



STATE OF WASHINGTON
OFFICE OF FINANCIAL MANAGEMENT

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January 26, 2015

Mr. David R. Bean
Director of Research and Technical Activities
Governmental Accounting Standards Board
401 Merritt 7
P.O. Box 5116
Norwalk, CT 06856-5116

Re: Project No. 19-20E: Proposed Statement of the GASB *Tax Abatement Disclosures*

Dear Mr. Bean:

On behalf of the State of Washington Office of Financial Management (OFM), I am pleased to offer the following comments on the Governmental Accounting Standards Board's (GASB) Exposure Draft (ED) on *Tax Abatement Disclosures*, Project No. 19-20E. OFM serves as the state's controller, issuing all state accounting and reporting policies as well as the state's Comprehensive Annual Financial Report (CAFR).

Washington supports reporting which provides complete and accurate disclosure of financial reporting data. While we agree that the public is entitled to information related to tax abatements, we question whether the appropriate venue for it is in the note disclosures of audited financial statements. Rather than wading through the voluminous data that is now required to be included in financial statements, most citizens looking for tax information would more likely go to a government's website and search for tax information. Further, the ED only addresses disclosure related to abated tax revenue which shows only one side of the equation. Without any mention of the benefits expected as part of this agreement, the public could be confused or misled. In most cases governments enter into agreements containing tax abatements that incentivize and facilitate additional growth including tax revenues, that, but for the agreement, would not occur.

Another factor to be considered is materiality. Taxes are typically a major revenue source for governments. Since the provisions of the proposed standard would not be applied to immaterial items, would the public necessarily get a comprehensive picture of a government's tax abatement programs via financial statement disclosure?

Additionally, we have the following comments and concerns about the ED including lack of clarity in the definition of a tax abatement, potential conflicts with state law related to confidentiality of taxpayer information, and timing and availability of data.

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Definition of tax abatement

The ED's definition of "tax abatement" requires a government to make a fact-specific and subjective determination whether a tax preference is a tax abatement. We request that the definition of tax abatement be more definite so that governments clearly understand which tax preferences constitute reportable tax abatements. Alternatively, we respectfully request that the Board provide more illustrative examples of tax preferences that do and do not constitute tax abatements. The most challenging part of the definition is determining whether a tax preference involves an agreement with a specific taxpayer.

The ED states that the agreement must precede the taxpayer's action. A tax abatement agreement does not exist if the government does not commit to the tax reduction until after the taxpayer has performed the activity. In other words, mutual promises of performance must exist prior to the taxpayer action.

We believe that in many cases it will be very difficult to differentiate between a unilateral promise by a government to provide a tax benefit if certain conditions are met, and mutual promises that a taxpayer will perform an action and the government will in return provide a tax benefit that necessarily cannot occur until after performance.

We believe the determination of whether an agreement exists will be open to substantial debate. For example, would negotiations leading to the passage of tax preference legislation constitute an agreement under the Board's proposal? If so, what factors are relevant to the determination whether legislative negotiations formed the basis of an agreement?

It is not clear to us how an application process for a tax incentive, or the lack thereof, may affect the determination of whether a tax incentive involves an agreement. We assume that a tax incentive requiring an application before the taxpayer performs the required activity would likely involve an agreement. But, if the identical tax incentive did not require pre-approval through an application process and taxpayers could simply perform the required activity and then claim the incentive, would the tax incentive involve an implied agreement?

It is also unclear to us if/when a group of taxpayers becomes a specific taxpayer. For example, would a tax incentive program offered to businesses that hire a specified number of workers in a specified distressed economic area, constitute an agreement with a specific taxpayer even if many businesses participated?

Within some of the programs in Washington there are maximum threshold amounts which once triggered prevent additional taxpayers from claiming credits for the program. Would programs like this meet the definition of a tax abatement?

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In the state of Washington, not all tax abatements reduce tax revenues. For example, under Washington's budget-based property tax system, property tax exemptions do not necessarily result in reduced taxes for the taxing districts. This is because the exempt taxes are shifted onto non-exempt properties whose owners pay higher taxes. Unless a taxing district's levy rate is at its statutory maximum, the exemption will not reduce the amount of property taxes received by the taxing district. Should a government be required to report information about tax abatements that do not reduce the amount of tax revenues received by the government?

If there is not clarification on the definition, the proposal would require governments to draw complex legal conclusions based on all possible relevant facts or circumstances, without sufficient direction to guide the inquiry. This makes the determination of whether an agreement exists too subjective and uncertain to be reasonably or consistently applied.

Confidential tax information

Washington's taxpayer confidentiality laws generally prevent the state from disclosing aggregate tax information when the data collected comes from fewer than three taxpayers in order to avoid disclosing confidential taxpayer information. The Board's proposed reporting requirements would be in conflict with Washington's taxpayer confidentiality laws with respect to tax abatements received by fewer than three taxpayers.

If a government is not legally able to disclose tax abatement information in certain circumstances, would reporting the legal restrictions on disclosing confidential information exempt the government from meeting the requirements of the proposed standard?

Timing and availability of data

In Washington, the state's June 30 fiscal year end does not coincide with that of the tax year associated with the state's tax preference programs. Data associated with various programs is required to be filed for a calendar year by the end of April of the succeeding year. Our assumption is that reporting tax abatement information for the most recent period available with proper notation will comply with the reporting requirements under the proposed standard.

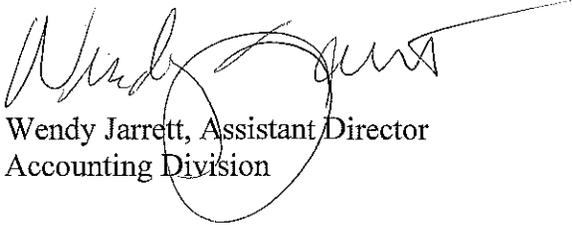
For most of Washington's tax preferences that, based on current understanding of and assumptions related to the requirements of the proposed standard, potentially meet the definition of tax abatements, other than property tax preferences, the state currently collects and retains the required information. However, the state does not generally collect information on sales and use tax exemptions claimed by taxpayers. These amounts are generally not required to be reported to the state by the purchaser. If these are deemed to be tax abatements, our choices are to devise an estimation strategy which would potentially pose an audit risk or impose widespread new taxpayer reporting requirements which is not something we take lightly from both taxpayer relationship and internal workload perspectives.

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The ED comments that the expected benefits of the proposed standard would outweigh the costs associated with applying them and that those costs would be largely limited to the initial year of implementation. We respectfully submit that the costs associated with implementing the proposed new standard could vary greatly depending on the number of abatement programs and the number of associated taxpayers. There would be implementation costs associated with developing the process to collect the required information, working with taxpayers to train them on the new requirements, analyzing the information submitted, preparing the note disclosure and having it audited. Additionally, there would be ongoing costs associated with taxpayer education, data collection and analysis as well as audit of the required disclosure.

When considering additional reporting and disclosure standards, we ask the Board to bear in mind the continued pressures on governments to produce increasingly earlier financial statements and the on-going constraints caused by reductions to staffing.

Sincerely,

A handwritten signature in black ink, appearing to read "Wendy Jarrett", with a large circular flourish at the end.

Wendy Jarrett, Assistant Director
Accounting Division