

December 22, 2014

Mr. David R. Bean, CPA  
Director of Research and Technical Activities  
Governmental Accounting Standards Board  
401 Merritt 7, PO Box 5116  
Norwalk, CT 06856-5116  
RE: Project No. 19-20E

Dear Mr. Bean:

We are writing in regards to GASB's draft standards on the disclosure of tax abatements. For background on our credentials, the Georgia Budget and Policy Institute (GBPI) is a nonpartisan, nonprofit organization that analyzes and reports on pressing budget and tax issues facing the state of Georgia. Each year we publish dozens of reports, blogs, fact sheets and op-eds designed to educate Georgia lawmakers and citizens about how the state's financial choices affect policies ranging from education to health care to public safety. Since our founding in 2004 we have written extensively about Georgia's use of tax abatements for economic development purposes; for example, see our 2014 report "Overview: 2015 Fiscal Year Budget for Business Subsidies."

We would like to commend GASB for its recent work on economic development tax abatements, but also suggest a possible way to improve the draft standards. Specifically, we are concerned that a particular type of economic development policy – known as a tax "diversion" – could inadvertently escape GASB's proposed definition of tax abatement. This could occur because there is one technical aspect of these programs that might cause some of them to not meet the exact wording of the following passage in GASB's Exposure Draft definitions: "one or more government entities forgo revenues from taxes for which the taxpayers otherwise would have been obligated."

With tax diversions, the economic development abatements do not directly lower the tax obligation of participating corporations themselves, but rather allow them to keep a portion of the taxes they otherwise would have remitted to the state from third parties. There are two kinds of tax diversions, personal income tax (PIT) diversions and sales tax (ST) diversions, both of which are utilized in Georgia. PIT diversions allow eligible companies to keep a portion of their employees' withholding taxes, while ST diversions allow them to keep a portion of the sales taxes customers pay at the register. In both cases, private companies derive benefit from revenues that otherwise would have gone to public purposes, in exchange for some agreed-upon quid pro quo like adding employees or constructing a new facility.

There are presently at least 16 states that allow diversions from the personal income tax, as more thoroughly explained in a 2012 study from the national organization Good Jobs First, entitled "Paying Taxes to the Boss." In some cases, affected companies in these states never remit the specified amount of withheld personal income taxes to the state treasury. In others, companies receive the benefit on the backend through a grant. In a third model that might trigger the wording of your proposed definition,

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some states allow companies to claim the abatement as a credit against the corporate income tax or other obligations. We see no material difference among the three scenarios.

Personal income tax diversions have become increasingly popular in Georgia over the past decade. There are now six tax credits that allow the practice, including our credits for job creation, film production and research and development. To receive the benefit, interested companies must submit a “Notice of Intention to Claim Withholding Benefit,” specifically Georgia tax form IT-WH, to the state’s Department of Revenue at least 30 days prior to their actual tax return. Companies may begin collecting the benefit once DOR issues a “Confirmation of Intention to Claim Withholding” benefit letter 90 to 120 days later, which specifies the amount the company may claim. The six credits that allow for PIT diversion cost Georgia around \$250 million annually as of FY 2015.

Sales tax diversions are less common in Georgia; however, the state legislature enacted an ambitious new version of one in 2013 – the Georgia Tourism Development Act – that could prove costly in the future. The abatement allows large-scale tourism projects like new amusement parks or museums to keep the sales taxes paid to them for up to 10 years, with the maximum benefit being 2.5 percent of the project’s total cost. To receive the benefit, interested companies must go through a multi-level approval process involving both the local government and the state Departments of Community Affairs (DCA) and Economic Development (DEcD). Affected businesses receive the benefit in exchange for eligible activities such as real estate acquisition and construction. The potential cost of the program is unknown.

We suggest that by every measure included in your proposed standards, both personal income and sales tax diversions should qualify as tax abatements: they are awarded pursuant to an agreement between state government and interested companies; they reduce state revenues otherwise intended for education, health care and other public needs; and they take place in exchange for agreed-upon economic development activities. To properly capture them, GASB might consider a small revision to the relevant language, along the lines of “one or more governmental entities forgo revenues from taxes which the taxpayer otherwise would have been obligated to pay, *or which the taxpayer otherwise would have been obligated to remit to the relevant government*” [additional words italicized].

Thank you for your time and consideration. We applaud GASB’s effort to improve government accounting practices in this area and look forward to seeing the final standards.

Sincerely,

A handwritten signature in black ink, appearing to read "Alan Essig". The signature is written in a cursive, flowing style.

Alan Essig, Executive Director  
Georgia Budget and Policy Institute (GBPI)