VIA ELECTRONIC MAIL and FEDERAL EXPRESS

Governmental Accounting Standards Board
Attention: Director of Research and Technical Activities, Project No. 19-20E
401 Merritt 7
Norwalk, Connecticut 06856-5116
director@gasb.org

Re: Proposed Statement of Governmental Accounting Standards Board Regarding Tax Abatement Disclosures

Ladies and Gentlemen:

In my role as Chairman of the Development Authority of Fulton County ("DAFC"), the most active local agency issuer of debt for economic development purposes in Georgia, I am writing to document the comments of the DAFC regarding the proposed Tax Abatement Disclosure Standard (the "Standard") described in Exposure Draft dated October 20, 2014 (the "Exposure Draft"). Please note that I also serve as the Chairman of the Joint Development Authority of Metropolitan Atlanta, a statutory joint development authority representing six (6) of the counties in the Metropolitan Atlanta area, and I believe these comments generally reflect a broader perspective than that solely of the DAFC.

The DAFC’s principal concern with the Standard relates to the utilization “one size fits all” approach that, in light of the comments in the Appendix B to the Exposure Draft relating to the substance, rather than the form or label of transaction, might be inappropriately applied to certain transactions undertaken by the DAFC and other local agencies in Georgia.

Due to the prohibitions against governmental gratuities in the Georgia Constitution, the DAFC, as well as the State of Georgia, and the counties, municipalities and other subdivisions in Georgia, are precluded from offering tax abatements and many other commonly utilized economic development tools. However, it is possible under Georgia law to permit certain property tax savings as incentives for economic development prospects through a certain type of sale/leaseback transaction, but such property tax savings are derived through property valuation by the local tax assessors in accordance with applicable Georgia law, and should not be characterized as tax abatements.
Please understand that this distinction is not merely a matter of labeling or semantics, but reflects a real and functional difference that should not be glossed over by the Standard.

For example, in some instances the DAFC will not only issue its taxable bonds for the benefit of a project undertaken by a private party or entity, but will also take title to such project (usually in consideration for the issuance of the bonds) and lease the same to the private party or entity. The ownership interest of the DAFC, as a governmental entity, is exempt from property taxation under Georgia, while the leasehold interest of such private party or entity is subject to property taxation, based upon the valuation of the same by the local tax assessors. As a result of the valuation methodology utilized by the local tax assessors, such private party or entity may ultimately pay less in property taxes, due to the ownership interest of the DAFC in the project. However, any such reduction in property taxes is attributable to the valuation methodology utilized by the local tax assessors, who possess exclusive legal authority in Georgia to determine the valuation of all property within the applicable jurisdiction for the property tax purposes of all governmental units within such jurisdiction.

Thus, any property savings achieved through the above described transactional arrangement are not conferred by any sort of governmental action to abate, waive or reduce any assessed taxes that would otherwise be payable, but directly result from the action of the local tax assessors in fulfilling their legal responsibility under Georgia law. During the term of the leasehold interest, the private party or entity, as lessee, pays each year the full amount of all of property taxes assessed and based upon the valuation of such leasehold interest as determined by the local tax assessors. The magnitude of any tax savings for a particular year cannot be determined prospectively, but is entirely dependent upon the valuation determined by the local tax assessors, who may reassess the leasehold interest each year during the lease term in the same manner as all other properties within the jurisdiction.

Under the above described transactional arrangement through which tax savings may be realized in Georgia, the affected local government units are typically not parties to any applicable tax abatement or comparable agreements, and would generally devote substantial effort and resources in order to disclose, as required under the Standard, either the dollar amount of taxes that were supposedly “abated” or the number and character of any outstanding tax abatement agreements in effect.

For the above reasons, the DAFC is very much concerned that, rather than permitting public disclosure of readily available information regarding tax expenditures, the Standard - if at all applicable to the above described local development authority transactions - would impose a particularly onerous burden upon local government units in Georgia that would be required to undertake the necessary investigation and computations in order “disclose” information relating to agreements to which they are not parties or otherwise involved. Moreover, in instances of overlapping tax jurisdictions, this inappropriate burden would be multiplied by the duplicative efforts of each taxing jurisdiction which would be required to independently conduct the necessary investigation and computations in order to comply with the disclosure requirements of the Standard.
In addition to the specific comments and concerns set forth above, the DAFC also wishes to expressly endorse the comments to the Standard submitted by the Government Finance Officers Association which expressed concern that the proposed disclosures under the Standard would (1) impose a substantial and difficult burden upon many local governments, and (2) mandate the inclusion of incomplete and misleading information in the financial statements of government entities.

Finally, while the DAFC respectfully believes that the Standard should be reconsidered, because it is ill advised and would fail to achieve the stated objective of the Exposure Draft, the DAFC respectfully requests that, at minimum, the Standard should be modified by the creation of a “safe harbor” in order to acknowledge and accommodate the important distinction between tax abatements conferred by governmental action and tax savings attributable to the valuation of leasehold interests by the appropriate tax officials acting within the normal scope of their official duties.

Thank you for your consideration of these comments.

Sincerely,

Robert J. Shaw

Robert J. Shaw, Chairman