Day 40: Tax Bills Still In Play Would Cause Millions of Dollars in Lost Revenue

By Sarah Beth Gehl, Deputy Director

Tax reform might be dead for legislative session, but there are several tax bills still in play. Several bills have been altered by the House or Senate and now await agreement.

Senate Bill 203 – New CAPCO Tax Credit Program

Cost: $125 million

The House Insurance Committee substituted language into Senate Bill 203 to create a $125 million tax credit investment pool for certified capital companies (CAPCOs). Georgia passed similar legislation in 2002 with a start date of 2005 for the program. The statute was repealed in 2004 before the program began.

The program provides up to $125 million in tax credits to certain capital investment companies, who then sell those credits to insurance companies. The CAPCOs, in theory, will use that cash to spur development by making investments in small businesses throughout the state. In practice, however, CAPCO programs implemented in other states were found to be ineffective and costly. The following is excerpted from testimony by Dr. Julia Sass Rubin of Rutgers University when she testified on the Washington D.C. CAPCO program:

> **Louisiana**, which originated the CAPCO program, commissioned a study conducted by its Department of Economic Development and a leading CPA firm. This study found that the CAPCO program "is **expensive and inefficient** to the State" and that "the greatest and most immediate beneficiaries of the CAPCO program are the CAPCO companies and their owners." The study confirmed that, unlike other venture capital models, CAPCOs are allowed to profit immediately, regardless of the success of the companies in which they are investing…Mike Williams of the Louisiana Department of Economic Development told a reporter investigating the program, "If you're going to set up something, look at what we did and do the exact opposite."

A legislative audit in **Colorado** noted that "CAPCO programs are a most inefficient means for the state to raise venture capital" and questioned whether any jobs created were attributable solely to the CAPCO program. Bob Lee, the head of Colorado's Office of Economic Development, which administered the program, told a legislative committee that "I think this state would be hard pressed to design a program that cost the taxpayers more and delivered less."

Florida originally passed CAPCO legislation in 1998, allocating **$150,000,000** to the program. According to a 2007 Florida government report, the most current available, the program has created a **net gain of 20 jobs** in the nine years it has been in effect.

A 2004 audit by then **Missouri** State Auditor Claire McCaskill, who is now a United States Senator, concluded that "The Missouri Certified Capital Company Tax Credit program is an **inefficient and ineffective** tax credit program" and recommended that "the Department of Economic Development and the General Assembly let the Missouri Certified Capital Company Tax Credit program expire without authorizing any additional tax credits."

Texas allocated **$200,000,000** to the CAPCO program, starting in 2006. The latest report from the Texas Comptroller of Public Accounts indicates that after investing a total of more than **$22,000,000** in Texas businesses, the CAPCOs had generated a **total of 23 jobs**, or roughly a million dollars per job created.

(Source: http://policy.rutgers.edu/faculty/rubin/CAPCO%20testimony.pdf)

HB 234 – Aircraft Parts Sales Tax Exemption and Tourism Tax Break

Cost: $7.5 million (aircraft exemption); Unknown (tourism tax break)

As passed by the House, HB 234 extended the sales tax exemption for aircraft repair parts for two years. The exemption goes to customers of companies like Gulfstream at a cost of $7.5 million in state revenues. The Senate added an additional tax break to the bill, allowing companies constructing tourist attractions worth $1 million or more to recoup 25 percent of the construction costs by keeping the sales tax generated at the site. The tax break would be granted on a project-by-project basis and approved by the governor. A similar provision passed last year, but only applied to large attractions ($100 million or more in construction costs) and was vetoed by then-Governor Sonny Perdue.

HB 322 – Jet Fuel Sales Tax Exemption

Cost: $30 million

The Senate substitute to HB 322 expands the cap on the sales tax exemption for jet fuel. The House proposed to renew the exemption and institute a $20 million cap for FY 2012. The Senate expanded the eligibility for the exemption (qualifying not only Delta Air Lines, but now presumably AirTran as well) and also raised the cap to $30 million for FY 2012.

HB 325 – Expansion of Tax Credits for Student Scholarship Donations

Cost: $1.3 million (on top of the existing $50 million credit)

The Senate substitute to HB 325 raises the $50 million cap on the tax credits for private school scholarship donations. The substitute bill says the cap will be adjusted annually until 2017 and that adjustment "may" be based on government inflation. Government inflation has averaged 3.8 percent over the past decade. Based on that average, the cap could be **$62.5 million by 2017**.

HB 346 – Clean Energy Facility Tax Credit

Cost: $2.5 million (on top of existing $2.5 million in FY 2012)

The Senate added language to HB 346 to extend and expand tax credits for clean energy facilities. The sunset date for the tax credits moves from 2012 to 2014 and the cap on the credits rises from the existing $2.5 million to $5 million. In addition, language was added to allow taxpayers receiving tax credits for donation of conservation land to sell those credits to other taxpayers.

HB 168 – Federal Conformity Bill

(This bill was passed by the Senate without changes from the House version and now proceeds to the governor.)

Cost: $65 million

Georgia annually conforms to the federal tax code; however, there is discretion over which provisions to conform. The bill does not fully conform to section 179 of the federal code relating to business deductions. Instead of the federal allowances, the bill allows for a maximum deduction of $250,000 with a phase-out threshold of $800,000. The bill does not accept the bonus depreciation provisions from the federal code, which would have meant a revenue loss of more than $200 million. The bill maintains the research and development credit.

The bill also provides a personal income tax break for the wealthiest of Georgians by conforming to a recent federal tax cut allowing top earners to take itemized deductions without limits. In the past, the amount of allowable itemized deductions was phased out as income increased. That limit was removed in 2010 and was supposed to resume in 2011; however, federal tax changes have extended the limitless itemized deductions for another two years. HB 168 continues the repeal of the limit as well. This provision, along with the continuation of the research and development credit, will cost $46 million and is already included in the FY 2012 revenue estimate.

In addition to federal conformity, the bill contains several sections that change definitions in the sales tax to conform to the Streamlined Sales Tax Agreement (SSTA). Georgia passed SSTA legislation in 2010, but has not been accepted as a full member yet.

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