L E G I S L A T I V E

TAXBILLSERVICE

126 Queen Street, Suite 304 TAX FOUNDATION OF HAWAII Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Headquarters relocation tax credit

BILL NUMBER: HB 2240

INTRODUCED BY: Ward, Ching, C. Lee, McKelvey, Pine, Takai, 4 Democrats and 3 Republicans

BRIEF SUMMARY: Adds a new section to HRS chapter 235 to allow a qualifying taxpayer to claim a headquarters relocation tax credit equal to 50% of the amount of the qualifying taxpayer's relocation costs in the taxable year. Defines "qualifying taxpayer" as a taxpayer that: (1) is an eligible business; (2) completes a qualifying project; (3) incurs relocation costs; and (4) employs at least 25 employees in the state. Defines "eligible business" as a business that: (1) is engaged in either interstate or intrastate commerce; (2) maintains a corporate headquarters at a location outside the state; (3) has not previously maintained a corporate headquarters at a location in the state; (4) had annual worldwide revenues of at least $100,000,000 for the taxable year immediately preceding the business' application for a tax credit under this section; and (5) commits contractually to relocating its corporate headquarters to a location in the state.

Delineates what costs are considered relocation costs and provides that in determining whether an expense of the eligible business directly resulted from the relocation of the business, the department of taxation shall consider whether the expense would likely have been incurred by the eligible business if the business had not relocated from its original location. Relocation costs shall not include any costs that do not directly result from the relocation of the business to a location in the state.

Tax credits in excess of a taxpayer's tax liability shall be applied to any subsequent tax liability. Requires all claims, including amended claims, to be filed on or before the end of the twelfth month following the close of the taxable year for which the credit may be claimed. Failure to comply with the foregoing provision shall constitute a waiver of the right to claim the credit. Directs the director of taxation to prepare the necessary forms to claim a credit under this section.

Defines "corporate headquarters," "net income tax liability," "qualifying project" and "relocation costs" for purposes of the measure.

EFFECTIVE DATE: Tax years beginning after December 31, 2011

STAFF COMMENTS: While the proposed measure would merely grant a tax credit equal to 50% of the costs of relocating a corporate headquarters to Hawaii, it should be noted that the tax credit proposed in this measure does not have any bearing on the taxpayer's tax burden and would merely use the tax system to subsidize relocation costs to eligible businesses at the cost of all taxpayers. In addition, the proposed credit would only be applicable to a business with worldwide revenues of at least $100 million in the taxable year preceding the application for the tax credit. All other businesses that do not qualify for the credit would also be indirectly subsidizing the relocation.

On the federal level, it should be noted that certain relocation costs may be expensed when incurred, or deductible, while other expenses incurred for the acquisition of a capital asset generally must be added to the asset's cost basis and then amortized or depreciated.

Finally, it should be remembered that unless lawmakers reduce spending by an amount equal to the loss of revenues this bill represents, all other taxpayers will have to pick up the tab for this tax incentive. So instead of improving the plight of the taxpayer and the overall economic and business environment, this measure makes sure it remains difficult to survive in Hawaii.

No doubt the intent of this measure is to attract businesses to locate their company's headquarters I Hawaii by providing a tax credit that would offset the cost of moving those headquarters here. What this proposal fails to recognize is the high cost of doing business in Hawaii, the high cost of land, the high cost of energy, the high cost of government regulation, the high cost of labor, the high cost of transportation to one of the most remote populated areas of the world - all of which work against the success of survival of a business in Hawaii. If lawmakers wish to truly attract businesses and capital investment to Hawaii, they must first address the issues of land, energy, government regulation, labor, and transportation. No amount of subsidies to move to Hawaii will offset the fact that it is difficult to survive in this environment and still make a profit. And no business in its right mind would set up shop just so that they can lose money, at least not in the real world.

Digested 2/15/12