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S T A T E   O F   R H O D E   I S L A N D

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

A N A C T

RELATING TO TAXATION -- TAX EXPENDITURE EVALUATION ACT

Introduced By: Representatives Tanzi, Walsh, O`Grady, Valencia, and Ferri

Date Introduced: February 28, 2013

Referred To: House Finance

It is enacted by the General Assembly as follows:

SECTION 1. Title 44 of the General Laws entitled "TAXATION" is hereby amended by adding thereto the following chapter:

CHAPTER 48.2

TAX EXPENDITURE EVALUATION ACT

44-48.2-1. Findings and purpose. -- The legislature finds that existing law allows for a variety of provisions, known as tax expenditures, that reduce taxpayer liability in order to pursue a broad range of policy objectives.

The legislature further finds that these tax expenditures result in a significant amount of foregone tax revenue for this state, and that tax expenditures are a major part of the government's involvement in a large number of policy areas.

The legislature further finds that the state lacks a systematic approach for identifying the purposes of tax expenditures, rigorously evaluating whether those purposes are being fulfilled in a cost-effective manner, and ensuring that impartial evaluations are given sufficient attention during the budget and policymaking processes.

Therefore, in order to evaluate and improve the government's effectiveness in serving the citizens of this state, the legislature finds it necessary to provide for the systematic and comprehensive analysis of tax expenditures by analysts, economists, and other professionals, and for those analyses to be incorporated into the budget and policymaking processes via the use of sunset provisions and other means.

44-48.2-2. Definitions. -- As used in this chapter:

(1) "Evaluation body" means the office of revenue analysis.

(2) "Tax expenditure" means any law of the federal government or this state that exempts, in whole or in part, certain persons, businesses, income, goods, services, or property from the impact of established taxes in this state, including, but not limited to, tax exclusions, tax subtractions, tax exemptions, tax deductions, preferential tax rates, tax credits, and tax deferrals. The term "tax expenditure" also refers to exclusion or exemption of services from the sales tax.

44-48.2-3. Sunsets and statement of purpose. -- Notwithstanding any statute or law to the contrary, any act enacted after July 1, 2013, that would create a tax expenditure, renew an existing tax expenditure, or modify an existing tax expenditure shall contain an expiration date of not longer than seven (7) years from the effective date of the new, renewed, or modified tax expenditure. Such acts shall also contain a statement of intent that clearly provides the purpose and objectives of the tax expenditure, including measurable goals in cases where the objectives of the tax expenditure lend themselves to measurement. Any act that is enacted without the provisions required by this section shall not take effect.

44-48.2-4. Analysis of tax expenditures. -- (a) If the revenue loss associated with a tax expenditure exceeds five hundred thousand dollars ($500,000) in fiscal year 2013 or a succeeding fiscal year, the office of revenue analysis, with the cooperation of the division of taxation, office of management and budget (OMB), shall analyze the use of the tax expenditure on the following schedule to determine to what extent the statute authorizing the tax expenditure has achieved any or all of the purposes identified under subsection (b) of this section:

(1) Analyses of tax expenditures existing on July 1, 2013, shall be completed and released under subsection (h) of this section at least once between July 1, 2013 and June 30, 2020, and no less than once every seven (7) years thereafter;

(2) Analyses of any tax expenditure created after July 1, 2013, shall be completed and released under subsection (h) of this section within seven (7) years of taking effect, and no less than once every seven (7) years thereafter;

(3) Analyses of any tax expenditure with a termination date provided for by law shall be completed and released under subsection (h) of this section between eighteen (18) and thirty-six (36) months before the effective date of termination;

(4) Analyses of tax expenditures with similar purposes or objectives shall be scheduled to occur concurrently or in succession, to the extent that doing so does not conflict with the scheduling restrictions outlined under subdivisions (1) through (3) of this section.

(b) The analyses under subsection (a) of this section shall, at a minimum, report the following information to the extent that the office of revenue analysis is able to obtain that information on its own or with the cooperation of the division of taxation and other government entities under subsection (g) of this section, and to the extent that reporting such information does not constitute a breach of this state's taxpayer confidentiality laws:

(1) The statutory authority for the tax expenditure;

(2) The year in which the tax expenditure was enacted;

(3) The statement of purpose of the tax expenditure, if one was included in legislation;

(4) The likely purpose or purposes of the tax expenditure, based on legislative history and other sources, if the statement of purpose in legislation was absent or vague;

(5) A description of the tax expenditure;

(6) The state revenue foregone directly as a result of the tax expenditure in the prior fiscal year, as well as estimates of the state revenue that will be foregone in the current and subsequent fiscal years;

(7) The local revenue foregone, if any, directly as a result of the tax expenditure in the prior fiscal year, as well as estimates of the local revenue that will be foregone in the current and subsequent fiscal years;

(8) The total number of taxpayers who directly benefitted from the tax expenditure in the prior fiscal year;

(9) The classes of individuals, types of organizations, or types of industries whose state tax liabilities are directly affected by the tax expenditure;

(10) The distribution of the direct benefits of the tax expenditure by taxpayer income level or size of business.

(c) The analyses under subsection (a) of this section shall, at a minimum:

(1) Present evidence as to whether or not the existence of the tax expenditure has contributed to the achievement of any or all of the purposes identified under subsection (b) of this section;

(2) Evaluate the tax expenditure's cost-effectiveness in achieving any or all of the purposes identified under subsection (b) of this section;

(3) Identify any unintended effects or beneficiaries of the tax expenditure that are useful in understanding the tax expenditure's overall value and cost-effectiveness;

(4) Evaluate the relationship and interactions of the tax expenditure with other tax expenditures or direct spending programs in the same or related budget function.

(d) In the case of tax expenditures that the office of revenue analysis determines to be intended to benefit this state's economy, the analyses under subsection (a) of this section shall, at a minimum, also address the following considerations:

(1) The extent to which the tax expenditure encouraged beneficial new behavior as opposed to subsidizing behavior that would have occurred regardless of the tax expenditure;

(2) Whether and to what extent the tax expenditure may have displaced existing in-state economic activity or harmed existing in-state businesses;

(3) The extent to which benefits of the tax expenditure flowed outside the state;

(4) The extent to which the economic impact of the tax expenditure remained in state, and the extent to which that in-state impact resulted in further in-state economic gains;

(5) The adverse economic impacts associated with other budgetary options that were foregone as a result of offering the tax expenditure.

(e) The analyses under subsection (a) of this section shall include specific recommendations to the legislature and the governor as to whether the tax expenditure should be continued without modification, modified, or terminated. Those recommendations shall take into consideration the following:

(1) The extent to which continuation of the tax expenditure in its current or modified form would contribute to any or all of the purposes identified under (b) of this section;

(2) Whether the tax expenditure could achieve any or all of the purposes identified under subsection (b) of this section in a more cost-effective manner if it were modified, and what those modifications would be;

(3) Whether the tax expenditure could be administered more efficiently or enforced more effectively if it were modified;

(4) Whether any or all of the purposes identified under subsection (b) of this section could be accomplished in a more cost-effective manner by an alternative policy;

(5) Whether the revenue foregone as a result of the tax expenditure is expected to change significantly in future years, and how that change might affect the tax expenditure's cost-effectiveness;

(6) Whether the social or economic benefits of the tax expenditure are expected to change significantly in future years, and how that change might affect the tax expenditure's cost-effectiveness;

(7) In the case of tax expenditures that the office of revenue analysis recommends for termination, whether that termination should be immediate, delayed, or phased-in gradually;

(8) In the case of tax expenditures where the analysis under subsection (a) of this section is significantly limited due to data constraints, whether any changes in statute would facilitate data collection in a way that would allow the office of revenue analysis to better gauge the extent

to which the tax expenditure is achieving the purposes under subsection (b) of this section;

(9) In the case of tax expenditures where the analysis under subsection (a) of this section is significantly limited due to uncertainty of the purpose of the tax expenditure, whether the effectiveness of the tax expenditure could be determined more definitively if the legislature were to clarify the tax expenditure's intended purpose.

(f) To the extent that any of the analyses under subsection (a) of this section are significantly limited due to data constraints, the office of revenue analysis shall, in addition to any changes in statutes recommended under subsection (e) of this section, develop and publish with the analyses under subsection (a) of this section a plan for improving the government's data collection and compilation efforts in a way that will allow the office revenue analysis to conduct a full evaluation that can better gauge the extent to which the tax expenditure is achieving the purposes under subsection (b) of this section, and said expenditure shall be resubmitted for analysis under subsection (a) of this subsection the following year and every subsequent year until full evaluation can be made. Under no circumstances shall the tax expenditure go longer than seven (7) years without receiving a full evaluation under subsection (a) of this section.

(g) Pursuant to an analysis under subsection (a) of this section, the recipient of a tax expenditure shall:

(1) Provide promptly any information that the office of revenue analysis requests, so long as that request does not conflict with existing taxpayer confidentiality laws;

(2) Analyze data in the manner requested by the office of revenue analysis in instances where taxpayer confidentiality laws prevent the recipient of a tax expenditure from sharing information requested by the office of revenue analysis;

(3) Otherwise cooperate with the office of revenue analysis.

(h) Analyses under subsection (a) of this section must be submitted to the legislature and the governor, and made available on the evaluating body's public website no later than the date specified under subsection (a) of this section.

44-48.2-5. Consideration by the governor. -- The governor's budget submission as required under chapter 35-3 shall identify each tax expenditure for which an analysis was completed in accordance with this chapter in the period since the governor's previous budget submission in one separate budget article. For each tax expenditure, the governor's budget submission shall include a recommendation as to whether the tax expenditure should be continued without modification, modified, or terminated. Where the governor's recommendation differs from those made by the office of revenue analysis in accordance with this chapter, the budget submission shall provide the reasoning behind the governor's recommendation.

44-48.2-6. Legislative consideration. -- No later than the twentieth (20th) day of the first regular legislative session following the release of the analyses in accordance with this chapter, the house finance committee and the senate finance committee shall hold at least one public hearing to receive testimony regarding the tax expenditures analyzed in accordance with this chapter from the office of management and budget and the general public.

SECTION 2. This act shall take effect sixty (60) days after passage.

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EXPLANATION

BY THE LEGISLATIVE COUNCIL

OF

A N A C T

RELATING TO TAXATION -- TAX EXPENDITURE EVALUATION ACT

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This act would impose a procedure for the analysis and evaluation of tax expenditures by the office of revenue analysis.

This act would take effect sixty (60) days after passage.

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