Tax Incentives for Business Investment, Job Creation and Job Retention

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Overview

Local incentives/assistance programs

Tax Abatement (tax phase-in)
Tax Abatement – recent changes
Tax Increment Financing (TIF)

Local Option Income taxes:
EDIT/COIT/CAGIT/LOIT
Other taxes: Food & beverage, innkeepers, etc.

Overview (cont'd)

State incentives/assistance programs

Tax Credits
Training
Infrastructure
Bonds

Other assistance

User fees – utility revenue bonds
New Market Tax Credits

Negotiation
Documentation
Compliance

What is Tax Abatement

A “phasing in” of property taxes

Reduce company’s tax liability on new improvements

New improvements, new buildings and equipment

- Manufacturing
- Research & Development
- Information Technology
- Logistical Distribution
- Residentially distressed areas
- Designated downtown areas (NEW)

(Under prior law) Phase in amounts are predetermined by statute and can be up to 10 years

More flexibility for tax abatement

HEA 1007

IC 6-1.1; IC 6-3.5-9; *Effective July 1, 2011*

(Note: old abatement schedules are still available)

Allows up to 3-year 100% tax abatement if the business meets one of the following criteria (currently available for 2 years; with 50% deduction in 2nd year)

- Locates in a large vacant building (over 50,000 sq.ft.)
- Invests at least $10 million in eligible property
- Rehabs and occupies property in designated downtown area
- Locates in a county with high unemployment (2% above State avg.)

Designating body may further enhance the abatement deductions for real and personal property and not eligible for the 2 year abatement

More flexibility for tax abatement (cont'd)

HEA 1007 (cont'd)

Criteria for determining deductions
Value of investment
Number of full-time jobs
Ratio of average wage to state minimum wage
Infrastructure requirements
Resolution must specify the percentage weight assigned to criteria

Anything goes… almost!

More flexibility for tax abatement (pros and cons)

Tax abatement is an incentive to induce private investment

Tax abatement delays or "phases-in" local property taxes and assessed value on the new private investment (delays benefit to local government budgets and circuit breaker)

The current 10-year property tax abatement options and schedules have been adequate for most projects

When TIF and tax abatement are combined, the greater the abatement the less TIF is available to fund project
TIF may be needed to fund infrastructure
Sometimes the company is allowed to choose the balance between tax abatement and TIF-funded capital incentives

More complicated to administer

Tax Increment Financing

Tax increment financing (or “TIF”) is a financing mechanism used to **capture** property taxes attributable to **increases in assessed value from new development** in a designated area.

The new businesses in a TIF Area still pay property taxes on their new private investment. The incremental taxes are captured to repay bonds or to pay directly for projects. The other taxing units forgo the increase in assessed value during the term of the TIF Area

Tax Caps - Other Taxing Units are likely to be more sensitive about use of TIF

Expect higher scrutiny of proposed TIF projects and establishment of TIF Areas

Expect increased pressure to pass-through surplus TIF

Expect schools and other units to ask for sharing of TIF dollars (rather than "pass-through" of assessed value)

Redevelopment commissions should try to be careful of hoarding surplus and not using it; TIF should be used for "economic development" purposes, financing capital improvements and infrastructure to spur private investment.

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Local option taxes

CAGIT

CAGIT can be used by local governments to provide property tax relief and additional revenue.

COIT

COIT provides new tax revenues to local governments for general spending. This was authorized in 1984 as an alternative to CAGIT. Funds are allocated for communication, transportation systems, and financing economic development projects.

CEDIT

CEDIT provides funding for local economic development projects that increase local employment opportunities and/or attract or retain businesses.

Other local taxes (special legislation)

Food and Beverage Tax

In some jurisdictions an additional Food and Beverage Tax is charged, at a rate of 1% (Marion County's rate is 2%), on sales of prepared meals and beverages. The tax is payable monthly to the Department of Revenue. Revenue is then distributed to the established county authority.

Innkeepers Tax

A tax on the rental of rooms and accommodations, for periods less than 30 days, in addition to the state sales tax. Accommodations can include:

Rooms in hotels, motels, lodges, ranches, villas, apartments, houses, bed and breakfast establishments, vacation homes or resorts.

Gymnasiums, coliseums, banquet halls, ball rooms, arenas or other similar accommodations regularly offered for rent.

Cabins, cottages, tents or fixed trailers. Houseboats and other craft with over night facilities.

Space in camper parks and trailer parks where spaces are regularly offered for rent for periods of less than 30 days.

EDGE Tax Credit

EDGE is a refundable tax credit that can be offered in situations where Indiana is competing against another state or country for a company's site location investment.

EDGE credits are calculated as a percentage of payroll tax withholding for net new Indiana jobs. The company must commit to maintaining operations in Indiana for at least two years beyond the term of its EDGE award.

EDGE may be awarded for up to 100 percent of the projected withholdings attributable to the company's Indiana project and may be awarded for up to 10 years.

Hoosier Business Investment Tax Credit

The Hoosier Business Investment Tax Credit (HBITC) program encourages capital investment in Indiana by providing a credit against a company's Indiana tax liability. The credit amount is based on a company's qualified capital investment with the final credit amount determined by the Indiana Economic Development Corporation (IEDC), based on an analysis of the economic benefits of the proposed investment.

The IEDC certifies the amount of the qualified investment that is eligible for credit and the amount directly related to expanding the workforce in Indiana. A company's credit award may be up to 10 percent of the qualified capital investment and may be carried forward for nine years. The IEDC determines the applicable credit percentage and carry forward term on a case-by-case basis.

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Industrial Recovery Tax Credit

The Industrial Recovery Tax Credit provides for a tax credit calculated as a percentage of qualified rehabilitation expense.

A credit in the amount of the qualified investment multiplied by the following applicable percentage:

•If a plant is 15 to 29 years percentage is 15 percent
•If a plant is 30 and 39 years percentage is 20 percent
•If a plant at least 40 years, percentage is 25 percent
The tax credit may be carried over to the immediately following taxable years if the credit exceeds the taxpayer's state tax liability.

The credit must be applied against the following in the order listed:

•Adjusted gross income tax liability
•Insurance premiums tax liability
•Financial Institutions Tax

The credit is open to occupants of or investors in industrial recovery sites consisting of a building or complex of buildings in service at least 15 years, with at least 50,000 interior square feet that has been at least 75 percent vacant for one years or more.

Headquarters Relocation Tax Credit

When a business relocates its corporate headquarters (defined as the location of the principal office of the principal executives) to Indiana, it is entitled to a credit against its state tax liability equal to half of the costs incurred in relocating the headquarters.

Eligibility based on the following criteria:

- The corporation must have annual worldwide revenue of at least $100 million in the taxable year immediately prior to the year in which application is made for the credit.
- After relocation, the corporation must have 75 employees in Indiana.
- The headquarters is defined as the principal office of the principal executives.

The credit may be used to offset the corporation's Indiana personal and corporate adjusted gross income tax and financial institutions tax. A nine-year carry forward applies to any unused part of the credit.

R&D Tax Credit

The Research and Development (R&D) Tax Credit provides an incentive for business investment in Indiana by providing a credit against state tax liability for qualified company research expenses. The R&D tax credit (also known as the Research Expense tax credit) is based on the increase in Indiana R&D over the prior three-year base.

In the base year, research expenses must have been at least half of the research expenses in the current year. The credit equals 15 percent of qualified research expenses on the first $1 million of investment and is applied against income tax liability; it may be carried forward 10 years. There is no carry back, and the credit is nonrefundable.

This program operates under the Indiana Department of Revenue and uses the definition of "qualified research expense" from the Internal Revenue Code (which includes the costs of wages and supplies).

Venture Capital Investment Tax Credit

The Venture Capital Investment Tax Credit provides individual and corporate investors an additional incentive to invest in early stage firms by offering investors who provide qualified debt or equity capital to Indiana companies a credit against their Indiana income tax liability.

The credit is available to any taxpayer who is an individual or entity that has any state tax liability. Pass through entities whose shareholders have Indiana income tax liabilities are also eligible for the credit. The total amount of tax credits certified by the IEDC for any calendar year may not exceed $12.5 million. The total amount of qualified investment capital provided to the qualified Indiana business in the calendar year, multiplied by 20 percent; or $1,000,000

Upon certification, the taxpayer must provide qualified investment capital to a qualified Indiana business according to the taxpayer's certified investment plan within two years after the date on which the IEDC certifies the investment plan.

After a taxpayer makes the investment, the taxpayer must submit proof of investment to the IEDC from which the IEDC shall issue the taxpayer a letter indicating that the taxpayer is entitled to a tax credit.

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Skills Enhancement Fund (SEF)

The Skills Enhancement Fund (SEF) provides financial assistance to businesses committed to training their workforce. Trainees must be Indiana residents. SEF reimburses eligible training expenses over a two-year term.

Eligible Companies
•Manufacturing Companies
•Distribution/Logistics Providers
•Headquarters and other businesses that can demonstrate that a significant portion of their local revenue stems from transactions with out-of-state entities

The maximum amount awarded through the SEF program will typically not exceed 50 percent of a company's eligible training budget; the actual approved amount may be less than 50 percent.

•Most types of training are eligible except safety, HR/benefits orientation, and training required by law (e.g., Commercial Driver's License)
•Training expenses eligible for reimbursement include instruction, travel, and material and supply costs
•Trainee wages are not an eligible training expense, although the wages paid to a staff trainer/instructor can be an eligible expense

Industrial Development Grant Fund

Provides money to local governments for off-site infrastructure projects associated with an expansion of an existing Indiana company or the location of a new facility in Indiana. Must be matched by a combination of local government and company financial support.

Projects which may qualify include construction, extension and completion of:

- Sanitary sewer lines, storm sewers, and other related drainage facilities;
- Waterlines;
- Roads and streets;
- Sidewalks;
- Rail spurs and sidings;
- Information and high technology infrastructure; and
- Preparation of surveys, plans, and specifications for the construction of publicly owned and operated facilities, utilities, and services

Indiana Bond Program

The Indiana Finance Authority is authorized to issue tax-exempt bonds, which lower the cost of financing for manufacturing projects, health care facilities, private institutions of higher education and certain other qualified projects. In order to qualify for tax-exempt financing, an applicant that is not a 501(c)(3) must first be awarded "Volume Cap."

Indiana is allotted annually a specific amount of Volume Cap that may be awarded to qualified applicants for the purpose of issuing tax-exempt bonds.

Tax-exempt bonds are often structured similarly to a term loan or mortgage, and the interest rates vary based on the company's financial situation, credit enhancements, method of sale of bonds and the current market.

Volume Cap Program (tax-exempt)
Large Bond Program (IRBs or IDBs – more than $3 million)
Small Bond Program (less than $3 million)
Disaster Bond Program (eligible county)

Utility Bonds (user fees)

A type of municipal bond that is issued to finance utility projects, such as electrical plants, water systems, sewer systems or any other type of public utility. A utility revenue bond is repaid from monies earned through the utility improvements, once the project has been completed and the utility is operating.

A bond is an interest-bearing or discounted debt security that is issued by a government or corporation in order to raise funds for capital projects. Generally, utility revenue bonds have one year's worth of debt service in what is called a reserve fund, to protect bondholders in the event that the project is not completed on time (and is not earning revenue) or where revenues are otherwise less than anticipated.

New Market Tax Credits

Established by Congress in 2000 to spur new or increased investments into operating businesses and real estate projects located in low-income communities. The NMTC Program attracts investment capital to low-income communities by permitting individual and corporate investors to receive a tax credit against their Federal income tax return in exchange for making equity investments in specialized financial institutions called Community Development Entities (CDEs).

The credit totals 39 percent of the original investment amount and is claimed over a period of seven years (five percent for each of the first three years, and six percent for each of the remaining four years). The investment in the CDE cannot be redeemed before the end of the seven-year period.

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New Market Tax Credits (cont'd)

An organization wishing to receive awards under the NMTC Program must be certified as a CDE by the Fund.

To qualify as a CDE, an organization must:

- be a domestic corporation or partnership at the time of the certification application;

- demonstrate a primary a mission of serving, or providing investment capital for, low-income communities or low-income persons; and

- maintain accountability to residents of low-income communities through representation on a governing board of or advisory board to the entity.

Negotiating the Incentives

Identify project criteria and most appropriate incentives

Begin negotiations before investment commitment

Create competitive environment

Documenting the Incentives

Incentive letter

Contract

Key elements:

- Incentives
- Commitments
- Compliance
- Enforcement

Compliance

Annual reporting

State (tax credits, training, etc.)

Local (Abatement (phase-in),TIF, etc.)

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Questions?

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