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Senate Bill 90 (as introduced 1-27-09)
Sponsor: Senator Nancy Cassis
Committee: Finance

Date Completed: 1-29-09

CONTENT

The bill would amend the Michigan Business Tax (MBT) Act to provide that if a qualified taxpayer had an unused carryforward of a credit for rehabilitating a historic resource, the amount otherwise added to the taxpayer's tax liability because of revocation of certification of completed rehabilitation or sale of the historic resource could be used to reduce the taxpayer's carryforward.

Under the Act, a qualified taxpayer with a rehabilitation plan certified after December 31, 2007, or a qualified taxpayer that has a rehabilitation plan certified before January 1, 2008, under the Single Business Tax (SBT) Act, for the rehabilitation of a historic resource for which a certification of completed rehabilitation has been issued after the end of the taxpayer's last tax year, may credit against the MBT the amount for the qualified expenditures for the rehabilitation of a historic resource pursuant to the rehabilitation plan in the year in which the certification of completed rehabilitation of the historic resource is issued.

If the credit for the tax year and any unused carryforward of the credit exceed the taxpayer's tax liability for the tax year, the excess 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.

For tax years beginning before January 1, 2009, if the taxpayer sells a historic resource for which a credit was claimed under the MBT Act or under the SBT Act less than five years after the year in which the credit was claimed, or if a certification of completed rehabilitation is revoked less than five years after the year in which the credit was claimed, between 20% and 100% of the credit amount previously claimed relative to that historic resource must be added back to the tax liability of the taxpayer in the year of the sale or revocation.

For tax years beginning after December 31, 2008, unless a qualified taxpayer enters into a written agreement with the State Historic Preservation Office that allows for the transfer or sale of the historic resource, if a certificate of completed rehabilitation is revoked because the rehabilitation was not undertaken as represented in the rehabilitation plan, unapproved alternations to the completed rehabilitation are made during the five years after the tax year in which the credit was claimed, or the Director of the Department of History, Arts, and Libraries determines that there has not been substantial progress toward completion of the rehabilitation plan or that the plan cannot be completed, or because a historic resource is sold or disposed of less than five years after it is placed in service, between 20% and 100% of the credit amount previously claimed relative to that historic resource must be added

back to the tax liability of the qualified taxpayer that received the certificate of completed rehabilitation and not the assignee in the year of the revocation.

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

("Qualified taxpayer" means a person that either owns the resource to be rehabilitated or has a long-term lease agreement with the owner of the historic resource and that has qualified expenditures for the rehabilitation of the historic resource equal to or greater than 10% of the State equalized valuation of the property.)

MCL 208.1435

Legislative Analyst: Craig Laurie

FISCAL IMPACT

The change proposed in this bill is a technical clarification of the tax ramifications when rehabilitated property for which a historic rehabilitation credit was claimed is sold within five years after the credit was claimed, and therefore the bill would have no fiscal impact on State or local governments.

Fiscal Analyst: Jay Wortley

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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.