



**Comments of Ed Lazere, Executive Director, DC Fiscal Policy Institute
On the Proposed Statement of the Governmental Accounting Standards Board
Tax Abatement Disclosures, Project No. 19-20E
January 30, 2015**

I am writing to express strong support the GASB Exposure Draft on a proposed statement on “Tax Abatement Disclosures,” dated October 20, 2014. The proposed standard would increase public awareness of the impact of economic development tax abatements on state and local finances. Given the substantial role that such abatements play in many states and cities, and the lack of easily accessible information on them in many states, the proposed standard will be beneficial to any individual or entity that cares about a state or locality’s financial position or that cares specifically about the impact and effectiveness of economic development tax abatements.

I also have several recommendations for modifying the standard to improve the reporting on tax abatements. Most important, the definition of a tax abatement should be modified to more fully capture the most common types of economic development tax subsidies. Under the proposed definition, a number of economic development tax abatements in the District of Columbia – such as Tax Increment Financing and Payments-In-Lieu-Of-Taxes– may not be subject to reporting. In addition, the standard would be improved by requiring states and localities to report on the fiscal impact of tax abatements beyond one year. Despite the challenges for measuring future effects, information on how long given abatements will last is critical to understanding a jurisdiction’s financial position.

It is worth noting that the District of Columbia’s CAFR already includes information on tax abatements, such as Tax Increment Financing, and reflects future-year costs of these economic development subsidies. This suggests that states and localities could meet reporting requirements using a broader definition of tax abatements than proposed by GASB, as well as a reporting requirement on future-year costs.

Finally, the standard considered but declined to require governments to report disaggregated data on individual recipients of abatements. This should be modified, because understanding the specific abatements provided is critical to oversight.

Definition of “Tax Abatement” in the Proposed Standard Is Too Narrow and Should be Modified

The definition of “tax abatement” in the draft standard does not fully encompass the kinds of economic development tax incentives that are offered in the District of Columbia. The proposed standard defines a tax abatement

...as resulting from an agreement between one or more governmental entities and a taxpayer in which (a) one or more governmental entities promise to forgo revenues from taxes for which the taxpayer otherwise would have been obligated and (b) the taxpayer promises to take a specific action after the agreement has been entered into that contributes to economic development or otherwise benefits the governments or the citizens of those governments. The scope of this Statement is limited to transactions that meet this definition.

This definition is limiting in a number of ways. Consider these examples.

- In 2010, the District of Columbia Council approved a property tax abatement for a completed residential building – the Highland Park Apartments. The taxpayer did not have to promise to do anything beyond what it had already done at that point. Instead, the tax abatement was intended to maintain the solvency of a development that was built during the Great Recession. To address situations like this, the GASB the standard’s definition of tax abatements could be amended to include situations where abatements were offered “to support the viability of existing businesses or economic development projects.”
- The District offers Tax Increment Financing under which sales and property taxes generated by a given economic development project are used to pay off bonds issued for that project. The taxes are collected but not used for a public purpose. It is not clear whether this would meet the definition of a tax abatement under the GASB proposal, which requires that tax revenues be foregone “from taxes for which the taxpayer otherwise would have been obligated.” In DC’s TIF program, taxes must be paid but then are diverted to the project. It may be better to define an abatement when revenues are foregone or “collected but diverted from public uses to support private development.”
- The proposed standard defines a tax abatement only in situations where recipients promise to take specific actions *after* the abatement is agreed to. There are many situations where the District offers economic development tax incentives *if* a business entity performs an action, without requiring any “promise” or specific commitment. For example, under the city’s Qualified High Technology incentives, companies register as a high-tech company and then qualify for tax credits for every employee hired, among other things. However, companies are not required to promise to hire a specific number of employees, or even any at all. This clearly is an economic development incentive that can create a substantial loss of revenue. The definition of tax abatements should be broadened to include agreements with a specific entity that offer a reduction in taxes “if certain specified economic development actions are or if the program contains an economic development intent such as job creation, capital investment, or revitalization of neighborhoods.”

It is important to note that the CAFR for the District of Columbia reports on tax abatements and uses a broader definition than the one proposed by GASB. DC’s CAFR includes information on TIF commitments and commitments under its Payment in Lieu of Taxation program which operates similarly to TIF. This is a clear sign that District officials consider TIF to be economic development tax abatements that are important to understanding its financial position, and that reporting on such subsidies is feasible.

The Standard Should Require Reporting of Impacts beyond One year

The Exposure Draft on tax abatements would require only a single-year reporting on lost revenue, with no information on future-year fiscal impacts of such abatements, even though many abatements last for many years. In the District of Columbia, tax abatements can last as little as a few years or as long as 20. Clearly the impact of the District's financial position would change dramatically if policymakers began to adopt a series of long-term abatements, and the impact would be more significant than if adopted abatements were short-term. Parties interested in the District's financial status, such as bond investors, would benefit from knowing at any given time whether the District had made obligations for a number of long-term abatements.

The Exposure Draft document suggests that it would difficult to define appropriate guidance for measuring cumulative future revenue losses. While there would be challenges, there are ways that the standard could require some level of reporting on future losses.

- Reporting could be required where the foregone revenue amount in a future year is known. This could be reported for all affected future years.
- Where the specific amount of future foregone revenue is not known but can be reasonably estimated, such as when it is tied to property taxes for a specific existing property, the estimated revenue loss could be required to be reported for all affected future years.
- Even if reasonable estimates cannot be made of future year losses, reporting could be required on the number of project-specific abatements that the jurisdiction will be under in future years.

Again, the District of Columbia's example suggests that this is feasible. DC's Chief Financial Officer projects the amount of diverted property and sales tax revenue for each TIF project, for the life of the project, and that information is then aggregated and reported in the CAFR.

The Standard Should Require the Disclosure of the Specific Tax Abatement Recipients

GASB considered but ultimately rejected a requirement to disclose the specific recipients of tax abatements. We share concerns of other commenters about this decision, and we recommend including a disclosure requirement in the new rules. Understanding the specific recipients is important for several reasons. For example, some states have granted extremely large tax abatements to a handful of large high-profile companies. These deals can have a significant impact on a jurisdictions financial position, both whether they are successful but perhaps more importantly, when they are not. Understanding a jurisdiction's decisions over specific abatement deals and their success would be important to any individual or organization attempting to assess a jurisdiction's financial position and stability.

GASB's Exposure Draft says recipient-specific reporting "may not be practical and may adversely affect the usefulness of the disclosure." Yet it is likely that economic development agencies maintain easily accessible information on specific tax abatement details, and sharing it in a CAFR should be easy to do.