Colorado Legislative Council Staff Fiscal Note

STATE
FISCAL IMPACT

Drafting Number: LLS 13-0577	**Date:**	February 19, 2013
Prime Sponsor(s): Rep. Moreno	**Bill Status:**	House Finance
Sen. Heath	**Fiscal Analyst:**	Louis Pino (303-866-3556)

TITLE: CONCERNING ALLOWING A TAXPAYER TO MAKE A DONATION TO AN INTERMEDIARY NONPROFIT ORGANIZATION FOR THE ENTERPRISE ZONE CONTRIBUTION TAX CREDIT.

Fiscal Impact Summary	FY 2012-13	FY 2013-2014	FY 2014-2015
State Revenue General Fund	See State Revenue section		
FTE Position Change			
Effective Date: Upon signature of the Governor, or upon becoming law without his signature. Tax changes are effective beginning tax year 2013.			
Appropriation Summary for FY 2013-2014: None.			
Local Government Impact: None.			

Summary of Legislation

Under current law, the Enterprise Zone (EZ) Contribution Tax Credit allows a taxpayer to claim a credit for monetary or in-kind donations that help implement the economic development plan for an enterprise zone. The donation may be made to an enterprise zone administrator or directly to a certified program, project, or organization that meets statutory criteria.

Beginning January 1, 2013, this bill allows a taxpayer to make an EZ donation via a qualified intermediary nonprofit organization. The organization is required to distribute 100 percent of the donations as directed by the taxpayer to a recipient nonprofit organization, program, or project that is certified by the EZ Administrator. Both intermediary and recipient organizations must be classified as charitable organizations under federal code.

Background

Colorado's Enterprise Zone program was designed to provide tax incentives to encourage businesses to locate and expand in designated economically distressed areas of the state. The EZ Contribution Tax Credit allows a taxpayer to claim an income tax credit equal to 25 percent of a monetary donation or 12.5 percent of an in-kind donation. Under current law, the donation may be made to an EZ administrator or to an agent designated by the administrator for the purpose of

implementing the economic development plan of the enterprise zone. The maximum amount of the credit is $100,000 and is limited to the taxpayer's income tax liability in any tax year. Any excess credit may be carried forward for a period of up to five years.

Recently, there has been some confusion as to whether a taxpayer qualifies for the EZ Contribution Tax Credit if their gift, designated for a qualified enterprise zone program, passes through an intermediary nonprofit organization such as Mile High United Way or Giving First.

In September 2012, the Department of Revenue agreed, on a limited basis, to accept EZ contributions made through these intermediary nonprofit organizations. The accommodation was only for the 2012 holiday season, and required these organizations to obtain legislative clarification in order for these contributions to be accepted in the future.

State Revenue

This bill is expected to have a minimal and indeterminate loss in state revenue. Tax changes under this bill are effective beginning in the current income tax year, and could affect state revenue beginning in FY 2012-13.

It is difficult to predict the number of additional EZ zone contributions that would be generated by allowing taxpayers to donate through an intermediary nonprofit organization. This note assumes taxpayers currently contributing to EZ programs through an intermediary nonprofit organization will seek the process that maximizes their tax benefits under both current law and under this bill. Thus, if intermediary nonprofit organizations are not allowed to accept EZ contributions, it is assumed that most taxpayers will shift their donations directly to a certified EZ Administrator or designated agent.

However, it is possible that General Fund revenue could decline if more taxpayers become aware of these income tax credits and the number of donations increase because of the marketing efforts of intermediary organizations.

Departments Contacted

Revenue   Office of Economic Development