



November 21, 2011

Tax Relief Package Update

[SB 397](#) (as amended by [House Amendment #2](#)), which contains tax relief provisions for both CME Holdings and Sears, along with extension of the R & D credit and restoration of the net operating loss deduction, was the subject of two Revenue Committee hearings this week—one on Wednesday and an additional hearing this afternoon. A final hearing is scheduled for Monday, November 28th, when the General Assembly reconvenes after the Thanksgiving holiday to address remaining veto session legislation. A vote on the bill is expected on Tuesday, November 29th. What the bill will look like on Monday, the 28th is anybody's guess right now. Chairman of the House Revenue & Finance Committee, Rep. John Bradley, announced this afternoon that amendments to the bill would be filed during Thanksgiving week. He indicated that the bill was still a work in progress and he did not disclose what the final product would look like. He did indicate that the hearings had given the Revenue Committee a lot to think about before arriving at their final decision. We will send a special update to members when the amended tax package is available online.

Sears Agreement: Rep. Bradley also announced today that an agreement had been reached by Sears, the Village of Hoffman Estates, and School District #300 on the issue of the extension of the Sears economic development agreement (EDA). School District #300 had been opposing the extension of the EDA, calling for more transparency in reporting on the use of EDA funds by the Village of Hoffman Estates, challenging the use of funds for current operating obligations of the Village, and asking for modifications to the formula for distribution of funds to local taxing bodies. The details of the agreement have not yet been made available.

CME Holdings: David Kupiec of Kupiec & Martin testified on behalf of several out-of-state exchanges, including Intercontinental Exchange, NYSE Euronext, and NASDAQ OMX. Mr. Kupiec challenged the mandatory 27.54% apportionment formula provision in SB 397. He stated that the mandatory fixed apportionment formula was highly susceptible to constitutional challenge and the impact on non-Illinois based companies was neither fair nor equitable. He asked the Committee to consider making the new formula elective (as it is in HB 1883) and to clarify the market sourcing rules for exchanges that do not elect to use the mandatory 27.54% formula. Revenue Committee members also asked about the impact of the throw out and throwback rules on exchanges.

IDOR Testimony: IDOR Director Brian Hamer testified in support of the Governor’s proposal to include in SB 397 expansion of the Earned Income Tax Credit (projected cost \$105 M in 2012) and the CPI indexing of the individual income tax standard exemption (projected cost \$18 M in 2012). SB 397 proposes to pay for the tax benefits contained in the bill by retroactively decoupling from federal bonus depreciation (generating \$571 M in 2012 and \$354 M in 2013). With regard to the bonus depreciation decoupling, Director Hamer stated that he believed business taxpayers were motivated to purchase depreciable property as a result of the federal tax relief and that state tax relief was only a small consideration. The inference being that decoupling would not impact future investment decisions in Illinois. He did not address the retroactive impact of the decoupling.

Bonus Depreciation: Small business owners did address the decoupling issue, however. They are strongly opposed to retroactive decoupling from the federal provisions. On Wednesday, a panel of small business representatives including Derrick Stevens of Stevens Implement Company; Linda Beers of Beers Tax Service; and Dan Johnson-Weinberger of the Small Business Advocacy Council, all testified in detail about the negative impact of decoupling from bonus depreciation 11 months into the tax year, on top of the problems created for small business by the January unexpected suspension of the net operating loss deduction. We are hearing that legislators are starting to doubt the viability of using retroactive bonus depreciation decoupling as a way fund the tax relief package. However, no other revenue stream has been identified to-date.

Opposition to Business Tax Relief Proposals in General: A significant number of taxpayers testified in opposition to the granting of any relief to “big business” while the state is unable to pay its vendors, including many small businesses in the human services area. We even heard from an Occupy Springfield representative who testified against the CME/Sears relief provisions. He opposed any assistance to big business at the expense of the 99% of Illinois residents who are struggling in today’s economy. He called for the General Assembly to implement the expansion of the EITC and the indexing of the personal income tax exemption and challenged the committee members to actively engage government to protect the 99%. He warned the committee members that they should not “participate in the destruction of our society” by supporting SB 397 with its unfair benefits for big business.

We will continue to keep you updated on this issue.