TAX RELIEF ADVISORY COMMITTEE

Friday, August 25, 2023
Roughrider Room, State Capitol
Bismarck, North Dakota

Senator Jordan L. Kannianen, Chairman, called the meeting to order at 10:30 a.m.

Members present: Senators Jordan L. Kannianen, Dale Patten, Dean Rummel; Representatives Glenn Bosch, Jared Hagert

Member absent: Representative Craig Headland

Others present: Senator Brad Bekkedahl, Williston, member of the Legislative Management
See Appendix A for additional persons present.

Ms. Megan J. Gordon, Counsel, Legislative Council, presented a memorandum entitled *Supplementary Rules of Operation and Procedure of the North Dakota Legislative Management*.

PROPERTY AND INCOME TAX RELIEF STUDY

Ms. Gordon presented memorandums entitled:

- *Property Tax Relief - Background Memorandum*; and
- *Income Tax Relief - Background Memorandum*.

Mr. Brian Kroshus, Tax Commissioner, provided information (Appendix B) regarding historical individual and corporate income tax relief provided by the Legislative Assembly, including the estimated and actual fiscal impact of the tax relief. He reviewed:

- Historical individual and corporate tax rate information from 1919 to present, including the lowest and highest rates, number of bracket levels, and highest and lowest income bracket levels.
- The estimated and actual fiscal impact of individual and corporate income tax rate reductions from the 2009-11 biennium to present.
- The estimated and actual fiscal impact of the individual income tax credit for North Dakota residents of up to $700 for married filing jointly returns and up to $350 for all other filing types which was available during the 2021-23 biennium.

In response to a question from a committee member, Mr. Matthew Peyerl, Associate Director and Auditor, Tax Administration Division, Tax Department, noted:

- The state marriage penalty credit provides marriage penalty relief to lower income taxpayers.
- The estimated cost to relieve the state marriage penalty for all individual income tax brackets is in the $40 million range.
- The federal marriage penalty only is experienced in the highest federal individual income tax bracket.

Mr. Kroshus provided information (Appendix C) regarding historical property tax relief provided by the Legislative Assembly, including the estimated and actual fiscal impact of the tax relief. He reviewed historical information regarding usage of the homestead property tax credit, renter's refund, and disabled veterans credit and noted the homestead property tax credit has been in place since 1969, and the income requirements for the credit have been amended by 31 bills.

In response to questions from committee members, Mr. Kroshus noted:

- The variation in usage of the homestead property tax credit, disabled veterans credit, and renter's refund over time is attributable to changes in qualification criteria rather than issues or concerns with the application process for the incentives.
- Approximately one of five eligible renters apply for the renter's refund and four of five eligible homestead owners apply for the homestead property tax exemption.
- Education and outreach are important components of increasing participation in the homestead property tax credit, disabled veterans credit, and renter's refund.

Committee members discussed low participation of qualifying renters in the renter's refund program and lack of recent updates to the renter's refund qualification criteria.

Mr. Kroshus provided information (Appendix D) regarding analysis of the tax relief provided by the 68th Legislative Assembly in House Bill No. 1158 (2023), including the estimated fiscal impact for each method of tax relief and the estimated impact of the income tax rate changes on passthrough income related to income reported on K-1 forms and royalty income reported on 1099-MISC forms. He noted:

- The fiscal note for House Bill No. 1158 was approximately $515 million, of which approximately $358.3 million was attributable to the consolidation and reduction of the individual income tax brackets, $103.2 million to the primary resident credit, and $53.5 million to the homestead tax credit expansion.
- 558,394 of the 916,116 individual income tax returns filed in the last biennium were in the first bracket before the enactment of House Bill No. 1158, which was taxed at a rate of 1.10 percent at the time. Following the enactment of House Bill No. 1158, the tax rate applicable to this bracket is 0 percent.
- Based on information from the Housing Finance Agency, the number of owner-occupied units in North Dakota has risen from 184,117 in 2010, to 203,632 in 2022, and is projected to continue to increase through 2025.

Committee members discussed the importance of receiving information related to the homestead property tax credit application process, utilization of the homestead property tax credit by certain demographic characteristics, and utilization of existing individual income tax credits and deductions.

Mr. Kroshus provided information (Appendix E) regarding an update on the status of information technology changes and advertising efforts for the primary residence credit in House Bill No. 1158. He noted:

- The implementation of the primary residence credit is broken into multiple phases, including developing and executing information technology updates, marketing and promoting the credit, and developing various administrative procedures for administration of the credit.
- The Tax Department has not incurred any expenses for marketing efforts, but anticipates future expenses for marketing efforts.

In response to a question from a committee member, Mr. Kroshus noted he would like the application process for the primary residence credit to be easy, quick, and user-friendly and to ensure the procedures for implementing the credit are workable for the Tax Department and the counties. He also noted representatives of the Tax Department and the counties will be participating in coordination meetings to work on implementation of the primary residence credit.

Ms. Donnell Preskey, Government/Public Relations Specialist, North Dakota Association of Counties, provided comments regarding the primary residence credit in House Bill No. 1158 and preparations to implement the credit. She noted:

- Sharing the workload of administering the credit between the Tax Department and counties will lessen the burden on the counties.
- Implementation of the credit will provide the Legislative Assembly data related to primary residences which historically has been unavailable.
- The counties plan to include information from the Tax Department related to the primary residence credit with property tax statements to market the credit.

In response to questions from committee members, Ms. Presky noted of the three major financial tax software programs used by counties, two of the software vendors have notified the counties using their software that the vendors will no longer support the counties starting in 2025. Ms. Presky noted counties in need of software have expressed concern regarding the expense associated with obtaining new financial tax software.

Mr. Peyerl provided information (Appendix F) regarding taxation of passthrough entities and the state and local tax (SALT) itemized deduction. He noted:

- The 2017 Tax Cuts and Jobs Act (TCJA) put a new $10,000 limit on the SALT itemized deduction, and the federal revenue increase as a result of the limit was used to offset the cost of the TCJA. Before 2018, individuals were able to deduct all SALT as itemized deductions.
- The TCJA will sunset after 2025, so without legislation providing differently, most TCJA provisions will revert back to the provisions that were effective in 2017.
- About 39 states have implemented or are in the process of implementing SALT cap workaround legislation.
- Some states that have implemented SALT cap workaround legislation provide a dollar-for-dollar credit, and other states provide a reduced credit.

In response to questions from committee members, Mr. Peyerl noted, based on individual income tax data for the 2021 taxable year:

- Of the approximately $22.7 billion dollars of North Dakota taxable income for North Dakota residents, approximately $4.65 billion is attributable to passthrough entity income.
- $3.52 billion of the $4.65 billion in resident North Dakota taxable income attributable to passthrough entities was taxed in the highest income tax bracket.
- $1.02 billion of the $1.34 billion in nonresident North Dakota sourced income attributable to passthrough entities was taxed in the highest income tax bracket.
- A higher proportion of North Dakota resident royalty income was taxed at lower bracket levels, and a higher proportion of nonresident royalty income was taxed at higher bracket levels.

No further business appearing, Chairman Kannianen adjourned the meeting at 2:24 p.m.

Megan J. Gordon
Counsel

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