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Senate Bills 783 and 784 (as introduced 12-8-21)
Sponsor: Senator Jon Bumstead
Committee: Finance

Date Completed: 2-22-22

CONTENT

Senate Bill 783 would amend the Income Tax Act to do the following:

- Specify that a provision allowing a taxpayer to claim against the individual income tax due for the tax year a credit for the property taxes on his or her homestead would not apply to a disabled veteran or a widow or widower of a disabled veteran who filed an affidavit under Senate Bill 784.
- Require, beginning with the 2023 tax year, a disabled veteran or his or her widow or widower to claim a credit against his or her income tax in an amount equal to 100% of the property tax levied on his or her homestead deductible for Federal income tax purposes.
- Require a local tax collecting unit that received an affidavit stating a claimant's intent to claim the proposed credit to provide the Department of Treasury with a copy of the affidavit and information needed to determine the amount of property taxes levied and deferred on the homestead.
- Specify that the credit proposed under the bill would be exempt from execution, levy, attachment, garnishment, or other legal process to collect a debt.

Senate Bill 784 would amend the General Property Tax Act to do the following:

- Eliminate language that exempts the homestead of a disabled veteran or his or her unremarried surviving spouse from property taxes levied under the Act.
- Requires a disabled veteran or his or her unremarried surviving spouse who intended to claim the homestead credit proposed under Senate Bill 783 to file an affidavit with the local tax collecting unit.
- Require a local tax collecting unit that received an affidavit to defer collecting property taxes levied on the homestead until the State paid the property taxes or rejected the claim for the credit, and to provide the Department with a copy of the affidavit and inform the Department of the amount of tax deferred.
- Specify that property taxes deferred under the bill would not be subject to penalties or interest for the deferment period.
- Specify that after the State's payment of property tax or rejection of the claim, the local tax collecting unit would have to notify the claimant of the payment or rejection, the amount of unpaid tax, and the date by which the balance would have to be paid.

The bills are tie-barred. Senate Bill 783 would take effect January 1, 2023; Senate Bill 784 would take effect December 31, 2022.

Senate Bill 783

Subject to certain limitations, Section 520 of the Income Tax Act allows a claimant to claim against the individual income tax due for the tax year a credit for the property taxes on the taxpayer's homestead deductible for Federal income tax purposes under Section 164 of the Internal Revenue Code (IRC), or that would have been deductible if the claimant had not elected the zero bracket amount or if the claimant had been subject to the Federal income tax. Under the bill, this would apply to a claimant who was not a disabled veteran or a widow or widower of a disabled veteran who had filed an affidavit as provided in Senate Bill 784. (Section 164 of the IRC allows certain state and local taxes to be used as a deduction for the taxable year within which the tax was paid or accrued.)

"Disabled veteran" would mean a veteran who meets one of the following criteria:

- Has been determined by the United States Department of Veterans Affairs to be permanently and totally disabled as a result of military service and entitled to veterans' benefits at the 100% rate.
- Has a certificate from the US Department of Veterans Affairs certifying that he or she is receiving or has received pecuniary assistance due to disability for specially adapted housing.
- Has been rated by the US Department of Veterans Affairs as individually unemployable.

"Widow or widower" means the unmarried surviving spouse of a veteran or serviceperson who receives a widow's or widower's pension from the United States Department of Veterans Affairs. Under the bill, the term also would include the unmarried surviving spouse of a disabled veteran.

For tax years beginning on and after January 1, 2023, a claimant who was a disabled veteran or a widow or widower of a disabled veteran who had filed an affidavit as provided in Senate Bill 784, in a form and manner as prescribed by the Department, would have to claim a credit against the individual income tax for the tax year in an amount equal to 100% of the property taxes levied on the taxpayer's homestead deductible for Federal income tax purposes under Section 164 of the IRC, or that would have been deductible if the claimant had not elected zero bracket amount or if the claimant had been subject to the Federal income tax, for that same tax year.

A local tax collecting unit that received an affidavit would have to provide the Department with a copy of the affidavit and the information needed to determine the amount of the property taxes levied and deferred on the claimant's homestead for the tax year for which the credit was claimed under the bill before February 1 of each year. The amount of the credit claimed, after examination and review, could not be used to offset income tax liability but would have to be approved for payment and the Department would have to remit the amount of the credit payment directly to the local tax collecting unit in the form of a fully negotiable check. Payment would have to be made within 14 days of receiving the credit form filed by the claimant and the necessary information from the local tax collecting unit.

A claimant who filed a credit under the bill would not be eligible for the homestead property tax credit provided for under Section 520. For a return of less than 12 months, the claim would have to be reduced proportionately. A claim could not be allowed under the bill if the Department found after examination and review any of the following:

- The claimant was not a disabled veteran or a widow or widower of a disabled veteran.
- The claimant did not file an affidavit as provided in Senate Bill 784.
- The claimant filed a claim under Section 520 for that same tax year.

Notwithstanding Section 30a of Public Act (PA) 122 of 1941, the credit would be exempt from interception, execution, levy, attachment, garnishment, or other legal process to collect a debt. No portion of the credit allowed or any rights existing as specified above could be applied as an offset to any liability of the claimant under Section 30a of PA 122 or any arrearage or other debt of the claimant. (Section 30a of PA 122 specifies that if a taxpayer claims a refund that the Department determines is valid, and the Department identifies a liability of the taxpayer as specified in PA 122, the Department first must apply the amount of the refund toward those liabilities, and the excess, if any, must be refunded or credited to the taxpayer.)

Senate Bill 784

The General Property Tax Act specifies that real property used and owned as a homestead by a disabled veteran who was discharged from the US Armed Forces under honorable conditions or his or her surviving unremarried spouse is exempt from the collection of taxes under the Act and prescribes the procedure for claiming the exemption. The bill would eliminate this language.

Instead, under the bill, if a disabled veteran or the widow or widower of a disabled veteran intended to claim the homestead credit proposed in Senate Bill 783, he or she would have to file an affidavit with the local tax collecting unit stating that intention and describing the homestead for which the credit would be claimed. The affidavit could be filed anytime in the calendar year during which the property taxes subject to the credit would be levied. "Disabled veteran" would mean that term as it would be defined in Section 505 of the Income Tax Act (see **Senate Bill 783**).

The Department of Treasury would have to provide local tax collecting units with both of the following:

- A form to be used for an affidavit filed as described above.
- Informational materials that a local tax collecting unit would have to distribute to individuals who submitted affidavits; the materials would have to explain how a claimant's affidavit would be processed and how the claimant's liability would be handled.

A local tax collecting unit that received an affidavit would have to defer collecting any property taxes levied on the homestead during the calendar year in which the affidavit was filed until the State paid the property taxes as provided under Senate Bill 783 or the State rejected the claim for a credit. The local tax collecting unit also would have to provide, before February 1 of the year immediately after the calendar year in which the affidavit was filed, the Department of Treasury with a copy of the affidavit and inform the Department of the amount of property taxes deferred for the calendar year for which the affidavit was filed.

Except as otherwise provided, deferred property taxes would not be subject to penalties or interest for the deferment period. If the State rejected the claim for the credit, any unpaid balance would be due and payable on the date of the rejection, and 90 days after the rejection any remaining unpaid balance would be subject to penalties and interest consistent with the General Property Tax Act.

After the State's payment of property taxes, or rejection of a claim for the credit, the local tax collecting unit would have to notify the individual who filed the affidavit for the credit of that payment or rejection, the amount of any unpaid balance due and payable, and the date by which that unpaid balance would have to be paid before it was subject to the penalties and interest.

Payments made by the State as proposed in Senate Bill 783 for property taxes collected under the Act would be considered taxes paid by the disabled veteran or the widow or widower of a disabled veteran.

MCL 206.516 et al. (S.B. 783)
211.7b (S.B. 784)

Legislative Analyst: Jeff Mann

FISCAL IMPACT

The bills would reduce State General Fund revenue by between \$86.3 million and \$103.4 million and increase School Aid Fund (SAF) revenue by approximately \$10.1 million, beginning in fiscal year (FY) 2023-24. The revenue reduction to the General Fund would increase in subsequent fiscal years as both taxable values rise and the number of exemptions increase, while the increase to the School Aid Fund would increase over time only as taxable values increase. Similarly, the impact would increase or decrease, respectively, with any increase or decrease in millage rates on affected properties.

Based on the exemptions claimed in tax year 2020, the bills would be expected to reduce General Fund revenue by \$56.9 million and increase SAF revenue by \$9.4 million. The impact for those currently exempt would increase over time, as taxable values grow and if millage rates increased. Since the exemption was first enacted, the number of exemptions has grown rapidly, at about 14.0% per year. The number of Michigan veterans paid at a disability rating of 100% increased at an average rate of 9.0% per year between 2015 and 2018. Assuming millage rates remain unchanged, that taxable values increase by an average of 2.5% per year, and the growth rate in new claims will be between 9% and 14% per year, the bills would decrease General Fund revenue by between \$86.3 million and \$103.4 million in FY 2023-24, and between \$95.9 million and \$120.2 million in 2024-25. The bills also would increase SAF by approximately \$10.1 million in FY 2023-24 and \$10.4 million in FY 2024-25.

The bill also would have a negative fiscal impact on the Department of Treasury. The Department likely would experience additional one-time and ongoing costs to process affidavits, remit credits directly to local tax collecting units, and provide informational materials to local tax collecting units. The Department would incur one-time costs to develop forms and the application process and to create information technology systems. The ongoing costs would include staff and information technology costs to annual process affidavits. Both the one-time and ongoing costs likely would be greater than current appropriations.

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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.