

Tax Expenditure Review Commission Public Meeting Minutes
Thursday, December 10, 2020
Via Teleconference
1:00PM

Commission Members in Attendance:

Chairman Kevin Brown, MA Department of Revenue
Auditor Suzanne Bump, MA Auditor
Representative Mark Cusack, Joint Revenue Committee, House Co-Chair
Representative Randy Hunt, Designee, House Minority Leader
Danielle Allard, Designee, Joint Revenue Committee, Senate Co-Chair
Sue Perez, Designee, MA Treasurer
Professor Michelle Hanlon, Governor's Appointee
Professor Matthew Weinzierl, Governor's Appointee
David Sullivan, Designee, Senate Ways and Means Committee
Greg Sullivan, Designee, Senate Minority Leader
KC Fussell, Designee, House Ways and Means Committee

List of Documents:

1. Meeting Agenda
2. Draft Minutes – November 5, 2020 Meeting
3. Tax Evaluation Expenditure Ranking Assignment Spreadsheet

Members were asked to announce themselves. A quorum was recognized by Chairman Brown and the meeting via teleconference was called to order at 1:02PM.

Chairman Brown advised that the meeting is public but due to the COVID-19 State of Emergency, public participation is limited to listening without posing questions during the meeting. Chairman Brown put the Commission and public on notice that the meeting is recorded for purposes of minutes. Once the minutes are approved, the recording will be deleted.

Chairman Brown requested that Commission members provide any changes to the November 5, 2020 draft meeting minutes. Hearing none, members voted unanimously to approve the November 5, 2020 meeting minutes.

Members had previously agreed on a "scoring template" reflective of the evaluation of each tax expenditure, with the caveat that members would continue to offer further revisions. Chairman Brown thanked Professors Hanlon and Weinzierl for helpful feedback that DOR incorporated. Professor Hanlon stated that their goal was to further standardize the template and distinguish between personal and corporate tax expenditures. Professor Weinzierl requested that members share feedback on the revised wording the professors had suggested in their attempt to provide further clarity for both reviewers and readers.

Chairman Brown asked for a discussion regarding the measurability of tax expenditure benefits. The annual fiscal cost is more measurable than identifying the benefits to the Commonwealth and intended beneficiaries. Auditor Bump stated that when reviewing with Sue Perez, they considered whether other benefits were measurable by meeting the goal, such as job creation.

Following discussion of the measurability of benefits and goals being met, Chairman Brown asked for a consensus on the template, subject to change should it be less applicable to the review of future tax expenditures. Members agreed to broaden the template language addressing benefits, as well as include a brief summary on each report to allow further explanation of the evaluation process and Commission's conclusions.

Auditor Bump raised the challenge of measuring whether the intended beneficiaries are, in fact, benefiting given that many business tax expenditures are transferable. Chairman Brown agreed, noting that intended beneficiaries benefit from selling credits, but third-party purchasers also benefit from discounted purchases. Members agreed to include in the March 2021 report a discussion of the challenges associated with evaluating whether transferable credits are reaching intended beneficiaries.

David Sullivan and Chairman Brown led a discussion of the Harbor Maintenance Tax Credit, which they had previously reviewed together as co-assignees. The credit is available to importers and exporters of cargo in Commonwealth harbors to offset a federal tax imposed upon shipments. It is claimed by 60-80 taxpayers and it does not appear that other states offer this type of credit, which makes the legislative intent difficult to identify.

Members utilized the Harbor Maintenance Credit discussion as an opportunity to further revise the review template and agreed to adding the annual fiscal cost to the state and recommending sunset provisions where applicable. Members voted to approve the Harbor Maintenance Tax Credit review with a change in the tax benefit measurability.

Auditor Bump and Sue Perez led a discussion of the Medical Device User Fee Credit, which they had previously reviewed together as co-assignees. This transferable credit is for fees paid to the Federal Drug Administration for marketing new or upgraded existing technologies. It has been claimed by four large companies even though business size is not a requirement. The credit also does not appear to be offered by other states.

Members discussed the challenges of measuring whether the cost to the Commonwealth is offset by jobs creation, particularly where only four large taxpayers have claimed the credit. Sue Perez stated that perhaps the bigger companies have the resources to hire employees to research the availability of tax credits. Members voted to approve the Medical Device User Fee Credit review with minor adjustments reflective of the discussion.

Professor Hanlon and Greg Sullivan led a discussion of the Investment Tax Credit. The credit is for one to three percent of the cost of investments in qualified properties. Roughly 2,500 taxpayers claim the credit at an average value of \$57,000. The federal government does not offer this credit but rather, offers bonus depreciation, which is more easily administrable. 39 other states offer a similar tax credit, which reflects that competitiveness was a policy goal. Members voted to approve the Investment Tax Credit review with adjustments relative to competitiveness and overall benefit.

David Sullivan and Professor Weinzierl led a discussion of the Film Tax Credit. This transferable credit is for roughly twenty five percent of payroll and production costs. On average, 89% of the credits are sold and the average taxpayer benefits \$480,000 per project. A similar credit is offered in 31 other states, as well as DC, Puerto Rico and the Virgin Islands, but this number has recently declined from 44 states.

The Massachusetts Film Tax Credit has a sunset date of January 2023, and has vocal supporters both for and against it. The REMI Model is applied to policies to evaluate a number of impacts, including economic development. When applied to the Massachusetts Film Tax Credit, the model reflects strong jobs creation and competitiveness in terms of productions being filmed in-state; however, these benefits are offset by the \$100,000 cost of each largely non-permanent job relative to the annual fiscal cost to the Commonwealth. Additionally, the credit is often to the benefit of non-resident film industry employees.

Dr. Kazim Ozyurt explained that the REMI Model also reflects favorably when applied to the credit because DOR has specific information relative to credit applicants, such as number of employees. Also, the credit has arguably created a more permanent film industry in Massachusetts. Chairman Brown stated that there was some pre-existing film industry, such as several non-profits based in the Commonwealth.

Members discussed whether there are more efficient ways to encourage a new and permanent industry, such as subsidizing a film studio in Massachusetts, which would eliminate the credits administrative burden, keep more spending in-state and encourage more permanent jobs. Members voted to approve the Film Tax Credit review with a summary expanding upon the Commission's discussion of whether the benefits justify the cost.

Members agreed to vote at the next meeting on the structure of the template, which will be further tweaked to reflect today's discussion. A meeting will be scheduled for the first half of January 2021.

Chairman Brown concluded the meeting at 3:04PM.