



Tax Expenditure Review Commission (TERC)

2022 ANNUAL LEGISLATIVE REPORT

JANUARY 18, 2023

Agenda

- Tax expenditure defined
- Commission background
- Statutory considerations in crafting 2022 report
- Report overview
- Tax expenditures reviewed in 2022

Tax Expenditure Defined

Minnesota Statutes section 270C.11, subdivision 6(4).

"tax expenditure" means a tax provision which provides a gross income definition, deduction, exemption, credit, or rate for certain persons, types of income, transactions, or property that results in reduced tax revenue, but excludes provisions used to mitigate tax pyramiding;

Commission Background

- Governed by Minnesota Statute section 3.8855, enacted in 2021 1st Special Session.
- Nine voting members include eight legislative member appointees and the DOR Commissioner.
- Created to review Minnesota's tax expenditures and evaluate their effectiveness and fiscal impact.
- Duties and components of review are outlined in statute.
- A recommendation must be included to continue, repeal, or modify a tax expenditure.
- A legislative report is required by December 15th of each year.

2021-22 Tax Expenditure Review Commission Membership

House Members

- Rep. Aisha Gomez, Chair
- Rep. Greg Davids
- Rep. Jerry Hertaus
- Rep. Jennifer Schultz

Ex-Officio Member

- Rep. Paul Marquart

Senate Members

- Sen. Ann Rest, Vice Chair
- Sen. Thomas Bakk
- Sen. Kari Dziedzic
- Sen. Bill Weber

Ex-Officio Member

- Sen. Carla Nelson

Dept. of Revenue Members

- Asst. Cmmr. Jon Klockziem
(Previously Cmmr. Robert Doty)

Duties of the Commission

- Beginning July 01, 2021
- Year 1 – 3: Initial review of all tax expenditures
 - Must identify the purpose of each tax expenditure
 - May identify the metrics for evaluating the effectiveness of an expenditure
- Year 4 and beyond: review of tax expenditures on a rolling 10-year basis
 - Must review each tax expenditure at least once every 10 years
 - Commission may elect to omit a tax expenditure from the review if adopted by reference to federal law

Subd. 5 Components of Review

Annual tax expenditure review must include:

1. **annual revenue lost** as a result of the expenditure
2. **purpose** of the tax expenditure
3. **impacts and efficiency** in accomplishing its purpose
4. **compare the effectiveness** of a tax expenditure and a direct expenditure with the same purpose
5. **potential modifications** to the tax expenditure to increase efficiency or effectiveness

Subd. 5 Components of Review (continued)

6. **amount the tax rate could be reduced** if the revenue lost due to the tax expenditure were applied to a rate reduction
7. **incidence** of the tax expenditure and the effect of the expenditure on the incidence of the state's tax system (if tax expenditure is significant)
8. **fiscal impacts of other state and federal taxes** providing benefits to taxpayer for similar activities
9. **recommend** whether the tax expenditure be continued, repealed, or modified

Commission Timeline

July 1, 2021 - Commission legislation signed into law

January 01, 2022 - Initial membership appointments finalized

April 19, 2022 - First meeting convened, Chair and Vice Chair elected

July 14, 2022 - Second meeting, presentations on TEB and 2011 Tax Expenditure Review Report

August 11, 2022 - Third meeting, presentation from Pew Trusts and approval of initial review process

October 11, 2022 - Fourth meeting, presentation of eleven objective statements

November 21, 2022 - Fifth meeting convened, 2022 legislative report adopted

January 31, 2023 - Commission appointments finalized

Statutory Considerations for Initial Report

Minnesota Statute section 3.8855

- Subd. 4. In the first three years after the commission is established, the commission must complete an initial review of the state's tax expenditures.
 - Must identify the purpose of each tax expenditure, if none was identified in the enacting legislation, in accordance with section 3.192.
 - May identify metrics for evaluating the effectiveness of a tax expenditure
- Subd. 7.(b) during the period of initial review under subdivision 4, the report may be limited to the purpose statements and metrics for evaluating the effectiveness of expenditures, as identified by the commission.

Report Overview

- Commission Membership
- Commission Duties and Responsibilities
- Summary of 2022 Meetings
- General Tax Expenditure Background
- Proposed Tax Expenditure Objectives
- No Formal Action Taken

LBO process for researching purpose statements

I. Legislative History Research

- Previous engrossments of an enacted bill
- Meeting minutes
- Video and audio archives
- Author interview
- Legislative reports
- Previous versions of similar bill language introduced in MN Legislature

II. Comparable Legislation in Other States and Federal Code

- National databases
- Peer states conducting similar reviews
- Professional non-partisan organizations dedicated to evaluation of tax incentives programs

III. Academic / Industry Consensus

- Journals
- Texts
- Professional Associations

Tax Expenditures Reviewed in 2022:

Individual Income Tax

- **Working Family Credit**, Minnesota Statutes, section 290.0671
- **Beginning Farmer Management Credit**, Minnesota Statutes, section 290.06 subd. 38
- **Credit for Sale of Agricultural Assets to a Beginning Farmer**, Minnesota Statutes, section 290.06, subd. 37 and 41B.0391

Corporate Tax

- **Research and Development Credit**, Minnesota Statutes, section 290.068
- **Employer Transit Pass Credit**, Minnesota Statutes, section 290.06, subd. 28
- **Housing Contribution Credit**, Minnesota Statutes, section 290.0683 and 462A.40

Sales & Use Tax

- **Telecommunications Equipment**, Minnesota Statutes, section 297A.68, subd. 35a
- **Solar Energy Systems**, Minnesota Statutes, section 297A.67, subd. 29
- **Farm Machinery**, Minnesota Statutes, section 297A.69, subd. 4(1)
- **Building Materials for Residences of Disabled Veterans**, Minnesota Statutes, section 297A.71, subd. 11
- **Construction Materials for Certain City Projects**, Minnesota Statutes, section 297A.71, subd. 44 and 297A.9905

Thank you

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