TAX ABATEMENTS

AN ECONOMIC DEVELOPMENT TOOL FOR CITIES

ABOUT TAX ABATEMENTS

A tax abatement is a local agreement between a taxpayer and a taxing unit. It exempts taxes for all or part of the increase in the value of real property and/or tangible personal property for 10 years or less. A tax abatement is an economic development tool that cities, counties and special districts use to attract new industries and to encourage the retention and development of existing businesses through property tax exemptions or reductions. School districts may not enter into abatement agreements. Abatements can only be granted for the real property that is taxed to fund the project, known as the reinvestment zone.

TAX ABATEMENTS CAN BENEFIT COMMUNITIES

While tax abatements are short-lived, they can have a significant future impact.

They reduce unemployment. A new business creates jobs. People employed by the business may use their income to build homes and buy goods and services, cars and other personal necessities.

They strengthen other businesses. Established businesses benefit when a new business opens. The increase in patrons allows other businesses to grow by investing in capital improvements and hiring new employees.

They increase tax revenue. When an abatement is offered, a city still benefits from increased tax revenues. Employees of a new business spend their money at local stores (which boosts sales tax receipts) and often build new homes (which increases property tax receipts). These things occur without the need to increase tax rates.

Tax receipts continue to grow long term after the abatement expires. Once a business is well-established within a community, the improvements and facilities that are added can be taxed. The tax rate and revenue from developed property is higher than on undeveloped property. This creates a long-term source of revenue for the city.

They provide a flexible economic development tool. Abatements can be viewed as a flexible option compared to other economic development tools since infrastructure improvements or risky building ventures could become fixed costs. Without the abatement, it may be financially unfeasible for retailers to build on a certain area, due to features like underground pipelines, stormwater storage or floodplain.

WHAT MAKES A GOOD REINVESTMENT ZONE?

A potential reinvestment zone must be an area in the city that is in serious disrepair or in a development that is damaging, impedes the establishment of housing, creates an economic liability, and is a hazard to the public health, safety, morals or welfare in its present condition and use because of **(Tax Code Section 312.202)**:

- a substantial number of structures that are degraded, substandard or deteriorated;
- the predominance of defective or inadequate sidewalks or streets;
- faulty size, adequacy accessibility or usefulness of lots;
- unsanitary or unsafe conditions;
- the deterioration of site or other improvements;
- tax or special assessment delinquency exceeding the fair value of the land;

- defective or unusual conditions of improvements; or
- any combination of these factors:
  - be predominantly open and, because of obsolete platting, deterioration of structures or site improvements, or other factors, substantially impair or arrest the sound growth of the municipality;
  - be in a federally assisted new community located in a home-rule municipality or in an area immediately adjacent to a federally assisted new community;
  - be located in a home-rule municipality; and
  - encompass signs, billboards or other outdoor advertising structures the governing body of the municipality designates for relocation, reconstruction or removal for the purpose of enhancing the physical environment of the municipality.

CREATING A REINVESTMENT ZONE

To create a reinvestment zone, a municipality, by ordinance, may identify an area, personal property or real property being used for outdoor advertising that is within the municipality's taxing authority or jurisdiction. If the reinvestment zone overlaps a similar residential or commercial-industrial zone, the reinvestment zone is covered by the comprehensive zoning ordinance, if any **(Tax Code Section 312.204 or 312.211)**.

A city or county ordinance or order is needed to approve a reinvestment zone, and the boundaries and eligibility of the zone must be described in the ordinance. The ordinance is adopted through a public hearing, when it is determined that the improvements sought are practical and feasible and would be an asset to the land in the zone **(Tax Code Section 312.201(a-b) and (d))**.

ABATEMENT PROCESS

A taxing unit that wants to enter into an abatement agreement and designate an area as a reinvestment zone must follow a predetermined process.

1. DEVELOP GUIDELINES AND CRITERIA.

Each taxing unit considering tax abatement proposals must adopt guidelines and criteria to create a reinvestment zone. The guidelines and criteria are effective for two years from the date they are adopted (although they may be amended or repealed **(Tax Code Section 312.002(c))**.

When a taxing unit considers an abatement agreement, it should:

- ensure real property is in the reinvestment zone;
- ensure the improvement project is not financed by tax increment finance bonds;
- agree in writing to exempt all or a portion of the value of the property subject to ad valorem taxation (property taxes);
- Not longer than 10 years;
- ensure a business will make improvements to the real property once located there.

Additionally, a taxing unit may:

- provide an agreement exempting tangible personal property if it's located on taxable or tax exempt real property; and
- include property in an extraterritorial jurisdiction; however, the taxes apply to property within the municipality unless such an area is annexed.

(Tax Code Sections 312.007(b), 312.201(a-b) and (d), and 312.204(a-c) and (e))

Adoption of the guidelines and criteria by the governing body does not **(Tax Code Section 312.022(d))**:

- limit the discretion of the governing body to decide whether to enter into a specific tax abatement agreement;
- limit the discretion of the governing body to delegate to its employees the authority to determine whether or not the governing body should consider a particular application or request for tax abatement;
- create any property, contract or other legal right in any person to have the governing body consider or grant a specific application or request for tax abatement;
- preclude county commissioners from requiring an application or request for tax submitted to the county, accompanied by a reasonable application fee not to exceed $1,000.

2. ADOPT A RESOLUTION.

Every taxing unit considering tax abatements must adopt a resolution indicating it intends to participate in the tax abatement. A resolution must be adopted in an open meeting by a majority vote of the governing body.

Any other local government that participates must be a taxing unit where the zone resides **(Tax Code Section 312.206)**. Once a project and financing plan have been adopted, other taxing units can participate by providing an abatement when:

- a reinvestment zone is created;
- criteria are established; and
- the primary taxing unit that created the zone and approved the abatement agrees with a business on abatement terms.

3. HOLD A PUBLIC HEARING.

All interested persons are entitled to speak for or against the abatement at a public hearing. Additionally, the governing body must find that the improvements sought are feasible, the improvements would benefit the zone after the agreement expires, and the zone meets one of the applicable criteria for reinvestment zones.

Seven days' written notice of the public hearing must be given by the primary city/county proposing the abatement designation. A hearing notice must also be published at least seven days in advance in a newspaper with general circulation in the city **(Tax Code Section 312.201(d) and (e))**.

4. DESIGNATE A REINVESTMENT ZONE.

After the hearing has taken place and the guidelines and criteria have been adopted, the taxing unit may officially designate a reinvestment zone. If an area is designated as an enterprise zone under Government Code Chapter 2303, it is automatically designated a reinvestment zone – the local taxing unit does not need to hold another hearing or follow other procedures.

The ordinance creating the reinvestment zone must describe the boundaries and the eligibility of the zone **(Tax Code Section 312.201(b))**. A county can establish a reinvestment zone to include an area within the jurisdiction of a municipality **(Tax Code Section 312.401(a))**.

5. ENTER INTO A TAX ABATEMENT AGREEMENT.

After designating the reinvestment zone, the governing body of a taxing unit may enter into a tax abatement agreement if it finds that the terms of the agreement and the property subject to the agreement meet the applicable guidelines and criteria adopted by the governing body.

An agreement must be approved by a majority vote of the governing body at a regularly scheduled meeting of the governing body **(Tax Code Section 312.207)**.

6. PROVIDE WRITTEN NOTICE.

At least seven days before the abatement is granted, a taxing unit's intent to enter into a tax abatement agreement must be delivered to the presiding officer of each of the other taxing units in which the property is located. The other taxing units may enter into an abatement agreement or choose not to provide an abatement. There is no penalty for choosing not to provide an abatement.

EFFECTIVE DATE AND LENGTH OF ABATEMENT

Usually, tax abatements start on Jan. 1 of the year after they are signed. Cities and counties may set the abatement to take effect on Jan. 1 of a following year **(Tax Code Section 312.211(b))**.

MODIFYING A ZONE OR ABATEMENT AGREEMENT

A taxing unit may amend the guidelines and criteria for a reinvestment zone. The guidelines and criteria are effective for two years from the date of adoption. During that period, the guidelines and criteria may be amended or repealed only by a vote of three-fourths of the members of the governing body **(Tax Code Sections 312.002 and 312.401(e))**.

An abatement agreement can be modified or cancelled by the parties at any time before it expires. The procedures for modifying an agreement are the same procedures used when the agreement was approved and executed **(Tax Code Sections 312.205(a-7), 312.208 and 312.401(e))**. If a local government entity (in coordination with the business) changes or modifies the abatement agreement in any way, then the local government entity should complete Comptroller **Form 50-277** and submit it to the Comptroller's office.

STATE GOVERNMENT'S ROLE

The Comptroller's office performs several administrative tasks with regard to abatements and reinvestment zones. It maintains a central registry of designated reinvestment zones and ad valorem tax abatement agreements as submitted by county appraisal districts. It provides technical assistance to taxing units that need help designating a reinvestment zone, adopting tax abatement guidelines or executing abatement agreements. Finally, the Comptroller's office submits a report to the Legislature and governor, no later than December 31 of each even-numbered year, on designated reinvestment zones and abatement agreements that local governments adopt **(Tax Code Section 312.005)**.

REPORTING REQUIREMENTS

The Central Appraisal District (CAD) where the reinvestment zone is created must submit the following documents to the Comptroller's office: **Form 50-275**, an ordinance and the project and finance plans **(Tax Code Section 312.005)**. These documents must be submitted before July 1 of the year following the year in which the zone is designated.

If the reinvestment zone is modified or cancelled (for example, zone boundaries are enlarged or reduced, new businesses take over, or new abatement terms are enacted), the CAD must submit **Form 50-277**.

Local governments are encouraged to file a report for all new reinvestment zones in numerical order, not adopting the city/county ordinance or order number that is approved.

WE'RE HERE TO HELP

For additional information go to the **FAQs page**, or contact the Data Analysis and Transparency Division at **econ.dev@cpa.texas.gov** or call **800-531-5441**, ext. **3-4679** or **512-463-4679**.

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