MAY 23, 2017

Tax Incentives for Economic Growth
A General Overview of What Is Available, Eligibility Requirements and How These Incentives Spawn Economic Growth

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MAY 23, 2017
Purposes of the Program

• Describe several available tax incentive and abatement programs
• Outline the key eligibility requirements
• Discuss their effectiveness
• Provide guidance in effective application
Types of Tax Incentives

- Statutory Tax “Incentives”
  - Tax Abatements
  - Fixed Assessments
  - Exemptions

- State Tax Incentives
  - Administered by DECD
  - Others Not Administered by DECD
Tax Abatements

• Reduction of or exemption from taxes granted by a government for a specified period, usually to encourage certain activities such as investment in capital equipment.

• Includes, tax exemptions and incentives, like credits

• Creatures of statute

• Strictly construed
Tax Abatements

• **C.G.S. §12-65b:** Agreements Fixing Assessment of Real Property or Air Space
• **C.G.S. § 12-65c, *et seq.*:** Deferral of Assessment Increase
• **C.G.S. §12-65:** Agreement Fixing Assessments on Multifamily Housing
• **C.G.S. §12-81, *et seq.*:** Various Other Abatements
Tax Abatements

• 12-65b:
  o Fixes the Assessment of Property and All Improvements
  o Affirmative vote of legislative body
  o Written Agreement
  o Owner or Lessee or Party in Interest
  o No more than 10 years
Tax Abatements – 12-65b

12-65b only applies if the improvements are for at least one of the following:

- (1) office use;
- (2) retail use;
- (3) permanent residential use (four or more dwelling units);
- (4) transient residential use;
- (5) manufacturing use;
- (6) warehouse, storage or distribution use;
- (7) structured multilevel parking use necessary in connection with a mass transit system;
- (8) information technology;
- (9) recreation facilities;
- (10) transportation facilities;
- (11) mixed use developments;
- (12) use by or on behalf of health system (i.e. hospital and affiliates)
Tax Abatements – 12-65b

Public Act 16-3 –

Abatement no longer depends upon size of investment

Legislature is leaving the decision on this investment to local control

Consider ordinance that sets forth criteria to avoid arbitrary application and garner public support
Tax Abatements: 12-65c – 12-65e

• Deferral of Increased Assessment Due to Rehabilitation

• Adopt a “Rehabilitation Area”
  • "Rehabilitation area" means any municipality, or a part thereof, which is deteriorated, deteriorating, substandard or detrimental to the safety, health, welfare or general economic well-being of the community

• Legislative Body Resolution

• Public Hearing

• Establish Criteria
  ○ Initial condition of property
  ○ Extent and nature of improvements compatible with all zoning regulations, POCD, building codes and health codes that apply
  ○ Acceptable uses for the property

• 8-24 Referral
Tax Abatements: 12-65c – 12-65e

- Applies to renovation and new construction in the Rehabilitation Area
- Must Meet the Criteria
- Written Agreement
  - Fixes the current assessment during construction for up to 7 years
  - Defer Any Increases In Assessments Attributable to the Improvements for up to 11 years
    - Contingent upon continued use as set forth in the Agreement
      - Expires upon sale or transfer for any other purpose without prior consent
    - Deferral is 100% first year
    - Must pay at least 10% per year thereafter until 100% is reached
  - Set a date certain for completion of construction
  - Subject project to inspection and certification for compliance with the criteria and applicable codes
Tax Abatements: 12-65c – 12-65e

• REVALUATIONS
  o In the event of a revaluation during construction and an increase in value as a result, only the increase attributable to the improvements is deferred
  o In the event of a revaluation during deferment years, the deferred amount shall be increased or decreased in proportion to the increase or decrease in total assessment.

• APPEAL RIGHTS: Section 12-65f
  o Within 15 days of notice of action or decision
  o Or within 65 days after date of submission of request to act
Tax Abatements – 12-65h

• Agreements Fixing Assessment of Personal Property for Manufacturing Facilities
• Legislative Body Vote
• Written Agreement
• Manufacturing Facility as Defined per 12-81(72)
  
  "Manufacturing facility" means that portion of a plant, building or other real property improvement used for manufacturing, processing or fabricating, for research and development, including experimental or laboratory research and development, design or engineering directly related to manufacturing, for the significant servicing, overhauling or rebuilding of machinery and equipment for industrial use or the significant overhauling or rebuilding of other products on a factory basis, for measuring or testing or for metal finishing.
# Tax Abatements – 12-65h

Abatement depends upon size of investment in the personal property as reflected in an increased value assessment.

<table>
<thead>
<tr>
<th>Not Less Than</th>
<th>Not More Than</th>
</tr>
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<tbody>
<tr>
<td>3 million</td>
<td>7 years</td>
</tr>
<tr>
<td>500,000</td>
<td>2 years</td>
</tr>
<tr>
<td>25,000</td>
<td>50% of increased assessment over 3 years</td>
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Tax Abatements

- **12-65** – Agreements Fixing Assessments and Deferring Tax Increases on Multifamily Housing
  - Written Agreement
  - 3+ Units
  - Housing Must Be Within A Redevelopment Area, Urban Renewal Area or Community Development Plan
  - Approval by State Referee

- **12-65g** – Agreements to Fix Assessments and Defer Tax Increases on Rehabilitation Accommodating the Disabled
  - By Ordinance
  - Written Agreement
Tax Abatements

• **12-81m – Agreements Abating Taxes for Agricultural Uses**
  
  1) Dairy farm,
  2) Fruit orchard, including a vineyard for the growing of grapes for wine,
  3) Vegetable farm,
  4) Nursery farm,
  5) Farms that employ nontraditional farming methods, including, but not limited to, hydroponic farming,
  6) Tobacco farms, or
  7) Certain commercial lobstering businesses
Tax Abatements

- **12-81m**
  - Vote of the legislative body and the Board of Finance
  - Abate Up to 50% of the property taxes
  - If the property is maintained as a business
  - Right to recapture
    - Can’t exceed original amount of taxes abated
    - Can’t recapture for more than 10 years
Tax Abatements

- **12-81r** - Abate or Forgive Taxes or Fix Assessments on Contaminated Real Property
  - Vote of the legislative body and Board of Finance
  - Written Agreement
  - Abate the property tax then due for no more than 7 years
  - Forgive delinquent taxes or fix assessment if DEEP-approved plan in place
  - Must agree to environmental assessment, demolition and remediation so that property can be redeveloped
  - Recapture provisions
Tax Abatements

12-81aa - Abate Taxes for Urban or Industrial Reinvestment Sites

- Vote of the legislative body
- Not otherwise eligible for abatement or exemption under the general statutes
- Approved by Comm. of Economic and Community Development per C.G.S. 32-9t
- 50% of the portion of taxes attributable to the increased value of the property from the redevelopment
- No more than 5 assessment years
- Recapture Provisions
TAX ABATEMENTS
C.G.S. 12-81n – 12-81bb

• All require approval by the legislative body
  - Businesses offering day care services to residents
  - Food manufacturing plant
  - Amusement Theme Park
  - Infrastructure of Water Company
  - Commercial Fishing Apparatus
  - Information Technology Personal Property
  - Communications Establishments
  - Electric Cooperatives
  - Nonstock Corporations Providing Citizenship Classes
  - Affordable Housing Deed Restrictions
TAX ABATEMENTS: New-ish Legislation

- **Renewable Energy Tax Abatement; P.A. 15-5 §104**
  - Up to 100% abatement for Class I renewable energy sources
  - No longer than the term of the power purchase agreement

- **Natural Gas Tax Abatement; P.A. 15-5 §106**
  - Up to 100% abatement for gas company’s personal property taxes to facilitate expansion
  - Up to 25 years

- **Tax Increment Financing Districts; P.A. 15-57**
  - Using incremental property taxes generated for infrastructure improvements and other costs of the district. Chapter 105b
Tax Incremental Financing Districts
C.G.S. Sections 7-339cc, et seq.

• Purpose is to create development in underutilized areas where such development might not otherwise occur

• Fund the improvements using anticipated increases in real property taxes to pay for the improvements or to pay the debt incurred for the improvements (a/k/a “Captured assessed value: the amount, as a percentage or stated sum, of increased assessed value that is utilized from year to year to finance project costs pursuant to the district master plan.”)
Tax Incremental Financing Districts

- “Tax increment district” means that area wholly within the corporate limits of a municipality that has been established and designated as such pursuant to section 7-339dd and that is to be developed under a district master plan
- Best used in “But For” areas
- Has been used to convert Brownsfields into income-producing property
Tax Incremental Financing Districts

Requires a number of plans:

**Master Plan:** “District master plan” means a statement of means and objectives prepared by the municipality relating to a tax increment district designed to provide new employment opportunities, retain existing employment, provide housing opportunities, improve or broaden the tax base or construct or improve the physical facilities and structures through the development of industrial, commercial, residential, retail and mixed use, transit-oriented development, downtown development or any combination thereof, as described in section 7-339ff.

**Financial Plan:** a statement of the project costs and sources of revenue required to accomplish the district master plan.

**Operational Plan:** all activities necessary to maintain facilities after they have been developed and all activities necessary to operate such facilities, including, but not limited to, informational, promotional and educational programs and safety and surveillance activities.
Tax Incremental Financing Districts

- TIF cannot be in conflict with a municipality’s charter
- Legislative body approval
- Broad scope of authority to develop properties, execute contracts and issue bonds in furtherance of the Master Plan
- Written agreement to fix assessment of value of improvements
- Cannot exceed 15 years
- Can dissolve district with legislative body approval
Tax Incremental Financing Districts

- Legislative body must approve of TIF even before master plan is adopted
- Must determine whether TIF will contribute to economic growth of the municipality
- Must have public hearing
- Must determine that TIF is consistent with POCD
- At least a portion of the property must be blighted, in need of rehabilitation or suited for the proposed development
- Original assessed value of the property plus the value of other TIFs in the municipality cannot exceed 10% of total taxable property values.
Tax Incremental Financing Districts

- C.G.S. Section 7-339ff governs adoption and amendment of district master plan.
- TIFs require a lot of planning and public “buy-in.”
- Can be expensive to create
- Best for large parcels of underutilized or burdened properties
- Must create a district master plan fund to hold tax increment revenues
- Use of funds is restricted to furtherance of the plan
- Can impose benefit assessments for municipal improvements
- Can issue bonds
Do Tax Abatement Incentives Work?

- **Pros**
  - Attracts New Businesses
  - May Create Jobs
  - May Create Secondary Business Opportunities (e.g. service-oriented)

- **Cons**
  - Indiscriminate Application
    - “But For” Principle – Incentives to Companies that Would Have Come Anyway
    - Easily manipulated
    - Larger Corporations are favored
  - Can Be a Zero Sum Game – Or Worse
    - Negotiate a deal to the point where the costs do not offset the gains
    - May leave anyway when tax incentives expire
Key Tax Incentive Policy Considerations

- THE EVALUATION OF EACH PROPOSAL IS IMPERATIVE
  - Ordinance / Policy
  - Application Process
    - Committee
  - Clear Standards of Application
    - Who is Eligible
    - For How Much
    - For How Long
  - Maintain Discretion in Applying Standards
  - Ability to Assess Financial Viability
  - Ability to Assess Economic Impact
  - Do Not Approve Every Request – Be Selective
- Financial
  - Scope of proposed business investment
  - Financial Viability
  - Term of Incentive
  - Commitment to Stay Beyond Incentive Term
  - Recapture Provisions

- Other
  - Type of Business
    - Manufacturing or Office?
    - Do you want to exclude certain businesses (retail? automotive?)
  - Jobs creation
    - Minimum Number of New Jobs
    - Local Hiring Preference
  - Community Environment
    - Proposed Zone
    - Blighted properties
TAX EXEMPTIONS

• C.G.S. 12-81
  ○ Machinery
  ○ Manufacturing
  ○ Renewable Energy
  ○ Pollution Control

Note: The jury is still out as to whether the tax exemptions create sufficient new economic activity to offset the tax cost.
State Programs

- Enterprise Zones

- Various Other Tax Credits
Enterprise Zones

- A First For Connecticut!
- C.G.S. §32-70 – Based Upon Census Tracts
  - Distressed community
    - 1) Twenty-five per cent or more of the persons within the individual census tracts shall have income below the poverty level;
    - 2) Twenty-five per cent or more of the families within the individual census tracts shall receive public assistance or welfare income; or
    - 3) The unemployment rate of the individual census tracts shall be at least two hundred per cent of the state's average.
  - Approved by DECD
  - Targeted Investment Community per C.G.S. §32-222
Enterprise Zones

• Existing Enterprise Zones

Bridgeport
Meriden
Norwich
Bristol
Middletown
Southington
East Hartford
New Britain
Stamford
Groton
New Haven
Waterbury
Hamden
New London
Windham
Hartford
Norwalk
Enterprise Zones

• Must meet certain performance goals
  “Such goals shall include, but not be limited to, increasing private investment, expanding the tax base, providing job training and job creation for residents of enterprise zones and reducing property abandonment and housing blight in enterprise zones.” C.G.S.§32-70a

• Must Create a Revitalization Plan

• Must Create a Community Enterprise Zone Board
Enterprise Zones

- Eligible for DECD Grants and other Financial Assistance
- Fixed Assessments
  - Must Adopt Ordinance
  - Seven years
  - Must defer any increase in assessment attributable to improvements according to the statutory schedule (C.G.S. §32-71)
    - Excludes Manufacturing Facility Improvements
    - Municipality may provide any additional abatements or deferrals it deems appropriate
Enterprise Zones

• Secondary Zones Possible

  o Reduced Criteria: (A) Fifteen per cent or more of the persons within the census tract shall have income below the poverty level; (B) fifteen per cent or more of the families within the census tract shall receive public assistance or welfare income; or (C) the unemployment rate of the census tract shall be at least one hundred fifty per cent of the state's average.

  o Redevelopment Areas: 25% or more of the development area must be in the area eligible for designation as an enterprise zone

  o Any Facility, as defined in section 32-9p, which is located outside of but contiguous to a census tract included in the zone

  o Certain private properties that abut an enterprise zone
Enterprise Zones

• Can Be Established in an Adjacent Municipality If:
  o Meets Reduced Criteria
  o Contiguous to Existing Enterprise Zone
Enterprise Zones

• 5 year, 80% abatement on all real and personal property that is new to the grand list (state and Town share burden – 40% each)

• 10-year 25% credit on the state corporation business tax

• Newly-formed businesses located within a zone receives 100% corporate tax credit for the first 3 years and 50% tax credit for the next seven
  o Must have at least 375 employees, 40% of whom are residents of the municipality; or
  o Less than 375 employees but 150 of them reside in the municipality

• Biotech, pharmaceutical or photonics
  o Must be located in town with enterprise zone; and
  o Major research university in that field
Equivalent Enterprise Zone Benefit Areas

- Designated by the municipality with approval of the DECD.

  - **Entertainment Districts; C.G.S. 32-76**
    - Any Targeted Investment Community
    - Can abate up to 100% for up to 7 years
      - Bridgeport, Stamford, New Britain and Windham

  - **Qualified Manufacturing Plants; C.G.S. 32-75c**
    - Any Targeted Investment Community
    - Not less than 500,000 square feet
    - Same abatement as Enterprise Zone
    - Bristol and New Britain

  - **Railroad Depot Zone; C.G.S. 32-75a**
    - Any Targeted Investment Community
    - Railroad depot outside of the enterprise zone that abuts inactive rail line and supporting industrial uses
    - East Hartford, Hamden and Norwich
Enterprise Zone Tax Abatement Program

- Average of $6.7 million in abatement dollars spent by the state over 3 years
- Average of 1,976 new jobs created
- New state revenues averaged $27,333,333
DECD Tax Credit Incentives

- Focus on Those Designed Toward Job Creation and Industry Development
  - Urban and Industrial Site Reinvestment
  - New Jobs Creation
  - Insurance Reinvestment
  - Film Production and Film Infrastructure
  - Digital Animation
Urban and Industrial Site Reinvestment Tax Credit

- Taxpayer making an investment can claim the credit if:
  - Direct investment of at least $5 million in qualified project
  - Direct investment of at least $50 million in a municipality approved by DECD
  - Investment through an approved fund with assets of at least $60 million
  - Through a DECD approved community development entity
Urban and Industrial Site Reinvestment Tax Credit

• Tax credit is allowable over ten years:
  - 0% for the investment year and years one and two succeeding
  - 10% for years three through six
  - 20% for years seven and beyond.
Urban and Industrial Site Reinvestment Tax Credit

- Eligible Industrial Site Projects
  - Site subject to a spill (C.G.S. 22a-452c); or
  - Eligible Establishment (C.G.S. 22a-134(3): any real property at which or any business operation from which (A) on or after November 19, 1980, there was generated, except as the result of remediation of polluted soil, groundwater or sediment, more than one hundred kilograms of hazardous waste in any one month, (B) hazardous waste generated at a different location was recycled, reclaimed, reused, stored, handled, treated, transported or disposed of, (C) the process of dry cleaning was conducted on or after May 1, 1967, (D) furniture stripping was conducted on or after May 1, 1967, or (E) a vehicle body repair facility was located on or after May 1, 1967; or
  - Eligible Facility (CERCLA; 42 U.S.C. 9601(9): The term “facility” means (A) any building, structure, installation, equipment, pipe or pipeline (including any pipe into a sewer or publicly owned treatment works), well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock, or aircraft, or (B) any site or area where a hazardous substance has been deposited, stored, disposed of, or placed, or otherwise come to be located; but does not include any consumer product in consumer use or any vessel.
Urban and Industrial Site Reinvestment Tax Credit

• Eligible Industrial Site Projects
  o If remediated, renovated or demolished and used for business purposes will add significant new economic activity and employment in the municipality and generate additional tax revenues for the State
  o Business use must be economically viable and generate more benefit than the credit
  o Consistent with strategic economic development priorities of the state and the municipality

• Eligible Urban Reinvestment Projects
  o Adds significant new economic activity and new jobs in a new facility that will generate tax revenues
  o Plus economically viable and beneficial.
Urban and Industrial Site Reinvestment Tax Credit

- Can use tax credits towards a number of statutory tax burdens
- Not eligible if already receiving tax credits for manufacturing, service or insurance reinvestment funds
- No two taxpayers are eligible for the same tax credit for the same investment or the same project costs
- Recapture provisions (credits cannot exceed benefits to the state)
## Urban and Industrial Site Reinvestment Tax Credit

- **Examples**

<table>
<thead>
<tr>
<th>Project</th>
<th>Location</th>
<th>Project Investment</th>
<th>Tax Credits Awarded</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lowes</td>
<td>Plainfield</td>
<td>$80 Million</td>
<td>$20 million</td>
</tr>
<tr>
<td>Comcast</td>
<td>Enfield</td>
<td>$7.5 million</td>
<td>$5 million</td>
</tr>
<tr>
<td>Aldi’s</td>
<td>South Windsor</td>
<td>$52 Million</td>
<td>$1.9 million</td>
</tr>
<tr>
<td>Blue Sky Studios</td>
<td>Greenwich</td>
<td>$65 million</td>
<td>$18 million</td>
</tr>
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New Jobs Creation Tax Credit

• Available to taxpayers that create at least 10 new jobs

• Applicable to taxes imposed on insurance companies, corporations and public service companies

• Tax credit is up to 60% of the state income taxes deducted and withheld from wages of new employees and normally paid over to the state
New Jobs Creation Tax Credit

- Must be a new full-time job
- Must be a new employee
- Recapture Provisions
  - No. of employees falls below the number for which the tax credits were claimed within any of the first four years; and/or
  - Vacancies are not filled with new employees
Film Production Tax Credits

• Qualified Production by an Eligible Production Company
  - Feature films
  - Television
  - Documentaries and Infomercials

• Production expenses exceeding $50,000

• Credit for 30% of production costs incurred in Connecticut

• Assignable

• Cannot claim the same expenses for the Digital Animation or Film Production Infrastructure credits
Film Production Tax Credits

• Appears to increase revenue even when salaries are paid out of state

• Spawned a film production industry with a newly-trained workforce
Questions
Speakers

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