Legislative Analysis

TAX CREDIT FOR QUALIFIED INVESTMENTS

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House Bill 4116 as introduced
Sponsor: Rep. Bronna Kahle
Committee: Tax Policy
Complete to 11-10-21

SUMMARY:

House Bill 4116 would amend the Income Tax Act to allow a taxpayer to claim up to a 50% credit against the taxpayer's individual tax liability for making a ***qualified investment*** in a ***qualified business***, as long as the taxpayer received certification for the investment from the Michigan Strategic Fund (MSF).

> ***Qualified investment*** would mean a cash or a cash equivalent investment certified by the MSF in a qualified business that is not a qualified business of which any member of the investor's family is an employee or owner or with which the investor or any member of the investor's family has a preexisting fiduciary relationship.
>
> ***Qualified business*** would mean a business that the MSF certifies as in compliance with all of the following at the time of the investment:
> - The business has its headquarters in Michigan, is domiciled in Michigan, and has a majority of its employees working in Michigan, and its transactions are limited to residents of Michigan under the federal intrastate offering exemption, which seeks to facilitate the financing of local business operations.[1]
> - The business receives at least 80% of its gross revenues from the operation of its business in Michigan.
> - The business has at least 80% of its assets in Michigan.

Beginning on the date the bill takes effect, a taxpayer could qualify for and receive the credit by requesting certification from the MSF within 60 days of making the investment and attaching the certificate to the taxpayer's annual income tax return.

The certificate would have to include the total amount of the investment in each qualifying businesses in the given tax year, the total number of *qualified* investment in each business if different from the previous amount, and the total amount of the credit that the taxpayer may claim for the designated tax year.

If the amount of the credit allowed by the bill exceeded the taxpayer's tax liability for that tax year, the excess would *not* be refunded but *could* be carried forward to offset tax liability under Part 1 of the act (which governs the individual income tax) for up to 10 years or until it is used up, whichever occurred first.

Proposed MCL 206.280

[1] https://www.sec.gov/smallbusiness/exemptofferings/intrastateofferings

BACKGROUND:

The bill would reinstitute a credit similar to one in place from tax years 2010 to 2012,[2] known as the "venture investment credit." That credit allowed taxpayers to claim a credit equal to 25% of the amount of a qualified investment in a qualified business after obtaining certification from the MSF. The MSF could not certify more than $9.0 million in credits in a calendar year, and an individual could not claim more than $250,000 in a tax year. Additionally, there were lifetime limits of $250,000 by one taxpayer in one business and $1.0 million in total investments in one business. The credit was refundable but could be carried forward for up to five years to offset the taxpayer's tax liability.

FISCAL IMPACT:

As written, the bill would reduce individual income tax revenue by an unknown amount. Without knowing how much qualified investment would occur in any given year and a taxpayer's existing liability, it is not possible to construct a reliable estimate. However, given that there is no annual cap on the amount of qualified investment that can be approved by the MSF, the impact could potentially be large.

Because the credit is nonrefundable and would not increase refunds, it would reduce both general fund and School Aid Fund revenues. Approximately 23.8% of gross income tax revenue accrues to the School Aid Fund, and the remainder accrues to the general fund.

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[2] House Fiscal Agency summary of 2010 PA 235 (HB 5921 of 2009-10):
http://www.legislature.mi.gov/documents/2009-2010/billanalysis/House/pdf/2009-HLA-5921-6.pdf
As enacted, the credit could be applied in tax years 2010 to 2013. However, the sunset (expiration date) was amended in 2011 to end the credit January 1, 2012.