STATE-EMPLOYED CHAPLAINS HOUSING ALLOWANCE

EVALUATION SUMMARY

JULY 2020
2020-TE17

THIS EVALUATION WILL BE INCLUDED IN COMPILATION REPORT SEPTEMBER 2020

YEAR ENACTED	1979
REPEAL/EXPIRATION DATE	None
REVENUE IMPACT	$194 or less
NUMBER OF TAXPAYERS	Could not determine
AVERAGE TAXPAYER BENEFIT	Could not determine
IS IT MEETING ITS PURPOSE?	No, because most eligible taxpayers are not aware of it

WHAT DOES THIS TAX EXPENDITURE DO?

The State-employed Chaplains Housing Allowance [Section 39-22-510, C.R.S.] designates $4,200 of a state-employed chaplain's salary as a rental allowance when the State does not otherwise provide housing. This allowance enables the chaplains to deduct this portion of their salary from their taxable income for both federal and state tax purposes by allowing them to qualify for a federal housing deduction.

WHAT IS THE PURPOSE OF THIS TAX EXPENDITURE?

Statute does not explicitly state a purpose for this tax expenditure. However, based on its legislative history and historical context, we inferred that the purpose of this expenditure was to give state-employed chaplains the ability to claim the same deduction available to chaplains not employed by the State. U.S. Code has allowed clergy to deduct any housing allowance they receive as part of their compensation since 1954.

WHAT DID THE EVALUATION FIND?

We found that most currently eligible individuals were not aware of the allowance and had not claimed the related deduction. Specifically, we were able to confirm that three of the four chaplains employed by the State did not use it and could not determine if one had used it.

WHAT POLICY CONSIDERATIONS DID THE EVALUATION IDENTIFY?

The General Assembly could consider:

- Repealing this tax expenditure since it is likely not being used and is not necessary to enable chaplains to deduct a housing allowance.
- Reviewing the allowance amount.

STATE-EMPLOYED CHAPLAINS HOUSING ALLOWANCE

EVALUATION RESULTS

WHAT IS THE TAX EXPENDITURE?

The State-Employed Chaplains Housing Allowance (Chaplains Housing Allowance) [Section 39-22-510, C.R.S.] designates $4,200 of a state-employed chaplain's salary as a rental allowance when the State does not provide housing. This allowance enables chaplains to deduct this portion of their salary from their taxable income for both federal and state tax purposes. House Bill 79-1323 established the allowance, which became effective in 1979.

United States Code, Title 26 – Internal Revenue, Section 107 (IRC 107), allows a chaplain to exclude a rental allowance or the fair rental value of a parsonage from their gross income for income tax purposes. However, the chaplain's employer, which can be a public or private entity, must designate a portion of their salary as a rental allowance through "official action taken in advance of such payment." The Chaplains Housing Allowance [Section 39-22-510 (2), C.R.S.] serves as the State's housing allowance designation under IRC 107, stating, "The state of Colorado, being a tax-exempt entity, designates a portion of the compensation of every chaplain who is employed full-time by this state, in the amount of four thousand two-hundred dollars, as the payment of a rental allowance for the purpose of renting or providing a home for the chaplain and his family when such rent or home is not provided by the state." Taken together with IRC 107, the Colorado statute enables state-employed chaplains to claim $4,200 as a deduction on their federal taxes. Further, because Colorado uses federal taxable income as the basis for calculating Colorado taxable income, taxpayers who claim the federal deduction automatically receive the same reduction in taxable income for state tax purposes without needing to claim any additional deduction when filing their state taxes.

WHO ARE THE INTENDED BENEFICIARIES OF THE TAX EXPENDITURE?

Statute identifies full-time state-employed chaplains as the beneficiaries of this tax expenditure. Historically, the State employed at least 19 paid chaplains at the Department of Corrections. In 1993, the State cut the majority of these chaplain positions and most who continue to serve the State do so in a volunteer capacity and are not eligible for the Chaplains Housing Allowance. According to information from the Department of Personnel & Administration, as of April 2020, the State employed four full-time, paid chaplains, three at the Department of Human Services and one at the Department of Corrections.

WHAT IS THE PURPOSE OF THE TAX EXPENDITURE?

Statute does not explicitly state a purpose for this tax expenditure. However, based on the legislative history and historical context, we inferred that the purpose of this expenditure was to give state-employed chaplains the ability to claim the same deduction available to chaplains not employed by the State. Federal law has allowed clergy to deduct any housing allowance they receive as part of their compensation from federal taxable income since 1954, if their employer designates a portion of their salary as a housing allowance in advance. Presumably, the Chaplains Housing Allowance was intended to make a job as a chaplain for the State more attractive when other job opportunities for clergy would offer a similar allowance, if housing was not provided directly.

IS THE TAX EXPENDITURE MEETING ITS PURPOSE AND WHAT PERFORMANCE MEASURES WERE USED TO MAKE THIS DETERMINATION?

We determined that the Chaplains Housing Allowance is not meeting its purpose, because most eligible taxpayers are not aware of it.

Statute does not provide quantifiable performance measures for this exemption. Therefore, we created and applied the following performance measure to determine the extent to which the Chaplains Housing Allowance is meeting its inferred purpose.

PERFORMANCE MEASURE: *To what extent do eligible individuals use the Chaplains Housing Allowance?*

RESULT: Although we lacked data necessary to confirm whether the four eligible taxpayers claimed the federal deduction related to the allowance, we interviewed three of them and asked if they were aware of this allowance (we did not receive a response from one chaplain). All three reported that they were not aware of the allowance and had not used it to claim a deduction on their federal tax return.

WHAT ARE THE ECONOMIC COSTS AND BENEFITS OF THE TAX EXPENDITURE?

The Chaplains Housing Allowance had, at most, a revenue impact of $194 to the State in Tax Year 2018, if the one chaplain we were not able to interview used the allowance. If the four full-time state-employed chaplains who were eligible used this tax expenditure in the future, the revenue impact would be a maximum of $194 per person, or $776 for all four chaplains. We calculated this amount by multiplying the maximum allowance amount ($4,200) by the State's income tax rate of 4.63 percent.

WHAT IMPACT WOULD ELIMINATING THE TAX EXPENDITURE HAVE ON BENEFICIARIES?

Eliminating this tax expenditure would have a limited effect on the intended beneficiaries, since three of the four eligible state-employed chaplains were not aware of this provision. If the fourth individual who was eligible used it, or if the three we contacted decided to use the allowance in the future, eliminating the Chaplains Housing Allowance could potentially increase their state and federal taxable income. This would increase their annual state income tax liability by, at most, $194 each.

ARE THERE SIMILAR TAX EXPENDITURES IN OTHER STATES?

We did not identify any similar tax expenditures in other states.

ARE THERE OTHER TAX EXPENDITURES OR PROGRAMS WITH A SIMILAR PURPOSE AVAILABLE IN THE STATE?

We did not identify any similar tax expenditures or programs in Colorado.

WHAT DATA CONSTRAINTS IMPACTED OUR ABILITY TO EVALUATE THE TAX EXPENDITURE?

There were no data constraints that impacted our ability to evaluate this tax expenditure.

WHAT POLICY CONSIDERATIONS DID THE EVALUATION IDENTIFY?

THE GENERAL ASSEMBLY COULD CONSIDER REPEALING THIS TAX EXPENDITURE SINCE IT IS NOT BEING USED BY MOST ELIGIBLE BENEFICIARIES AND IS NOT NECESSARY TO ENABLE CHAPLAINS TO DEDUCT A HOUSING ALLOWANCE. As discussed, the state employs four eligible full-time chaplains, three of whom reported that they were not aware of the allowance and had not used it to claim the federal deduction (with the fourth chaplain not providing a response). Further, although IRS guidance requires an amount designated as "the housing allowance pursuant to official action taken in advance of such payment" for taxpayers to claim the related federal deduction and receive the same state tax benefit, this designation does not need to be made in a statutory provision. For example, Internal Revenue Service guidance indicates that this amount can be included in an employment contract or other official employment documentation. Therefore, state-employed chaplains could qualify for the same tax benefit even in the absence of the Chaplains Housing Allowance if the state department that employs them designates a portion of their salary as a housing allowance and the chaplains deduct allowable amounts from federal taxable income.

THE GENERAL ASSEMBLY MAY WANT TO REVIEW THE CHAPLAINS HOUSING ALLOWANCE AMOUNT. As discussed, we inferred that the purpose of this tax expenditure was to provide state-employed chaplains with a tax benefit similar to what would be available through other employers. However, the current $4,200 allowance has remained unchanged since 1979 when this expenditure was established. Since that time, average annual housing costs in Colorado have increased substantially. For example, the average cost for a two-bedroom apartment in Colorado is about $15,700 annually, so the allowance likely only allows state-employed chaplains to deduct a portion of their housing costs and no longer provides the same tax benefit as intended when it was established. Because IRC 107 allows employers to provide a federally deductible housing allowance equivalent to the market rate for housing, other employers may provide chaplains with significantly higher allowances than the State. Therefore, the General Assembly could amend statute to increase the allowance amount to ensure that state chaplains receive a similar benefit. If the four chaplains currently employed by the State claimed an allowance of $15,700 each, the potential revenue impact to the State would be $2,908.