

POLICYMAKER'S GUIDE TO CORPORATE WELFARE

Chapter 312: Property Tax Abatements

The Issue

Cities, counties, and special districts often use tax abatements as a way to attract new businesses and keep existing ones. Since the early 1980s, local governments in Texas have put in place “more than 1,000 tax abatement agreements.”

The Texas Legislature authorizes local governments to administer property tax abatements under section 312 of the Tax Code, which was renewed in 2009 to allow tax abatements through September 1, 2019. In order to offer tax abatements under section 312, a local government must first pass a resolution to “opt in” to the tax abatement and then pass a set of guidelines for their tax abatement policy, which in turn must be renewed every two years. These guidelines are allowed to be as broad as the local government desires, ensuring a great deal of flexibility on what kind of abatements may be offered.

Tax abatements are only able to be offered in a “reinvestment zone,” which may encompass a number of properties. However, these boundaries are often drawn to only include the property of a single private entity for which abatement is being sought. A Chapter 312 abatement may last up to 10 years in duration and must be conditioned upon improvements being made to the property. Tax abatements are only valid for increases in the value of the property, and cannot include existing value of the property prior to improvement.

For example, let's say a city decides to enact a tax abatement agreement on a particular property in order to encourage a large out-of-town developer to purchase the property and develop it. The city must have previously opted into tax abatements and also must maintain current tax abatement guidelines. The agreement entered into with the developer might look something like this: abatement of 90 percent of new taxable value the first year, 80 percent the second year, 70 percent the third year, and so on until the property is taxed at full value in year 10 of the agreement.

The Arguments

Tax abatements may owe some of their popularity to the common perception that they have no downside and cost taxpayers nothing. Because tax abatements only abate property taxes for improvements on top of existing property value, it may appear to policymakers that the tax abatements are leading to improvements and capturing some value that otherwise would not exist. Put another way, the perception is that abatements are “free”—free to taxpayers and free to the local government.

In spite of this perception, tax abatements have many downsides that are hidden from local officials deciding whether or not to use them, and from the citizens they represent.

First among these is the opportunity cost of tax abatement to attract a particular kind of development to a particular property or properties. By removing the property from the market via targeted

abatement strategy to incentivize a firm to build, the local government is in essence declaring that the use of the property is in fact the highest value use. Yet there is no way to measure what the potential highest value of a property is. What can be known is that by choosing a particular use via political considerations as opposed to market-based means, the city, county, or special district offering the abatement is shutting the door of opportunity for potential higher value uses in the future. Governments do not generally distribute resources more efficiently than the market.

Further, a burden shift occurs with properties benefiting from abatement, which may also be seen as a short-run subsidy. The beneficiary property may not pay the share of taxes needed to cover the services it uses because of the abatement.

It is this burden shift that may be overlooked by local officials eager to attract new businesses to their community. Ultimately, every property under the jurisdiction of a local government has a cost associated with it to cover the essential public safety, transportation, and other governmental functions. As the population and investment in a community grows, governments usually respond by expanding their services to accommodate the new growth. Thus, every taxpayer can be said to bear their “share” of the local government's revenue stream.

Finally, the Texas Open Meetings Act exempts discussions of economic development matters involving real property from the public meetings requirement, meaning that most of the deliberations regarding tax abatements are done in closed session meetings that are not open to the public. This provides for a less-than-ideal environment that shuts taxpayers out of much of the process.

Recommendations

- Allow a public comment and review period for all economic development agreements before the final vote on passage; at least two weeks after agreement is reached.
- Require that local governments maintain active economic development agreements on the entity's website that are accessible to all.
- Consider restricting or repealing Section 551.087 of the Texas Open Meetings Act.
- Allow Chap. 312 property tax abatements to expire in 2019. ★

Resources

[*Texans on the Left and Right Agree: It's Time for Transparency in Economic Development*](#) by Jess Fields, Texas Public Policy Foundation (March 2015).

[*An Overview of Local Economic Development Policies in Texas*](#) by Jess Fields, Texas Public Policy Foundation (Jan. 2014).

