

TAX-RELATED STATE AND LOCAL ECONOMIC DEVELOPMENT PROGRAMS



Glenn Hegar

Texas Comptroller of
Public Accounts

The State of Texas has established state and local economic development programs that provide support and incentives for companies that invest and expand their operations and workforces in Texas communities.

The Comptroller's Data Analysis and Transparency Division provides detailed information about these programs, serving as a turnkey resource for improving government efficiency and achieving economic growth through:

- tax programs and incentive support;
- job creation initiatives;
- economic impact analysis;
- financial transparency;
- limiting financial exposure; and
- budgeting and purchasing efficiencies.



I. PROPERTY TAXES

TAX INCREMENT FINANCING

Tax Code, Chapter 311

Tax increment financing is a tool local governments can use to employ public financing for improvements to infrastructure and buildings within a designated area known as a reinvestment zone. The future tax revenues of each taxing unit that levies taxes on the property located within the zone repay the cost of improvements. Each taxing unit may choose to dedicate all, a portion of or none of the tax revenue gained as a result of improvements within the reinvestment zone.

A reinvestment zone may be initiated directly by a municipality or through a petition submitted by the affected property owners. Although counties were authorized by statute to form reinvestment zones in

2005, **Attorney General Opinion KP-0004** issued in 2015 stated that a court would likely rule a county reinvestment zone is not permitted under the Texas Constitution as currently written. Counties interested in initiating tax increment financing should seek the advice of legal counsel.

Once a city has begun the process of establishing a tax increment financing reinvestment zone, other taxing units (except school districts) are allowed to participate in the tax increment financing agreement. These zones are commonly referred to either as a tax increment financing (TIF) zone or a tax increment reinvestment zone (TIRZ).

The relevant statute outlines a multi-step process for implementing tax increment financing.

TAX ABATEMENT ACT

Tax Code, Chapter 312

A tax abatement is a local agreement between a taxpayer and a taxing unit that exempts from taxation all or part of the increase in the value of real property

Tax Incremental Financing

(Chapter 311)

Tax Abatement Act

(Chapter 312)

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Tax Type	Program	Statute	Technical Information	Contact
Property Tax	Tax Increment Financing	Tax Code, Chap. 311	Texas Comptroller of Public Accounts Data Analysis and Transparency Division 844-519-5672	Texas Comptroller
	Tax Abatement Agreements	Tax Code, Chap. 312		Municipality or County
	Value Limitation	Tax Code, Chap. 313		School district, Texas Comptroller
	Freeport Exemption	Tax Code, Sects. 11.251, 11.436, 11.253		Local taxing unit
Local Sales and Use Tax	Development Corporation Act of 1979, Type A/B Sales Tax for Economic Development	Loc. Govt. Code, Chaps. 501, 502, 503, 504, 505		Municipality, Texas Comptroller
	County Assistance Districts	Loc. Govt. Code, Chap. 387		County, Texas Comptroller
State Sales and Use Tax	Enterprise Zones	Govt. Code, Chap. 2303	Governor's Office, Tourism and Economic Development Division 512-936-0100	Local taxing unit, Governor's Office
				Texas Comptroller's Audit Division 800-535441 ext. 3-3900
Sales and Use, Property Tax, Other	Chapter 380/381 Agreements	Chapters 380-381, Local Government Code	Texas Comptroller of Public Accounts Data Analysis and Transparency Division 844-519-5672	Local taxing unit, Texas Comptroller
Local Hotel Occupancy Tax	Municipal and County Hotel Occupancy Tax	Tax Code, Chap 351, 352		Local taxing unit, Texas Comptroller
Special Assessment	Public Improvement Districts (PIDs)	Loc. Govt. Code, Chap. 372		City or County
Property Tax, Special Assessments and Impact Fees	Municipal Management Districts	Loc. Govt. Code, Chap. 375		City
Property Tax, Sales Tax and Local Fee Waivers	Neighborhood Empowerment Zones	Loc. Govt. Code, Chap. 378		City
Miscellaneous	North American Free Trade Agreement (NAFTA) Impact Zones	Loc. Govt. Code, Chap. 379		City

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and/or tangible personal property for a period not to exceed 10 years. The purpose of tax abatements is to assist cities, counties and special purpose districts to attract new industries, encourage the retention and development of existing businesses and promote capital investment by easing the property tax burden on certain projects for a fixed period of time. School districts may not enter into tax abatement agreements.

The relevant statute outlines a six-step process for establishing tax abatement agreements.

VALUE LIMITATION

Tax Code, Chapter 313

An appraised value limitation is an agreement between a taxpayer and a school district in which the taxpayer proposes to build or install property – and create jobs meeting certain wage and other requirements – in exchange for a 10-year limit on its taxable value for school maintenance and operations tax (M&O). For the term of the limitation agreement, school M&O taxes are not levied on the property value in excess of the limitation amount. Limitation amounts are established by statute and vary by school district from \$10 million to \$100 million. A taxpayer's application for a value limitation agreement is submitted directly to the school district and requires an application fee set by each district. The Comptroller's office and each local school board must approve each application and agreement.

FREEPORT AND GOODS-IN-TRANSIT EXEMPTIONS

Tax Code Sections 11.251, 11.437 and 11.253 authorize local taxing entities to exempt from taxation inventory or property that consist of freeport goods.

Freeport goods are tangible personal property (**Section 11.251**) including goods, wares, merchandise, aircraft parts and ores. (The exemption does not apply to oil, natural gas or liquid or gaseous materials immediately derived from refining oil or natural gas.) Freeport goods qualify for the exemption if they leave Texas within 175 days from the date they are brought into or acquired in the state.



Section 11.253 exempts from taxation a person's inventory or property that consists of goods-in-transit; i.e., tangible personal property including goods, wares, merchandise, aircraft parts and ores other than oil, natural gas and petroleum products. Goods in transit qualify for the exemption if:

- the goods are acquired inside or outside of Texas;
- the goods are warehoused and shipped to another location within or outside of the state within 175 days of being acquired or imported into the state; and
- the goods are stored at a warehouse that is not in any way owned or controlled by the owner of the goods.

Section 11.437 allows a warehouse operator to apply for a freeport exemption for cotton stored in a warehouse on behalf of all the owners of the cotton. Once granted, the exemption automatically renews each year. Further, as long as the cotton is shipped out of state, it does not have to meet the 175-day limit to qualify for the exemption.

Property qualifies as freeport goods or goods-in-transit regardless of whether the person who owns the property on January 1 is the same person who transports the goods out of the state. Further, taxation of freeport goods or goods in transit is at the taxing unit's discretion. A local government may repeal the exemption by a majority vote of its governing body.

Value Limitation

(Chapter 313)

Freeport and Goods-In-Transit Exemptions

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II. SALES TAXES

DEVELOPMENT CORPORATION ACT

Local Government Code,
Chapters 501-505

The Development Corporation Act of 1979 authorizes cities to adopt a sales and use tax and establish a Type A or a Type B economic development corporation, or both, to administer the tax funds, provided that city voters approve this special, dedicated tax at an election held for that purpose.

All cities located in a county with a population less than 500,000 may impose the Type A sales tax if the new combined local sales tax rate would not exceed 2 percent. Some cities located in counties with a population of 500,000 or more (Bexar, Dallas, El Paso, Harris, Hidalgo, Tarrant and Travis) also may adopt the Type A sales tax for economic development efforts, but a city's eligibility varies from county to county.

Type A sales tax revenue may fund manufacturing and industrial facilities; research and development facilities; recycling facilities; distribution centers; small warehouse facilities and distribution centers; military facilities; primary job training facilities; corporate headquarter facilities; job training classes; career centers; telephone call centers; business infrastructure; airport facilities; and operation of commuter rail, light rail or commuter buses.

All cities are eligible to adopt the Type B sales tax if the combined local sales tax rate would not exceed 2 percent. Type B sales tax revenue may be used for the same purposes as Type A. In addition, Type B revenue also may fund retail business incentives (if the city population is less than 20,000); sports and athletic facilities; entertainment, tourist and convention facilities; public parks and related open space improvements; affordable housing; and water supply and conservation programs (with special voter approval).



As of June 2019, 210 cities have adopted the Type A economic development sales tax; 513 cities have adopted the Type B economic development sales tax.

COUNTY ASSISTANCE DISTRICTS

Local Government Code, Chapter 387

Any county may adopt this sales tax, in all or part of the county, if the new combined local sales tax rate would not exceed 2 percent at any location within the assistance district. A county may create any number of districts. The county commissioners court may serve as the governing body of a district; alternatively, the commissioners court, by order, may appoint a board of directors to administer the district.

Assistance district revenue may fund construction, maintenance or improvement of roads or highways; provision of law enforcement and detention services; maintenance or improvement of libraries, museums, parks or other recreational facilities; promotion of economic development and tourism; firefighting and fire prevention services; and provision of services that benefit the public welfare.

Development
Corporations

County Assistance
Districts

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III. OTHER INCENTIVES AND SPECIAL ASSESSMENTS

ENTERPRISE ZONES

Government Code, Chapter 2303

The Texas Enterprise Zone Program is an economic development tool that enables local communities to partner with the State of Texas to promote job creation and capital investment in economically distressed areas of the state. Local communities may provide incentives such as tax abatements, fee waivers and reduced regulations to businesses within an enterprise zone.

Communities also may nominate businesses for selection by the state as enterprise projects. As such, these businesses may be eligible for sales tax refunds and other benefits. The Comptroller's office administers enterprise zone tax refunds under **Tax Code Section 151.429**.

CHAPTER 380/381 AGREEMENTS

Local Government Code, Chapters 380 and 381

Chapters 380 (cities) and 381 (counties) of the Local Government Code respectively grant cities and counties broad discretion to make loans and grants of public funds or the provision of public services, at little or no cost, to promote all types of business development including industrial, commercial and retail projects. Each agreement may be uniquely tailored to address the specific needs of both the local government entity and the business prospect.

Cities should review their charters for provisions that may restrict their ability to implement an incentive agreement. Both cities and counties should consider adopting policies or guidelines to provide a framework for negotiating development agreements. Cities and counties throughout Texas have utilized Chapter 380 or 381 agreements to attract businesses and jobs to their communities.



MUNICIPAL AND COUNTY HOTEL OCCUPANCY TAX Tax Code, Chapters 351 and 352

More than 500 home rule and general law cities and 62 counties impose a local hotel occupancy tax within their jurisdictions. For most cities, the tax rate may not exceed 7 percent of the price paid for the use of a hotel room. The tax rate for eligible counties varies. Cities with populations less than 35,000 also may impose the hotel occupancy tax in the city's extraterritorial jurisdiction (ETJ). The maximum combined rate of state, county, and municipal hotel occupancy taxes **may not exceed 17 percent**.

Expenditures of hotel occupancy tax revenue must comply with a two-part test. First, each expense must promote the hotel and convention industry (i.e., "put heads in hotel beds"). Second, each disbursement also must conform to at least one of nine statutorily designated categories: convention and visitor centers; convention registration; advertising the city; promotion of the arts; historic restoration and preservation; sporting events (if the city is located in a county with 1 million population or less); upgrading existing sports facilities or sports fields for certain municipalities; tourist transportation systems; and signage directing tourists to sights and attractions.

Enterprise Zones

Hotel Occupancy Tax

Chapter 380/381 Agreements

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PUBLIC IMPROVEMENT DISTRICTS

Local Government Code, Chapter 372

Public improvement districts (PIDs) offer cities and counties a means for improving their infrastructure to promote economic growth in an area. The Public Improvement District Assessment Act authorizes cities and counties to levy and collect special assessments on properties located within their limits or ETJ. Certain large counties have additional financing options available.

PIDs may be formed to create water, wastewater, health and sanitation, or drainage improvements; street and sidewalk improvements; mass transit improvements; parking improvements; library improvements; park, recreation and cultural improvements; landscaping and other aesthetic improvements; art installation; creation of pedestrian malls or similar improvements; supplemental safety services for the improvement of the district, including public safety and security services; supplemental business-related services for the improvement of the district including advertising

and business recruitment and development; or tourism-related improvements in certain cities located in Dallas and Tarrant counties.

MUNICIPAL MANAGEMENT DISTRICTS

Local Government Code, Chapter 375

These districts, also called downtown management districts, are created within existing commercial areas to finance facilities, infrastructure and services beyond those already provided by individual property owners or municipalities. The improvements may be funded by self-imposed property taxes, special assessments and impact fees or by other charges on district property owners. Certain residential property may be exempted from these taxes or fees.

A management district is created to supplement, not supplant, the municipal services available to an area. Creating such a district does not relieve a city from its obligation to provide basic services to the area.

Public Improvement Districts

(Chapter 372)

Municipal Management Districts

(Chapter 375)



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NEIGHBORHOOD EMPOWERMENT ZONES

Local Government Code, Chapter 378

A neighborhood empowerment zone is an area designated within a municipality that is created to promote affordable housing; increased economic development; enhanced quality of social services, education or public safety; or the rehabilitation of affordable housing in the zone. To promote and fund these objectives, a city may:

- waive or adopt fees related to the construction of buildings in the zone including building inspection fees and impact fees;
- make agreements, for a period of not more than 10 years to refund municipal sales tax on sales made in the zone;
- enter into agreements abating municipal property taxes on property in the zone subject to the duration limits of **Tax Code Section 312.204**; and
- set baseline performance standards, such as the Energy Star Program as developed by the Department of Energy, to encourage the use of alternative building materials that address concerns relating to the environment or to building costs, maintenance or energy consumption.

NORTH AMERICAN FREE TRADE AGREEMENT (NAFTA) IMPACT ZONES

Local Government Code, Chapter 379

NAFTA impact zones are intended to promote business opportunities for local businesses, increased economic development or employment opportunities for residents.

A NAFTA impact zone must be located in an area where the present condition substantially arrests or impairs the city's growth, retards the provision of housing, or constitutes an economic or social liability to public health, safety, morals or welfare; an area that is predominantly open, and because of obsolete platting, deteriorating structures or other factors, substantially impairs or arrests the growth of the city; an area that is in a federally-assisted new community located in a



home rule city or in the area immediately adjacent to a federally-assisted new community in a home rule city; entirely in an area that meets the requirements for federal assistance under Section 119 of the Housing and Community Development Act of 1974. Alternatively, as a result of NAFTA impact zone designation, the area must be reasonably likely to contribute to the retention or expansion of primary employment or to attract major investment in the zone that would benefit the property and contribute to the city's economic development.

Similar to neighborhood empowerment zones, within a NAFTA impact zone a city may use the following incentives:

- fee adoption or waivers related to building construction in the zone including building inspection fees and impact fees.
- enter into agreements not to exceed 10 years, to refund municipal sales tax on sales made in the zone.
- enter into agreements abating municipal property taxes on property in the zone subject to the duration limits of **Tax Code Section 312.204**.
- set baseline performance standards, such as the Energy Star Program as developed by the Department of Energy, to encourage the use of alternative building materials that address concerns relating to the environment or to building costs, maintenance, or energy consumption.

NAFTA impact zones are created and administered locally.

Neighborhood Empowerment Zones

(Chapter 378)

NAFTA Impact Zones

(Chapter 379)

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IFTA
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Petroleum Products Delivery Fee
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Coastal Protection
Crude Oil Production Tax
Natural Gas Production Tax

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