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February 17, 2020

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Assembly Bill 873: Creating a Refundable Credit for Farm Buildings

Assembly Bill 873 was introduced on February 10, 2020, and referred to the Assembly Committee on Agriculture. That Committee held a public hearing and recommended the bill for passage by a vote of 15-0 on February 11, 2020.

SUMMARY OF THE BILL

The bill would create a refundable tax credit called the farm buildings credit under the individual income tax and the corporate income/franchise tax based on the value of certain buildings and improvements. Because the bill limits the credit for income tax years after December 31, 2019, and before January 1, 2023 (income tax years 2020, 2021, and 2022), it is assumed that the bill would first apply to property tax year 2020(21), and then to 2021(22) and 2022(23). A claimant would be able to claim the credit in an amount equal to 1.187% of the most recent assessed value of the claimant's buildings and improvements assessed as agriculture-other under state property tax law, not including residential property, that are used exclusively for farming. Used exclusively would mean used to the exclusion of all other uses except for use not exceeding 5% of total use. The maximum amount of the credit that a claimant may claim in a tax year is $7,500.

In order to be eligible, a claimant must either: (a) be a farmer and file a federal schedule F, Profits or Loss from Farming, for the taxable year for which the credit is claimed; or (b) be considered an entity actively engaged in farming based on the criteria used to determine eligibility for a variety of federal U.S. Department of Agriculture programs for that taxable year. Further, the claimant's annual gross income from farming for the taxable year must be $35,000 or greater. No credit could be claimed if the claimant or claimant's spouse claims for the same tax year the veterans and surviving spouses property tax credit, the property tax rent credit, the homestead credit, or the farmland preservation credit.

As noted the credit would be refundable. If the allowable amount of the credit claim exceeds the taxes otherwise due on the claimant's income, then the excess would be refunded. The bill would create a new sum sufficient appropriation under shared revenue and tax relief to pay credit claims.

Partnerships, limited liability companies (LLCs), and tax-option (S) corporations could not claim the credit, but eligibility for, and the amount of, the credit would be based on the most recently assessed value of the entity's property. A partnership, LLC, or S corporation would have to compute the amount of credit that each of its partners, members, or shareholders could claim and provide that information to them. Partners, members, and shareholders could generally claim the credit in proportion to their ownership interest.

The bill would provide the Department of Revenue (DOR) with full power to administer the farm buildings credit. Current law provisions relating to assessments, refunds, appeals, collection, interest, timely claims, and penalties would apply. For tax year 2020, claimants would be permitted to file claims for the farm buildings credit online, as prescribed by DOR, rather than filing a return to claim the credit. DOR would be required to process such online claims as expeditiously as possible.

The bill would also provide definitions for the terms used above. "Residential property" would mean property that is assessed as residential or a residence that is assessed as agriculture-other for purposes of the property tax. The definition would effectively prohibit the value of residences on a farm from being used in the calculation of the farm buildings credit. The bill would take effect on the day after publication of the bill.

FISCAL EFFECT

The bill would provide tax relief in the form of a refundable tax credit based on the value of farm building improvements. In 2018(19), net statewide property tax levies on properties classified as improvements on agriculture-other equaled $185.8 million, after the school levy tax credit was applied. However, these improvements can include both residences on the farm as well as other farm buildings. Under the bill, only taxes paid on the farm buildings included in the agriculture-other property classification would be used in the calculation of the proposed income tax credit.

While property classified as agricultural is assessed according to use value, farm property making up the agriculture-other classification is assessed according to its highest and best use, or market value. This includes the farm operator's homestead, other farm buildings, such as dairy barns, any residence of the farm operator's spouse, children, parents, or grandparents, the land necessary for the location of those buildings, and private roadways. DOR's <u>Agricultural Assessment Guide for Wisconsin Property Owners</u> acknowledges that the valuation of farm sets presents a unique appraisal problem for the assessor. The guide notes that typically, a property's assessment is informed by the sale of other reasonably comparable properties. However, a farm set is part of a farm enterprise that would be sold together with the agricultural land. Therefore, certain improvements included in a farm set, particularly residential properties, may have a value that is not an exact comparison to a similar type of improvement that is not part of a farm set.

Further, when residential property is valued as part of farm set, its value would not be delineated from the other farm buildings as part of the improvements listed on the tax bill and reported to DOR. However, using information filed on the state income tax form used for the calculation of a taxpayer's property tax/rent credit, DOR estimates that approximately 70.2% of value included in the agriculture-other property classification is associated with farm residences. Based on this percentage, and accounting for the income limitation and maximum credit, DOR estimates that the refundable farm buildings credit would increase GPR expenditures to pay credit claims by $27.3 million in 2020-21, 2021-22, and 2022-23. The credit would sunset after tax year 2022, and minimal GPR expenditures are estimated beginning in 2023-24.

DOR also notes that, to the extent some farm residences are actually classified as residential rather than agriculture-other, the cost would be higher. That is, farm residences would make up less of the agriculture-other classification, which would increase the value of farm buildings used in the calculation of the credit. DOR further indicates that to the extent that some of the agriculture-other improvements do not satisfy the exclusive farm use requirement, the fiscal effect could be smaller. It is possible that, in response to the availability of the credit, claimants may change title to jointly own buildings and improvements assessed as agriculture-other under state property tax law. Thus, the fiscal effect may increase to the extent multiple claimants can separately claim credits of up to $7,500 on the same property.

In order to qualify for the maximum credit of $7,500, a claimant would have to own agriculture-other improvements, excluding the value of residential property, valued at $631,900. DOR notes that most farms would likely receive a credit below the $7,500 maximum credit limit. Rather, DOR indicates that large dairy farms or confined animal farming operations (CAFOs) permitted by the Department of Natural Resources (DNR) will be impacted by the limit. DOR indicates that a sample of large dairy CAFOs would receive a median farm buildings credit of $19,400, before the $7,500 credit limitation is applied. For such CAFOs, the limitation would lower their credit by about $11,900 on average.

Before accounting for the income limitation, DOR estimates that gross amount of the credit would be $36.3 million. Dividing this amount between the 64,793 farms in the state, as identified in the 2017 U.S. Department of Agriculture Census of Agriculture, results in an average tax credit of $560. This average credit amount likely includes small farm operations, which would drive down the overall average. More medium-sized farm operations would receive a larger farm buildings credit. Further, after applying the income limitation, the average amount of the credit would likely increase.

DOR also notes in its fiscal estimate that developing the online application process for claiming the farm buildings credit for tax year 2020 would cost $33,700. No funding would be provided under the bill for such costs.

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