

TAXATION PREFERENCES STUDY - BACKGROUND MEMORANDUM

The Legislative Council has directed a study of tax preferences under existing state law. The study directive would apparently allow the committee to undertake study of any tax exemption, deduction, credit, rate reduction, or other provision making a distinction between taxpayers under any of the various taxes provided by state law. Among the taxes provided by statute are income taxes (individual and corporate); sales taxes (sales, use, motor vehicle excise, and aircraft excise); energy taxes (coal severance, coal conversion, oil and gas gross production, oil extraction, rural electric cooperative gross receipts); fuel taxes (motor vehicle fuel, special fuel, and aviation fuel); cigarette and tobacco taxes; liquor and beer taxes; financial institution taxes; insurance premium taxes; gaming taxes; estate taxes; and property taxes.

There are numerous statutes providing tax credits, exemptions, rate reductions, and subsidies for these taxes. As an example of the extent of such provisions, the sales tax law contains a list of 48 specific exemptions that exempt sales of hundreds of products (North Dakota Century Code Section 57-39.2-04), the property tax law contains a list of 39 specific exemptions (Section 57-02-08), and the income tax law provides 21 specific deductions for individuals filing the long-form return, six specific deductions for individuals filing the short-form return, and eight specific deductions for corporations (Sections 57-38-01.2 and 57-38-01.3). In addition to these provisions, the sales tax, property tax, and income tax laws all contain additional deductions, exemptions, credits, and definitions or other provisions that exclude or reduce tax liability of certain potential taxpayers.

Many deductions and credits are found outside the chapters of the North Dakota Century Code which provide for the particular taxes. Although some exemptions and preferences are required either under federal law or the Constitution of North Dakota, most deductions, exemptions, and preferences are the result of policy decisions by the Legislative Assembly.

PRIOR STUDIES

Legislative Council interim committees have reviewed tax preference issues on a regular basis. The

1993 Legislative Council report contains the report of the Finance and Taxation Committee, which studied property tax exemptions in general and specifically considered the farm buildings property tax exemption. The 1995 Legislative Council report contains the report of the Taxation Committee, which made no recommendation under its study of tax preferences, and the Jobs Development Commission, which studied incentives to develop the lignite industry. The 1997 Legislative Council report contains the report of the Taxation Committee, which made no recommendation under its study of tax preferences and impacts of large economic development projects and the property tax exemption for farm buildings. The 1999 Legislative Council report contains the report of the Taxation Committee, which studied tax-exempt property impact on school districts, tax reductions for the lignite industry, charitable organizations' property tax exemptions, property tax relief, and the farm buildings property tax exemption. The 2001 Legislative Council report contains the report of the Taxation Committee, which studied taxation and regulatory incentives for the lignite industry and potential tax incentives to encourage investment in agricultural business ownership. The 2003 Legislative Council report contains the report of the Taxation Committee, which studied property tax assessment and the homestead tax credit, reduction or elimination of the corporate income tax, and reduction of agricultural property assessments.

SUGGESTED STUDY APPROACH

It will be necessary to narrow the scope of this study to identify specific issues relating to tax preferences for which the committee wishes to concentrate. The committee may wish to review prior studies and receive information on differences and similarities between the laws of this state and other jurisdictions regarding tax deductions, exemptions, and preferences. To facilitate this process, the Tax Department has been requested to provide assistance for the first meeting by reviewing the application and fiscal effect of tax exemptions for the sales tax. After this presentation, the committee can determine the types of information to be requested for future meetings.