenue accrues to the General Fund/General Purpose. These bills would have no direct local fiscal impact.

THE APPARENT PROBLEM:

The state provides credits against the Single Business Tax for brownfield redevelopment and historic preservation projects. Generally speaking, these credits may be assigned ("sold") to investors to provide the necessary capital for the projects, and are often used as equity when seeking financing from a bank. The expected repeal of the SBT at the end of 2007, has created some uncertainty as to the availability of projects that will be completed after 2007.¹ Many banks are unsure of the availability of the credits, and aren't as willing to provide the necessary financing for a project. Reportedly, many projects are now on hold pending resolution of this issue.

THE CONTENT OF THE BILL:

House Bill 6183 would amend the Single Business Tax Act so that taxpayers eligible to claim credits for brownfield redevelopment and historic preservation projects completed after the SBT Act's expected repeal at the end of 2007 could claim those credits on an original or amended return for the taxpayer's final tax year under the act.

Brownfield Redevelopment

Under the Single Business Tax Act, a "qualified taxpayer" with a preapproval letter issued by the Michigan Economic Growth Authority after December 31, 1999 and before

¹ Under current law, the SBT Act is to be repealed for tax years beginning after December 31, 2009. However, supporters of the SBT's repeal circulated a petition for an initiated law repealing the SBT at the end of 2007. Once the signatures are validated by the state Board of Canvassers, the issue will be placed before the legislature, which then has 40 days to enact the initiated law, without the governor's signature. If the legislature does not vote to enact the law, the matter will be placed before the voters at the November General Election.

January 1, 2008, can claim a credit against the tax for a brownfield redevelopment project, as long as the project is completed within five years after the preapproval letter is issued. The credit is generally equal to either of the following:

- 10 percent of the eligible investment costs, if the total credits for the project are less than \$1 million.
- A percentage of eligible investment costs, up to 10 percent, determined by MEGA, if the total credits for the project are more than \$1 million and \$30 million or less, and the project is located in a qualified local governmental unit.

House Bill 6183 specifies that a qualified taxpayer with a preapproval letter issued before January 1, 2007, for a project that is not completed before the end of the taxpayer's last tax year, but is completed before January 1, 2010, or an assignee, could claim the credit on an original or amended return for the taxpayer's or assignee's last tax year under the act.²

The credit allowed to be taken under the bill would be in addition to other brownfield credits taken for projects completed before the taxpayer's or assignee's last tax year. The credit would be taken after all other credits in that tax year, except the historic preservation credit allowed under the bill³, and could not exceed the amount the taxpayer or assignee would have claimed for the 2008 or 2009 tax year for projects completed in those years. The credit would not equal an amount not to exceed the taxpayer's or assignee's tax liability for the last tax year, after all other SBT credits, except the brownfield credit for that year, are taken. The bill further adds that the credit would be refundable.

Historic Preservation

The SBT Act also provides taxpayers with a credit against the SBT equal to one-quarter of any "qualified expenditures" – generally meaning capital expenditures that qualify for a similar rehabilitation credit under the federal Internal Revenue Code – for the rehabilitation of an historic resource. (The SBT credit is reduced by the amount of the federal credit.)

House Bill 6183 provides that a qualified taxpayer that has a rehabilitation plan certified before January 1, 2007 for the rehabilitation of a historic resource for which a certificate of completion is not issued before the end of the taxpayer's last tax year, but is issued before January 1, 2010, or an assignee, could claim the credit on an amended return for the taxpayer's or assignee's last tax year under the act.⁴

² Given that the act, under the initiative petition, would be repealed on December 31, 2007, the bill would apparently not apply to preapproval letters issued in 2007. It doesn't appear that brownfield credits for projects with a preapproval letter issued in 2007 and completed in 2008 or 2009 could be taken on a 2007 return. Currently, the act permits qualified taxpayers with a preapproval letter issued before January 1, 2008 to claim the brownfield credit.

³ The bill contains an erroneous reference to Section 4 of the act, and apparently should reference the historic preservation credit allowed under the bill.

⁴ Again, given that the act, under the initiative petition, would be repealed on December 31, 2007, the bill would apparently not apply to rehabilitation plans certified in 2007. It doesn't appear that historic preservation credits for projects with a rehabilitation plan certified in 2007 and completed in 2008 or 2009 could be taken on a 2007 return.

The credit allowed to be taken under the bill would be in addition to other historic preservation credits taken for projects completed before the taxpayer's or assignee's last tax year. The credit would be taken after all other credits in that tax year, and could not exceed the amount the taxpayer or assignee would have claimed for the 2008 or 2009 tax year for projects completed in those years. The credit would equal an amount not to exceed the taxpayer's or assignee's tax liability for the last tax year, after all other SBT credits, except the historic preservation credit for that year, are taken. The bill further adds that the credit would be refundable.

Estimated Payments

The act provides that a taxpayer who reasonably expects tax liability to exceed \$600 or adjustments to the tax base (as provided in Section 23 of the act) to exceed \$100,000 is required to file quarterly returns and make estimated payments. The bill specifies that, in calculating tax liability to determine whether quarterly returns are necessary, the taxpayer's liability would be the liability before either of the credits provided under the bill.

BACKGROUND INFORMATION:

Governor's Special Message to the Legislature

In a special message to the legislature on June 9, 2006, Governor Granholm stated, "the pending repeal of the Single Business Tax is jeopardizing the effectiveness of important economic development tools that Michigan uses to: compete against other states and countries for jobs; redevelop former industrial and other brownfield sites for productive new use; preserve and restore historic assets for redevelopment; and remain a productive partner in key economic development projects. Businesses currently considering creating jobs, deciding whether to keep jobs in Michigan, and perhaps most troubling, businesses that have already chosen Michigan in part because of these incentives, have expressed grave concern regarding this uncertainty. Many projects on the drawing board seeking approval this year are now in peril. Financing for many of these projects has been withdrawn or put on hold until this issued is resolved. Job growth and investment in Michigan is being affected. In fact, there are a number of job-creation and community development projects now at risk.

"To minimize the negative consequences and uncertainty for the Michigan economy caused by the proposed repeal of the Single Business Tax Act without a replacement and to protect the effectiveness of Michigan's economic development incentives, I urge you to act expeditiously to adopt legislation to:

- Enact a new state law guaranteeing that Single Business Tax employment tax credits authorized under an agreement with the Michigan Economic Growth Authority will be preserved under any successor tax enacted to replace the Single Business Tax;
- Amend the Michigan Renaissance Zone Act to assure that a business that has committed to a Renaissance Zone location will be exempt from any business tax

replacing the Single Business Tax to the same extent and duration that the businesses would have qualified had the Single Business tax remained in effect.

- Amend the provisions of Section 38g and 38c of the Single Business Tax Act relating to brownfield and historic preservation tax credits to extend the date for receiving a certificate of completion of eligible investment allowing a taxpayer to claim a credit on a return for the 2007 tax year. "

ARGUMENTS:

For:

The bill is necessary to correct an unintended consequence of the potential early repeal of the Single Business Tax. Reportedly, the early repeal has led some financial institutions to delay or withdraw financing for brownfield redevelopment and historic preservation projects, because of the uncertainty of the availability of these credits after the SBT's repeal. Many projects throughout the state receive financing, in part, because of these credits. Without such credits, many projects may no longer be feasible and many lenders could potentially withdraw their support.

POSITIONS:

The Department of Treasury supports the bill. (6-14-06)

The Michigan Economic Development Corporation supports the bill. (6-14-06)

Global Exeter, a tax consulting firm, supports the bill. (6-14-06)

The Michigan Manufacturers Association supports the bill. (6-14-06)

The Michigan Bankers Association supports the bill. (6-14-06)

Meijer, Inc. supports the bill. (6-14-06)

The Michigan Chamber of Commerce supports the bill. (6-14-06)

The City of Detroit supports the bill. (6-14-06)

The Small Business Association supports the bill. (6-14-06)

The International Council of Shopping Centers supports the bill. (6-14-06)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.