

### **C.1.10 (Policy) Tax Abatements and Tax Increment Financing**

Responsible Department: Vice Chancellor for Finance and Administration

Board Adoption: 8-18-09

Last Board Action: 8-18-09

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#### **Tax Abatement Agreements**

The College District has elected to become eligible to participate in tax abatement agreements as permitted by Chapter 312 of the Texas Tax Code.

#### **Guidelines and Criteria for Tax Abatement Agreements**

Under the authority of the Tax Abatement Act (Section 312.001 et. seq. Texas Tax Code), the governing body of a taxing unit is eligible to enter into tax abatement agreements with property owners in an area designated a Reinvestment Zone or Enterprise Zone to exempt from taxes all or part of the increased value in the property on the condition that the owner makes specified improvements. The governing body must adopt guidelines and criteria for granting the abatements.

#### **Section 1 - Definitions**

- a. "*Abatement*" means the full or partial exemption from ad valorem taxes of certain real property in a reinvestment zone or enterprise zone designated for economic development purposes.
- b. "*Reinvestment Zone*" is an area where a municipality or Bexar County has decided to influence development patterns and attract major investments that will contribute to the development of the municipality or the county through the use of tax abatement for specified real property improvements, and has taken formal action to designate a specific area as such.
- c. "*Enterprise Zone*" means an area declared by the Texas Enterprise Zone Board to be eligible for the benefits of the Texas Enterprise Zone Act.
- d. "*Modernization*" means the replacement and updating of existing facilities which increases the productive input or output, updates the technology or substantially lowers the unit cost of operation. Modernization may result from the construction, alteration, or installation of buildings.
- e. "*Base Year Value*" means the assessed value of eligible property January 1, preceding the execution of the agreement, plus the agreed upon value of eligible property improvements made after January 1.
- f. "*Manufacturing Facility*" means buildings and structures, including fixed machinery and equipment, used or to be used for the mechanical or chemical transformation of materials or substances into new products. Establishments engaged in assembling component parts of manufactured products are also considered manufacturing.
- g. "*Biomedical/Biotech Research Facility*" means buildings and structures, including fixed machinery and equipment, used or to be used primarily for research on experimentation to improve or develop new tangible goods or materials or to improve or develop the production process thereto.

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- h. "*Regional Distribution Facility*" means buildings and structures, including fixed machinery and equipment, used or to be used primarily to receive, store, service, or distribute goods or materials where a majority of the goods or services are distributed to points at least 100 miles from any part of Bexar County.
- i. "*Regional Tourist Entertainment Facility*" means buildings and structures, including fixed machinery and equipment, used or to be used in providing amusement/entertainment through the admission of the general public where the majority of users are likely to stay in the City for more than one day and will, therefore, likely utilize local restaurants and hotel/motel accommodations.
- j. "*Other Basic Industry*" means buildings and structures, including fixed machinery and equipment, not elsewhere described, used or to be used for the production of products or services which result in the creation of new permanent full-time jobs and bring new wealth into the community.

#### **Section 2 - Abatement Authorized**

- a. *Authorized Facilities.* A facility may be eligible for abatement if it is a Manufacturing/Assembly Facility, Regional Distribution Facility, Regional Tourist Entertainment Facility, Biomedical/Biotech Research Facility, or Other Basic Industry and is located in a Reinvestment zone.
- b. *Creation of New Values.* Abatement may only be granted for the additional value of eligible real property improvements subject to such limitations as the Alamo Community College District ("the College District") may require. The College District shall not enter into an abatement agreement if (1) it finds that the application for Tax Abatement was filed after the commencement of construction, expansion, or modernization, or (2) it finds that the College District was not officially notified that construction, expansion, or modernization would commence on a given date.
- c. *New and Existing Facilities.* Abatement may be granted for new facilities for purposes of modernization or expansion.
- d. *Eligible Property.* Abatement may be extended to the value of buildings, structures, fixed machinery and equipment, site improvements, plus that office space and related fixed improvements necessary to the operation and administration of the facility.
- e. *Leased Facilities.* If a leased facility is granted abatement, the agreement may only be executed with the lessor. In such cases, lessor shall demonstrate binding contracts with the lessee to guarantee job creation. Said lease shall include tax abatement agreement.
- f. *Value and Term of Abatement.* Abatement may be granted on a case-by-case basis at the sole discretion of the Board of Trustees of the College District.

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Abatement, if granted, will be effective with the January 1 valuation date immediately preceding the date of the execution of the agreement. If a modernization project includes facility replacement, the abated value shall be the value of the new unit(s) less the value of the old unit(s). The percent of value to be abated (which ranges from 0 percent to 100 percent) is based on the capital cost of the project improvements OR the number of new permanent jobs created and sustained in each year of the abatement period. As an additional incentive to create jobs, those projects that initially create jobs that fall into the 50 to 75 percent Abatement range will be entitled to increase their percent abatement as new jobs are added. For example, a project that initially creates 60 permanent jobs is eligible for 50% tax abatement. In the second year of the abatement period, sixteen (16) additional jobs are added. The abatement will then increase to 75% and so on as jobs are created. Conversely, if jobs are reduced, the percent abatement will also be adjusted. The term of the standard abatement can be up to six years:

Schedule I:      STANDARD SIX-YEAR ABATEMENT

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Percent Abatement	Capital Cost of the Project "Improvements"	OR	No. of New Permanent Jobs Created & Sustained In Each Year of Abatement
0%	\$0-\$2,200,000		0-50
50%	\$2,200,001-\$3,400,000		51-75
75%	\$3,400,001-\$4,500,000		76-100
100%	Over \$4,500,000		Over 100

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Special ten (10) year tax abatement allowances are applicable to projects if the project, in addition to meeting the criteria in Schedule I, also meets one of the following criteria:

1. If the project is located in a State-approved Enterprise Zone, the term of the abatement can be up to ten (10) years.
2. If initial total project costs are greater than \$50,000,000 (Fifty Million), the term of the abatement can be up to ten years.
3. If the project is located in an area designated by the municipality or county as eligible for tax abatements longer than the standard six-year term, the abatement, when granted, will be for the duration of the agreement by the entity which designated the area as a Reinvestment Zone.

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- g. *Economic Qualification.* In order to be eligible and receive tax abatement, the planned improvement:
1. must be located in an area designated by the municipality or the county as a reinvestment zone under Section 312 of the Texas Tax Code, or in an enterprise zone as designated by the State;
  2. must be reasonably expected to increase the appraised value of the improved property according to Section 2(f);
  3. must be expected to increase employment based on the number of permanent jobs created and sustained in each year of the abatement as per Section 2(f);
  4. should not be expected to solely or primarily have the effect of merely transferring existing employment from one part of the College District to another without demonstration of increased future investment (Dollars or Jobs) or unusual circumstances whereby without such a move employment is likely to be reduced; AND,
  5. must be necessary because capacity cannot be provided efficiently utilizing existing improved property when reasonable allowance is made for necessary improvements or relevant governmental actions.
- h. *Taxability.* From the execution of the abatement to the end of the agreement period taxes shall be payable as follows:
1. the base year value of existing eligible property as determined each year shall be fully taxable; AND,
  2. the additional value of new eligible property shall be taxable in the manner described in Section 2(f), Subsections 1, 2, and 3.

#### **Section 3 - Application**

- a. Any present or potential owner of taxable property in the College District may request tax abatement by filing an Application for Tax Abatement with the Chancellor of the College District.
- b. The application shall consist of a completed application form accompanied by: a general description of the new improvements to be undertaken; a descriptive list of the improvements for which an abatement is requested; and, a time schedule for undertaking and completing the proposed improvements. In the case of modernization, a statement of the assessed value of the facility, separately stated for real and personal property, shall be given for the tax year immediately preceding the application. The application form may require such financial and other information as the Chancellor deems appropriate for evaluating the financial capacity and other factors of the applicant.

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- c. Upon approval by the Chancellor, consideration of a tax abatement agreement will be presented to the Board of Trustees.
- d. In order to enter into a tax abatement agreement, the College District must find that the terms of the proposed agreement meet these Guidelines and criteria and that:
  1. there will be no substantial long term adverse effect on the provision of the College District's tax base; AND,
  2. the planned use of the property will not constitute a hazard to public safety, health, or morals. As a matter of policy, the Board of Trustees explicitly states that tax abatement is not applicable to projects wherein the primary purpose of the business is serving alcoholic beverages or where nudity is involved.

#### **Section 4 - Agreement**

- a. After approval, the College District shall formally pass a resolution and execute an agreement with the owner of the facility which shall include:
  1. estimated value to be abated and the base year value;
  2. the commencement date and the termination date of abatement;
  3. the proposed use of the facility, nature of construction, time schedule, map, property description, and improvement list as provided in [C.1.10.F, Application for Tax Abatement](#);
  4. contractual obligations in the event of default, violation of terms or conditions, delinquent taxes, recapture, administration and assignment, or other provisions that may be required for uniformity or state law;
  5. amount of investment and average number of jobs involved;
  6. percent to be abated as provided for in Section 2.

Such agreement shall normally be executed within 60 days after the applicant has forwarded all necessary information and documentation to the Chancellor.

#### **Section 5 - Recapture**

- a. In the event that the facility is completed and begins producing product or service, but subsequently discontinues producing product or service for any reason excepting fire, explosion, or other casualty or accident or natural disaster for a period of one year during the abatement period, then the agreement shall terminate and so shall the abatement of the taxes for the calendar year during which the facility no longer produces. The taxes otherwise abated for that calendar year shall be paid to the College District within sixty days from the date of termination.

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- b. Should the College District determine that the company or individual is in default according to the terms and conditions of its agreement, College District shall notify the company or individual in writing at the address stated in the agreement, and if such is not cured within sixty (60) days from the date of such notice ("Cure Period"), then the agreement may be terminated.
- c. In the event that the company or individual (1) allows its ad valorem taxes owed College District to become delinquent and fails to timely and properly follow the legal procedures for their protest and/or contest; (2) violates any of the terms and conditions of the abatement agreement and fails to cure during the Cure Period; (3) is in default with any other City sponsored program; (4) decides to relocate the company to a location outside of the designated reinvestment zone; or (5) ceases operation, the agreement then may be terminated and all taxes previously abated by virtue of the agreement will be recaptured and paid within sixty (60) days of termination.

#### **Section 6 - Administration**

- a. The Chief Appraiser of the Bexar Appraisal District shall annually determine an assessment of the real and personal property comprising the reinvestment zone. Each year, the company or individual receiving abatement shall furnish the Chief Appraiser with such information as may be necessary for the abatement. Once value has been established, the Chief Appraiser shall notify the affected jurisdictions which levy taxes of the amount of the assessment.
- b. The agreement shall stipulate the employees and/or designated representatives of the College District who will have access to the reinvestment zone during the term of the abatement to inspect the facility to determine if the terms and conditions of the agreement are being met. All inspections will be made only after the giving of twenty-four (24) hours prior notice and will only be conducted in such manner as to not unreasonably interfere with the construction and/or operation of the facility.
- c. Upon completion of construction, the Chancellor or the Chancellor's designee shall annually evaluate each facility receiving abatement to ensure compliance with the agreement and report possible violations of the contract and agreement to the Board of Trustees.

#### **Section 7 - Assignment**

Tax abatement agreements may be assignable to a new owner only with College District Board of Trustees' approval.

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#### **Section 8 - Sunset Provision**

These Guidelines and Criteria are effective upon the date of their adoption and will remain in force for two years, at which time all reinvestment zones and tax abatement contracts created pursuant to its provisions will be reviewed by the College District to determine whether the goals have been achieved. Based on that review, the Guidelines and Criteria will be modified, renewed, or eliminated.

#### **Tax Increment Financing**

Requests to the Board for College District participation in Tax Increment Financing projects (TIFs) shall be submitted in writing by the taxing entity requesting College District participation (the sponsoring entity). The request, including all supporting documentation, shall be included in the packet distributed to Board members prior to the next regular Board meeting. Within 15 days after receipt of such request, the College District shall designate a representative to meet with TIF representatives, but there shall be no obligation to participate in the TIF unless and until the Board consents to participation. The designee shall be the Board Member representing the district in which the TIF will be located (or that Board Member's staff designee), unless the Board designates another representative.

The College District will not normally participate in TIFs for the following reasons:

1. Education and training of students, rather than land development and redevelopment, is the College District's mission;
2. New construction programs associated with TIFs may result in an increased number of students for the colleges; however, they will not provide the increased tax base to support the increased college workload, resulting in the present taxpayers' underwriting of the cost of the additional students; and
3. The College District's role in economic development of the municipalities and the County is to provide a high-quality trained and educated workforce, and property tax is one of the College District's primary resources for accomplishing the College District's mission.

Should the Board decide to consider participation in a TIF, the following criteria, among others, shall be used to determine whether to participate. The proposed TIF need not meet all of the criteria, but the Board shall consider all of the criteria, among others, when determining whether or not the College District shall participate:

1. Whether the proposed TIF will be used for the primary purpose of encouraging community development or revitalization within any municipality within Bexar County.
2. Whether the written request for participation includes a project location map, showing the location of the proposed project and the proximity of the proposed project to schools, libraries, parks and health facilities and places upon the map

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(plat) a depiction of the TIF improvements thereon as a condition of College District participation.

3. The economic and social effect the TIF will have on the area contained within the boundaries of zone and the economic and social effect upon surrounding property, which shall include a cost benefits analysis for the College District.
4. The participation level of other taxing entities.
5. Whether the TIF agreement provides for an administrative fee to the College District as determined by the College District to cover its expenses for collecting and remitting the tax proceeds to the TIF.
6. Whether any College District capital projects may be leveraged (or furthered) by the TIF.
7. Whether there is a potential to affect future College District expansion.
8. Whether the TIF is in an area identified by the sponsoring entity as an area targeted for reinvestment.
9. Whether there are a substantial number of vacant/abandoned or substandard commercial or residential structures to be improved by the TIF.
10. Whether there exists declining property values in the vicinity of and to be addressed by the TIF.

College District participation in TIFs (other than TIF agreements in existence before the adoption of this policy) shall be at a level of not more than 50%, and for a period of not more than 15 years.

Should the Board approve College District participation in a TIF, all of the conditions upon which the Board approves the TIF shall be incorporated in a written contract with the sponsoring entity.

#### **Conflicts of Interest**

Property within a reinvestment zone that is owned or leased by a Board Member is excluded from property tax abatement or tax increment financing.

Form [C.1.10.F](#) Application for Tax Abatement

*Legal Reference - TACC Policy Reference Manual*

CAI(LEGAL) - Appropriations and Revenue Sources: Ad Valorem Taxes