Legislative Fiscal Bureau

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TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: 2011 Assembly Bill 5: Individual Income and Corporate Income and Franchise Taxes -- Dairy and Livestock Farm Investment Tax Credit Extension

2011 Assembly Bill 5, which would extend the tax years for which the dairy farm investment tax credit could be claimed, was introduced on January 20, 2011, and referred to the Assembly Committee on Agriculture. On February 24, 2011, Assembly Amendment 1 to AB 5 was adopted by a vote of 14 to 0, and AB 5, as amended, was recommended for passage by a vote of 14 to 0.

CURRENT LAW

The dairy investment tax credit was created by 2003 Wisconsin Act 135. The credit was renamed and expanded under 2005 Wisconsin Act 25 to include amounts paid for non-dairy livestock farm modernization or expansion.

A tax credit may be claimed, under the state individual income and corporate income and franchise taxes, for tax years that begin after December 31, 2003, and before January 1, 2012, equal to 10% of the amount paid by the claimant during the tax year for dairy farm modernization or expansion related to the operation of the claimant's dairy farm.

"Dairy farm modernization or expansion" is defined as the construction, improvement, or acquisition of buildings or facilities, or the acquisition of equipment for dairy animal housing, confinement, animal feeding, milk production, or waste management, including the following, if used exclusively related to dairy animals, and if acquired and placed in service in the state during tax years that begin after December 31, 2003, and before January 1, 2012: (1) freestall barns; (2) fences; (3) watering facilities; (4) feed storage and handling equipment; (5) milking parlors; (6) robotic equipment; (7) scales; (8) milk storage and cooling facilities; (9) bulk tanks; (10) manure pumping and storage facilities; (11) digesters; and (12) equipment used to produce energy. "Dairy animals" include heifers raised as replacement dairy animals. "Dairy farm" includes a facility used to raise heifers as replacement to dairy animals.

For tax years that begin after December 31, 2005, and before January 1, 2012, a tax credit can be claimed equal to 10% of the amount paid by the claimant during the tax year for livestock farm modernization or expansion related to the operation of the claimant's livestock farm.

"Livestock modernization and expansion" is defined as the construction, improvement, or acquisition of buildings or facilities, or the acquisition of equipment, for livestock housing, confinement, feeding, or waste management, including the following, if used exclusively related to livestock, and if acquired and placed in service in the state during tax years that begin after December 31, 2005, and before January 1, 2012: (1) birthing structures; (2) rearing structures; (3) feedlot structures; (4) feed storage and handling equipment; (5) fences; (6) watering facilities; (7) scales; (8) manure pumping and storage facilities; (9) digesters; (10) equipment used to produce energy; (11) fish hatchery buildings; (12) fish processing buildings; and (13) fish rearing ponds. "Livestock" means cattle, not including dairy animals (eligible under the dairy credit); swine; poultry, including farm-raised pheasants, but not including other farm-raised game birds or ratites; fish that are raised in aquaculture facilities; sheep; and goats.

For both credits "used exclusively" means used to the exclusion of all other uses except for use not exceeding 5% of total use.

The aggregate amount of dairy and livestock modernization tax credits that may be claimed by a taxpayer is $75,000 ($50,000 for eligible expenditures made before June 2010). The credits cannot be claimed for any amounts also claimed as business expense deductions. Unused credit amounts can be carried forward up to 15 years to offset future tax liabilities.

Data from Department of Revenue aggregate statistics for the individual income tax shows that, for tax year 2009, a total of $68.2 million in dairy and livestock farm investment farm tax credits, including unused credit carry-forwards, could be claimed by individual income taxpayers. Of the total, $24.2 million in credits was claimed for tax year 2009. However, $5.9 million in credits was used to offset tax liability for that year. About 9,200 taxpayers generated tax credits, while approximately 4,600 used the credits to offset tax liabilities that year. The most recent corporate aggregate statistics for the credits is for tax year 2007, and the data shows that $7.2 million in credits, including credit carry-forwards, was generated by about 460 taxpayers. For that year $1.5 million in credits was used by about 290 taxpayers to offset tax liability.

SUMMARY OF BILL

2011 Assembly Bill 5 would extend the tax years for which the dairy farm investment tax credit could be claimed. Under the bill, the tax years for which the dairy farm investment tax credit could be claimed would be extended for five years, so that the credit could be claimed for tax years beginning after December 31, 2003, and before January 1, 2017 (rather than before January 1, 2012).

ASSEMBLY AMENDMENT 1

Assembly Amendment 1 to AB 5 would extend the tax years for which the livestock farm investment tax credit could be claimed for the same period that the dairy farm investment credit could be claimed under the bill (tax years 2012 through 2016). Under the amendment, the livestock farm investment tax credit could be claimed for tax years beginning after December 31, 2005, and before January 1, 2017 (again, rather than before January 1, 2012).

FISCAL EFFECT

Assembly Bill 5. AB 5 would extend the tax years for which the dairy farm investment tax credit could be claimed to tax years 2012 through 2016. Based on a Department of Revenue review of individual and corporate income and franchise tax returns that included dairy and livestock farm investment tax credits, AB 5 would reduce individual and corporate income and franchise tax revenues by an estimated $1.2 million in fiscal year 2012-13. Because of the use of tax credit carry-forwards, the bill would reduce income and franchise tax revenues from fiscal year 2012-13 through fiscal year 2027-28 by a total of $115.3 million.

Assembly Amendment 1 to AB 5. AA 1 to AB 5 would extend the period for which the livestock farm investment tax credit could be claimed to the same tax years (2012 through 2016) to which AB 5 extends the dairy farm investment tax credit. The provisions in AA 1 to AB 5 would reduce individual income and corporate income and franchise taxes by an estimated $380,000 in fiscal year 2012-13. Due to carry-forwards, it is estimated that the amendment would reduce income and franchise tax revenues by a total of $6.0 million for fiscal years 2012-13 through 2027-28.

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