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

SUBJECT: RESPONSE TO EXPOSURE DRAFT – TAX ABATEMENT DISCLOSURES

Dear Mr. Bean,

The Virginia Government Finance Officers' Association (VGFOA) would like to take this opportunity to respond to your Exposure Draft (ED), "Tax Abatement Disclosures", Project No. 19-20E. The VGFOA appreciates the opportunity to work with the Governmental Accounting Standards Board (GASB) toward the mutual goal of developing improved financial reporting standards. The VGFOA agrees in principle that certain disclosures about tax abatements would be helpful to some financial statement users; however, we have various concerns that we would like to outline regarding the proposed standard.

One-Sided Nature of the Required Disclosures

The VGFOA understands that this is an issue that was raised in the GFOA's response to this ED, and in part, we agree with this concern. While we understand that not all tax abatements covered by the ED are related to economic development, many tax abatements that are granted fall into this category. Additionally, we do acknowledge that at present, many governments include information about economic development activities (including tax abatements) and their projected benefits to the jurisdiction, in the Letter of Transmittal that accompanies their Comprehensive Annual Financial Report ("CAFR"). We are concerned however, in two ways:

1. A Letter of Transmittal is not a required element of the basic financial statements (unlike the proposed disclosures), and thus, governments which do not produce a CAFR will not be able to put the costs associated with tax abatements in the proper context alongside the benefits derived by the government for those economic development activities; and
2. In most cases, narratives of economic development activities which are typically included in the Letter of Transmittal tend to be very generic in nature – they include many different types of initiatives that extend beyond tax abatements. Generally, such narratives are vague, and at most, describe projections related to future jobs expected to be created, or anticipated capital investments by prospective companies, but normally stop short of quantifying the economic gains to the locality.

Further, including tax abatement agreement disclosures in the footnotes without information related to the current tax base (assessed values for different classes of property and tax rates applied to each) does not allow the user to put the tax abatements disclosed into their proper context. However, since the information related to the government's tax base, levies, and collections is currently required to be reported in the Statistical Section of the CAFR, the VGFOA would recommend that information related to tax abatements also be presented in the Statistical Section of the CAFR in summary form. For example, a column representing the annual amount of taxes abated from the government's most significant own-source revenue could be presented as a part of the "Information about Property Tax Levies and Collections"; alternatively, a government could also choose to report the total abatements relative to the "Information about the Revenue Base". The VGFOA further recommends that disclosures be located in a separate section of the Summary of Significant Accounting Policies which describes the general nature and types of tax abatements (as opposed to the proposed requirement to present specific circumstances in which they have been abated and a dollar-amount of each type of abatement), and any policies undergirding the government's process for determining whether to abate an individual's or an organization's taxes, if applicable.

Definition of "Tax Abatement" Unclear

The VGFOA is concerned that the definition of "tax abatement" as described in the ED is not entirely clear. Several of our members who contributed to our response had questions in this area. For example:

1. Does a tax rate reduction or exemption that applies to an entire class of taxpayers (e.g. NFPs, the elderly, veterans, etc.), which does not contain an explicit "quid pro quo" agreement, constitute a tax abatement which would necessitate disclosure?
2. Does a tax rate reduction or exemption granted to specified organizations (as opposed to all organizations of a particular class as described in the previous question), but which does not contain an explicit "quid pro quo" agreement, constitute a tax abatement which would necessitate disclosure?
3. How well-defined would an agreement "to take a specific action" have to be in order to qualify for treatment as a tax abatement which would necessitate disclosure? For example, if a government agrees to rebate a portion of real estate taxes to a non-profit organization which provides affordable housing within the community, does that rebate constitute a tax abatement which would necessitate disclosure because it is understood that the rebate is granted in return for the organization's charitable work?

Disclosures Jeopardizing Negotiations/Causing Legal Issues

In the ED, the GASB allows for aggregating disclosures for similar tax abatements. The VGFOA agrees that in some instances, this will help some governments to be able to avoid issues that may otherwise surface, such as a disclosure provided for an individual abatement jeopardizing on-going negotiations of another potential abatement of a similar nature, or violation of a non-disclosure agreement between the government and an entity to which it provided an abatement. This is particularly true of larger governments wherein abatements are likely to be more routine and numerous. However, the VGFOA is concerned that this aggregation may not be possible for smaller jurisdictions which do not experience the same volume of these types of transactions. For example, if a small jurisdiction only does one deal every couple of years, it would not be any mystery as to what each company was able to negotiate for, and that could alter or damage future negotiations with other companies. Further, if the same jurisdiction previously entered into

an abatement agreement which contained a non-disclosure agreement, and the proposed standard goes into effect prior to the expiration of that agreement, the government would be forced to choose between violation of the non-disclosure agreement, and compliance with GAAP.

Agreements Entered Into By Other Governments

The VGFOA is concerned with the requirement to report tax abatement agreements entered into by other governments that reduce the reporting government's tax revenues. This is seemingly an impossible standard to enforce. For example, in Virginia (which is a Dillon Rule state) this would entail that localities be able to dictate to the Commonwealth the information which they must provide; Dillon's Rule, which narrowly defines the powers of local government to those that are granted in expressed words, those necessarily or fairly implied in or incident to powers expressly granted, or those essential to the declared objects and purpose of the corporation, carries with it the implication that localities do not have the power to compel the Commonwealth to provide the information necessary for the required tax abatement disclosures. Even if the Commonwealth were willing to provide state-wide tax abatement disclosure information that specifically addresses each Virginia locality, this requirement could still lead to lengthy delays in completing financial reports if information is not provided to those localities in a timely manner.

Further, this requirement presents problems even between peer localities. Necessary details, such as authority, eligibility criteria, provisions for recapture, and types of commitments, may be unknown to the reporting locality and could be omitted or misreported by the government making the tax abatement impacting the reporting locality. For example, if a reporting locality were to attempt to comply with the disclosure requirement for tax abatements resulting from an agreement of another government, and the abating government either failed to report or erroneously reported the information necessary for the disclosure to the reporting locality, which entity would be responsible for the misstatement?

These issues do not appear to be adequately discussed or considered in the ED, and the VGFOA has concerns as to how they could be practically resolved.

In conclusion, the VGFOA agrees in principle that certain information related to tax abatements would be helpful to some financial statement users. However, we remain concerned about the areas cited in this response, and are hopeful that the GASB will consider our comments and recommendations in developing the final standard.

Thank you in advance for your consideration, and please do not hesitate to contact us should you require any additional clarification related to our response.

Best regards,



Jon Munch
President