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February 7, 2024

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Senate Bill 398/Assembly Bill 408: Income Tax Credit for Transportation Services for Blind Workers, Tax Year 2024

On August 25, 2023, Senate Bill 398 (SB 398) was introduced and referred to the Senate Committee on Universities and Revenue. Senate Amendment 1 (SA 1) was offered on December 18, 2023. The Committee recommended the bill for passage, as amended, on December 20, 2023, by a vote of 8 to 0. On January 16, 2024, the bill passed the Senate, as amended, by a vote of 30 to 2, and was ordered immediately messaged to the Assembly.

A companion bill, Assembly Bill 408 (AB 408), was introduced on September 6, 2023, and referred to the Assembly Committee on Ways and Means. On January 17, 2024, that Committee recommended the bill for passage by a vote of 7 to 0, and the bill was referred to the Joint Committee on Finance.

BACKGROUND

Taxable income, the amount of income actually subject to tax, is calculated under current law by subtracting the state sliding scale standard deduction and personal exemptions from Wisconsin adjusted gross income (AGI). The state's marginal income tax rate and bracket schedule is then applied to taxable income to determine gross tax liability, against which eligible taxpayers may subtract any nonrefundable credits to arrive at net tax liability. Nonrefundable credits cannot be used in excess of gross tax liability.

Under federal law, a qualified Achieving a Better Life Experience (ABLE) program may be established by any state for the purpose of meeting the qualified disability expenses of a designated beneficiary, generally an individual whose blindness or disability occurred before age 26. In general, federal law permits up to $18,000 of contributions (total from all contributors) in tax year 2024 to be deposited in an ABLE account per designated beneficiary. The maximum annual contribution limit is indexed to adjustments made to the annual exclusion amount under the federal gift tax.

For tax years 2018 through 2025, the federal Tax Cuts and Jobs Act of 2017 (TCJA) increases the annual contribution limit for certain beneficiaries by an amount equal to the lesser of the beneficiary's compensation or the federal poverty line for a one-person household ($15,060 in 2024), provided the general contribution limit has been reached and the account's beneficiary makes the additional contribution. As a result, the maximum contribution limit for these beneficiaries is $33,060 in tax year 2024.

Wisconsin has adopted the federal tax treatment of ABLE accounts and allows a state deduction for any eligible contribution deposited by an account owner, or any other person, for the year in which a contribution is made into any state's federally qualified ABLE account. Additional contributions by beneficiaries authorized under the TCJA are included under the deduction. Wisconsin does not operate an ABLE program, but state residents can deduct contributions made to programs operated by other states.

SUMMARY OF SB 398/AB 408

Beginning in tax year 2023, the bill would create a nonrefundable individual income tax credit for qualifying transportation services, which would be defined as transportation services provided between a person's place of residence and place of employment by means of mass transit, paratransit, taxicab, or transportation network company. A "transportation network company" means a business that, for compensation, uses a digital network to connect passengers to participating drivers for the purpose of providing transportation network services to those passengers, but does not include a taxicab, limousine, shuttle, or other for-hire vehicle service.

The credit would equal 50% of the amount paid by the claimant during the taxable year for qualifying transportation services, up to a maximum credit of $1,500. Eligible claimants would be those who are considered blind under specified provisions of federal law.

No credit would be allowed for an amount paid for qualifying transportation services if the source of the payment was from an ABLE account for which a state deduction (described above) was previously claimed. Moreover, a credit would not be allowed for any expenses for which a claimant is reimbursed. The credit would need to be claimed within four years of the unextended due date for filing the relevant individual income tax return. Current law provisions relating to Department of Revenue (DOR) enforcement authority, as well as to assessments, refunds, appeals, collection, interest, and penalties, would apply to the credit under the bill.

SUMMARY OF SA 1 TO SB 398

SA 1 to SB 398 provides that the credit would first apply for tax year 2024, rather than tax year 2023.

FISCAL EFFECT

The following fiscal estimates are based on a DOR fiscal note for SB 398/AB 408. In its analysis, DOR incorporated: (a) U.S. Census Bureau data on commuting costs for individuals with a disability; and (b) federal tax data regarding the number of blind individuals with earned income and a net tax liability that file Wisconsin individual income tax returns. Based on these sources, it is estimated that the credit would reduce individual income tax collections by $1.3 million, annually.

Under AB 408, the credit would take effect for tax year 2023. If AB 408 were not amended in a manner similar to SA 1 to SB 398, DOR would incur additional administrative costs to reissue applicable tax year 2023 forms and instructions, and affected taxpayers who have already filed for tax year 2023 would need to file amended returns to receive the credit. Assuming individuals did file amended returns to claim the credit, it is estimated that the bill would reduce individual income tax revenues by $2.6 million in 2024-25, and $1.3 million annually thereafter.

By contrast, SB 398, as amended by SA 1, would take effect for tax year 2024. It is estimated that the bill, as amended, would reduce individual income tax revenues by $1.3 million annually, beginning in 2024-25.

Prepared by: Dan Spika