

ECONOMIC DEVELOPMENT TAX INCENTIVE STUDY - INTERNSHIP PROGRAM CREDIT

Pursuant to North Dakota Century Code Section 54-35-26, created by 2015 Senate Bill No. 2057, a variety of economic development tax incentives are to be reviewed by a Legislative Management interim committee over the ensuing six-year period. The study is aimed at ensuring that economic development tax incentives are serving their intended purposes in a cost-effective and equitable manner. This memorandum has been provided to assist in the review of the internship program credit and provides an explanation of the incentive, the perceived goals of the Legislative Assembly in creating or altering the incentive, and the data and testimony that will be required to conduct an effective analysis of the incentive.

EXPLANATION OF THE INTERNSHIP PROGRAM CREDIT

Section 57-38-01.24 provides for an internship program income tax credit. The credit is available to income taxpayers who are employers in this state and have a qualifying internship program. A qualifying internship program must be located in this state and requires the taxpayer to supervise and evaluate an intern enrolled in an institution of higher education or in a vocational technical education program in North Dakota who is seeking a degree or certification in a field closely related to the work being undertaken during the internship. The internship must also provide academic credit or count toward the completion of a vocational technical education program being pursued by the intern. The amount of the credit is equal to 10 percent of the stipend or salary paid to an intern employed by the taxpayer. A taxpayer may claim no more than \$3,000 in credits over any combination of taxable years and may claim a credit for up to five interns employed at the same time. A passthrough entity entitled to the credit must be considered the taxpayer for purposes of the credit and the amount of credit allowed must be determined at the passthrough entity level and passed through to the entity's partners, shareholders, or members in proportion to their respective ownership interests in the passthrough entity.

PERCEIVED GOALS OF THE LEGISLATIVE ASSEMBLY IN CREATING OR ALTERING THE INTERNSHIP PROGRAM CREDIT

The internship program credit was first enacted through the passage of 2007 House Bill No. 1018. The provisions of Section 57-38-01.24, as originally enacted, were nearly identical to the provisions found in current law. Upon a review of the legislative history pertaining to House Bill No. 1018, the perceived goal of the Legislative Assembly in creating this credit was to encourage businesses to establish internship programs that could potentially lead to the retention of more North Dakota college graduates in the North Dakota workforce. The estimated fiscal effect of the internship program credit could not be determined during the 2007 legislative session.

The only changes to Section 57-38-01.24 following its enactment occurred during the 2009 and 2013 legislative sessions and were technical in nature. The passage of 2009 House Bill No. 1324 eliminated the optional long-form filing method (Form ND-2) and replaced it with a simplified filing method for any taxpayer who did not have tax deductions or credits. The change made during the 2013 legislative session, pursuant to House Bill No. 1106, simply served to streamline the lengthy description of a passthrough entity by providing a definition of the term at the outset of the income tax chapter.

Pursuant to information provided to the Political Subdivision Taxation Committee by the Tax Department on July 29, 2015, and later amended on August 12, 2015, the number of individual income tax returns on which the credit was claimed and the total amount claimed is as follows:

- In tax year 2007, a total of \$2,999 was claimed over 15 returns;
- In tax year 2008, a total of \$14,492 was claimed over 33 returns;
- In tax year 2009, a total of \$9,636 was claimed over 31 returns;
- In tax year 2010, a total of \$7,201 was claimed over 20 returns;
- In tax year 2011, a total of \$8,897 was claimed over 27 returns;
- In tax year 2012, the total amount claimed cannot be disclosed due to confidentiality restrictions as the credit was claimed on fewer than five returns;
- In tax year 2013, a total of \$9,086 was claimed over 18 returns; and
- In tax year 2014, a total of \$5,301 was claimed over 9 returns.

The number of corporate income tax returns on which the credit was claimed and the total amount claimed is as follows:

- In tax years 2007 through 2009, the total amount claimed cannot be disclosed due to confidentiality restrictions as the credit was claimed on fewer than five returns;
- In tax year 2010, the credit was not claimed on any corporate income tax returns;
- In tax years 2011 through 2013, the total amount claimed cannot be disclosed due to confidentiality restrictions as the credit was claimed on fewer than five returns; and
- In tax year 2014, the credit was not claimed on any corporate income tax returns.

DATA AND TESTIMONY REQUIRED TO CONDUCT AN EFFECTIVE ANALYSIS OF THE INTERNSHIP PROGRAM CREDIT

Data pertaining to the following items will need to be collected to effectively analyze the incentive:

1. The number of claimants;
2. The fiscal impact of the incentive;
3. Employment opportunities, business growth, or diversity in the state's economy resulting from the availability of the incentive;
4. Negative impacts created as a result of the incentive;
5. Benefits that flow to out-of-state concerns resulting from the incentive; and
6. The use of this type of incentive in other states.

Testimony will need to be solicited from the following parties to effectively analyze the incentive:

1. The Department of Commerce;
2. The Tax Department; and
3. The North Dakota Economic Development Foundation.