

Tax Abatement Disclosures



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Tax Abatement Disclosures

Introductions

- ✓ **Miller Edwards - CPA - Partner - Mauldin & Jenkins**



**30 Years Experience - 100% Governmental
Over 300 Governments Served**

- ✓ **Dan McRae - Attorney & Partner - Seyfarth Shaw**

**43 Years Experience - Governmental
Economic Development & Finance**



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Ten (11) Standards Issued in Past 15 Months

- 1) No. 72 – Fair Value Measurement and Application**
- 2) No. 73 – Pensions Not in Scope of GASB 68**
- 3) No. 74 – Financial Reporting for OPEB Plans**
- 4) No. 75 – Accounting & Financial Reporting for OPEB**
- 5) No. 76 – Hierarchy of GAAP**
- 6) *No. 77 – Tax Abatement Disclosures***
- 7) No. 78 – Pensions via Multi-Employer DB Plans**
- 8) No. 79 – Certain External Investment Pools**
- 9) No. 80 – Blending Certain Component Units**
- 10) No. 81 – Irrevocable Split-Interest Agreements**
- 11) No. 82 – Pension Issues**



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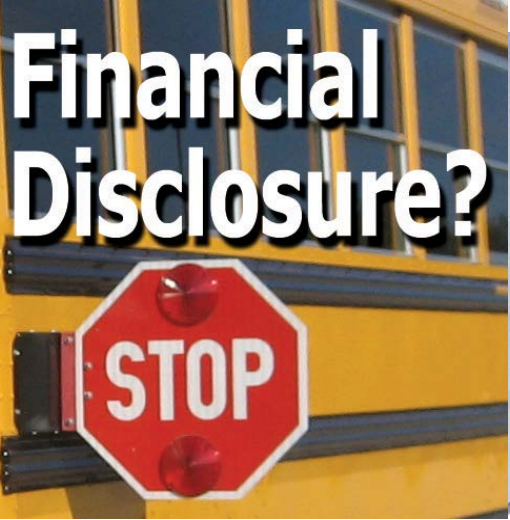
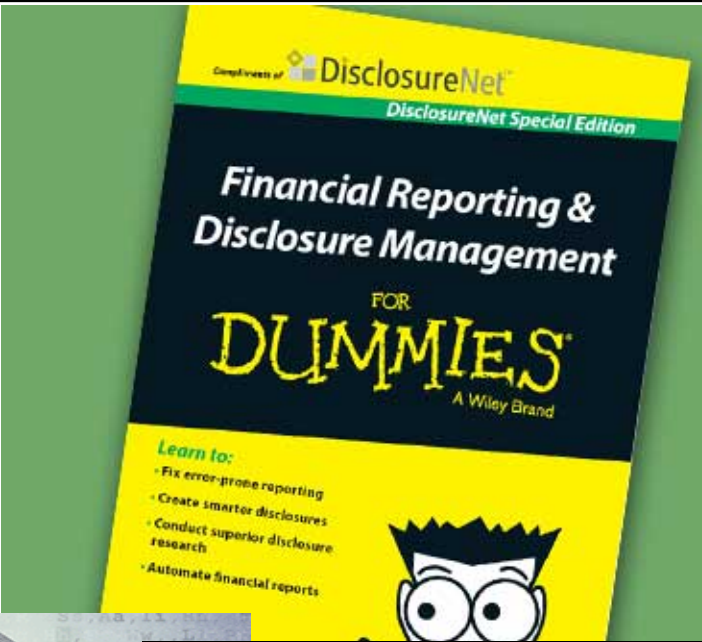
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technology legislative participation information visualization software education
 developer crowdsourcing blogger needs making innovation money united access
 media lobbyist participation information visualization software education
government
 transparency open data
 FOIA engagement local civic democracy change
 public investigative social people
 design practice policy
 maps

FULL Disclosure



Disclosures



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Tax Abatement Disclosures

GASB No. 77 --- Issued in August 2015 --- 5 Pages

- ❖ ***Tax abatement disclosures.***
- ❖ ***Accrual based.***
- ❖ ***No amounts to record in financial statements.***
- ❖ ***State and local governments.***
- ❖ ***Effective for periods (not years)
beginning after December 15, 2015
(FY 12-31-16 or 6-30-17 or 9-30-17).***
- ❖ ***Covers from “now” through entire
remaining length of abatement period.***



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What is Tax Abatement

*Tax abatement results from an **agreement** between a government and an individual or entity in which **the government promises to forgo tax revenues,***

And

*The individual or entity promises to subsequently take specific action **after the agreement** that contributes to economic development or otherwise benefits the government or its citizens.*



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What is a Promise and What is the Timing

- ✓ **Agreement (formal or informal) whereby a promise to abate taxes for a promise of some kind by the taxpayer.**

Promise could be a promise not to leave for 10 years.

- ✓ **Agreement has to: *precede* the promise; *precede* construction; *precede* expansion, etc.**
- ✓ **No disclosure if taxes are abated and taxpayer has to do nothing in return = a gift without disclosure.**



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Example of Applicability / Non-Applicability

- **Government Offers a Program for Abating Property Taxes:**
 - **Invest \$500,000 in facilities can result in abatement of 10% of property taxes over 10 years.**
 - **Entity applies with government to obtain abatement under program:**
 - **Before investment in facilities, **Disclosure****
 - OR**
 - **After investment in facilities. **No Disclosure****



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What is NOT a Tax Abatement?

- ***Tax Exemptions***
 - ***Such as partial exemption of senior citizens from property taxes***
- ***Tax Deductions***
 - ***Such as deductions from income taxes for charitable donations***

Substance over Form (or Title)

- ***Doesn't matter what you call it***



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Exchange vs. Non-Exchange

- ✓ **Does apply to various non-exchange transactions such as property taxes, income taxes, sales taxes...**
- ✓ **Proprietary / enterprise operations may grant reductions of customer charges to businesses.**
 - **This is considered to be a modification of an exchange transactions.**
 - **This is NOT considered to be a tax abatement program.**



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Purpose of Tax Abatements

- ***Increase property or tax base***
- ***Revitalize distressed local economies***
- ***Retain or attract jobs and, or companies***
- ***More jobs at existing employer***
- ***Historical preservation***
- ***Brownfield cleanup***
- ***Housing construction***



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Types of Tax Abatements

- **Exemptions**
- **Deductions**
- **Credits**
- **Rebates**



These labels are used interchangeably. Very different transactions may be described using the same label.

Repeat --- Statement 77 focuses on the substance of the transaction and not the form.



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Mechanisms of Tax Abatement Programs

Most often, recipient receives a tax bill already net of abatement.

Sometimes,

- ***Abatement involves a reduction of assessed value of property.***
- ***Abatement could also be a:***
 - ***Specific dollar amount, or***
 - ***Specific percentage of taxes owed,***
 - ***Tax credits, etc.***



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GASB 77 Requires Disclosures About

✓ *Tax abatement agreements entered into by:*

- *Reporting government,*

and

- *Other governments*

that reduce the reporting government's tax revenues.



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Tax Abatement Disclosures

Disclosures When Reporting Government's Enter into Tax Abatement Agreements

❖ *Brief description*

- *Name/purpose of the tax abatement program*
- *Specific taxes being abated*
- *Authority under which the abatement(s) was provided*
- *Recipient eligibility criteria*
- *Mechanism by which taxes are abated*
- *Provisions, if any, for recapturing abated taxes*
- *Types of commitments made by tax abatement recipients.*



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Disclosures When Reporting Government's Enter into Tax Abatement Agreements

- ***The “gross” dollar amount (accrual basis) by which the government’s tax revenues were reduced during the period as a result of abatement.***
- ***Amounts received or receivable from other governments in association with forgone tax revenue.***

***Organized by major tax abatement
program aggregately or individually.***



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When “Other Governments” Entered Into Agreements

- *Name of other governments that entered into agreements*
- *Specific taxes being abated*
- *Gross dollar amount of taxes abated this period*
- *Amounts received or receivable from other governments in association with foregone tax revenue.*

Organized:

- *Individually, or Governments that entered into agreements, and*
- *Specific tax being abated*



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Quantitative Threshold (or Scope)

- ✓ **All individual tax abatement agreements that exceed a quantitative threshold determined by the government.**
- ✓ **Professional judgment may center on a:**
 - **Percentage of total taxes abated,**
or
 - **Specific dollar amount abated.**
- ✓ **Ultimately, materiality is a overall key element for consideration of any disclosure.**



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Component Unit Considerations

Tax abatement agreements entered into by a reporting government's discretely presented component unit should:

- ✓ **Disclose as if entered into by the reporting government *if the information is essential for a fair presentation, OR***
- ✓ ***If not essential, disclose as if entered into by an other government.***
- ✓ **Professional judgment to be exercised**



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Concerns

- ✓ **Omissions of information about economic benefits or other outcomes.**
- ✓ **GASB says “it was not an objective of this Statement to provide information needed to evaluate the effectiveness of tax abatement program.”**

Some have called it “political exploitation”.

- ❖ **GASB says governments can put the positives in the MD&A.**



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Concerns

Payments in lieu of taxes (Pilots)

- ✓ **GASB believes:**
 - ***Some of these types of transactions may meet the definition of tax abatement, and should be disclosed.***
 - ***Definition should be based on the substance of the transaction, rather than form or label.***
- ✓ ***GASB 77 does include or exclude any specifically titled transaction or program.***



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Other Disclosure Considerations

- Disclosures can be done **individually (by agreement)** or in **aggregate by types of programs** – or in aggregate by other government enacting the abatement.
- If information is legally prohibited from disclosure, then the agreement should be summarized, information not legally prohibited should be disclosed, and legal authority for prohibition should be disclosed.

Transition Considerations

- Disclosures are for all agreements in place during the year – including any past agreements still effective.



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Tax Abatement Disclosures

Example 1 - Small City with Few Abatements

City negotiates property tax abatement agreements on an individual basis.

<u>Purpose</u>	<u>% Abated</u>	<u>\$ Abated</u>
Grocery Store (New in Old)	40%	\$97,500
Hardware Store (Relocation)	50%	\$13,225
Fitness Facility (Retained)	30%	\$5,100
Restaurant (Expansion)	50%	\$21,750
Convenience Store (New)	40%	<u>\$8,905</u>
		<u>\$146,480</u>



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Example 1 - Small City with Few Abatements

- ***State law does not provide for the recapture of abated taxes.***
- ***City has not made any commitments, and is not subject to any other government's tax abatement agreements.***
- ***City has chosen to disclose information individually.***
- ***City has established a quantitative threshold of 10% of the total dollar amount of taxes abated during the year.***



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Example 1 - Small City with Few Abatements

Previous schedule shows 2 entities meet threshold.

<u>Purpose</u>	<u>% Abated</u>	<u>\$ Abated</u>
Grocery Store (New in Old)	40%	\$97,500
Hardware Store (Relocation)	50%	\$13,225
Fitness Facility (Retained)	30%	\$5,100
Restaurant (Expansion)	50%	\$21,750
Convenience Store (New)	40%	\$8,905
		<u>\$146,480</u>
		<u>10% = \$14,648</u>



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Example 1 - Small City with Few Abatements – Disclosure

The City enters into property tax abatement agreements with local businesses under the State EDO Act of 2001. Under the Act, localities may grant property tax abatements of up to 50% of a business' property tax bill for the purpose of attracting or retaining businesses within their jurisdiction, and to any business located within or promising to relocate to the City.

For the fiscal year ended June 30, 2017, the City abated property taxes totaling \$146,480 under this program, including the following tax abatement agreements that each exceeded 10% of the total amount abated:

- A 40% property tax abatement to a grocery store for purchasing & opening a store in an empty facility in the City for which the abated amount was \$97,500.***
- A 50% property tax reduction for a local restaurant increasing the size of its restaurant facility and increasing employment for which the abated amount was \$21,750.***



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Tax Abatement Disclosures

Example 2 - Large County with Many Abatements

County provides tax abatements under six (6) programs:

- 1) Residential Improvement Program***
- 2) Office of Film & Television Production Incentives***
- 3) Economic Assistance Initiative***
- 4) High-Tech Investment Program***
- 5) Competitive County Credit***
- 6) Renewable Energy Incentive***



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Example 2 - Large County with Many Abatements

County is subject to tax abatements granted by other governments, including the:

- 1) Regional Economic Development Corporation (REDC)***
- 2) Business Relocation and Development Authority (BRDA = State entity)***
- 3) Thriving State Economy Initiative (TSEI = State entity)***



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Example 2 - Large County with Many Abatements

Information relevant to the disclosure for fiscal year 6-30-17:

<u>Tax Abatement Program</u>	<u>\$ Abated</u>
1) Residential Improv. Program	\$32,912,000
2) Film & Television Prod. Incent.	
- Sales taxes	\$13,435,000
- Corp. income taxes	\$12,479,000
3) Economic Assist. Incentives	
- Econ. Assist. Initiative	\$18,566,000
- High-Tech Invest. Program	\$9,578,000
- Competitive County Credit	\$11,159,000
4) Renewable Energy Incentive	
- Sales taxes	\$8,157,000
- Corp. income taxes	\$4,619,000
	Total \$110,905,000



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Example 2 - Large County with Many Abatements

Information about taxes abated by other governments relevant to the disclosure for fiscal year 6-30-17:

<u>Tax Abatement Program</u>	<u>\$ Abated</u>
1) BRDA (State)	\$15,325,000
2) TSEI (State)	\$13,021,000
3) REDC	\$7,657,000
	<u>\$36,003,000</u>

State reimburses County for 1/3 of the reduction in their tax revenues under these agreements, pursuant to their biennial budget appropriation.



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Ex. 2 - Large County with Many Abatements - Disclosure

Note X. Tax Abatements

County Tax Abatements

As of December 31, 2016, the County provides tax abatement through six programs: the Residential Improvement Program; Film & Television Production Incentives; the Economic Assistance Initiative; the High-Tech Investment Program; the Competitive County Credit; and, the Renewable Energy Incentive.

- 1) The Residential Improvement Program provides property tax abatements to encourage improvements to single-family and multiple-unit dwellings, under State Law, Code 14, Section 201. Abatements are obtained through application by the property owner, including ultimate proof that the improvements have been made, and equal 100 percent of the additional property tax resulting from the increase in assessed value as a result of the improvements. The amount of the abatement is deducted from the recipient's tax bill.***

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- 2) Under the County Economic Development Act of 20X3, two divisions of the County government administer tax abatements:
- The **Office of Film and Television Production Incentives** provide abatements of the County's sales and corporate income tax to attract television, movie, and commercial productions. **Production companies apply to the Office for admittance into the program in advance of commencing production. Production companies can apply for a refund of sales taxes on qualifying spending in the county within three years of the date of admittance. Production companies' county corporate income tax liabilities also are reduced by the amount of qualifying spending, up to 100 percent of the taxes owed.**
 - The Department of Economic Assistance administers three tax abatement programs: the **Economic Assistance Initiative (EAI)**, the **High-Tech Investment Program (HTIP)**, and the **Competitive County Credit (3C)**. The agreements entered into by the Department include claw-back provisions should the recipient of the tax abatement fail to fully meet its commitments, such as employment levels and timelines for relocation.

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- **EAI offers individual incentive packages to attract new business to the county. Abatements may be granted to any company agreeing to relocate to the County or to establish a new business in the County. The Department abates up to 75 percent of the property tax bills through a reduction in the assessed value of the facilities that the new or relocating businesses construct or purchase. The Department also arranges for the County to construct certain infrastructure features that are ancillary to newly constructed facilities. One agreement involving the construction of a new office building for the central headquarters of a major corporation included a substantial commitment from the County to construct a new exit on County Highway 84 and connecting roadways and ancillary features between the highway and the building.**
- **HTIP offers reductions in business income taxes to attract businesses in technology industries to move to the County High-Tech Industry Park (CHIP). Abatements may be granted to any technology company agreeing to move into CHIP. The abatement is administered as a credit on a company's County income tax return**

Tax Abatement Disclosures

and equals 25 percent of the company's corporate income tax liability. The abatement begins in the year when the company begins its relocation to CHIP.

- *3C offers reductions in business income taxes to attract and retain jobs. Abatements may be granted to any business agreeing to remain in the County or to relocate to the County. The abatement is a credit on a company's County income tax return and is effective beginning in the year of the agreement (for job retention) or the year when the business begins its relocation to the County (for job attraction). The amount of the abatement is based on the number of jobs retained or attracted.*

- 3) *The Environmental Conservation Department administers the **Renewable Energy Incentive** to encourage businesses to invest in solar, wind, and other sources of clean, efficient energy. The program also covers investments in energy-efficient vehicles such as hybrid, electric, and alternative-fuel cars and ancillary facilities, such as charging stations. These abatements are provided under the authority of the State of Example's Environmental Protection*

Tax Abatement Disclosures

Division. *After their application and acceptance into the program, companies can file for two types of tax abatements: a refund of sales taxes on spending related to renewable energy; and a credit against their County corporate income tax liability for eligible spending, up to a maximum of \$100,000.*

<u>Tax Abatement Program</u>	<u>\$ Abated</u>
Residential Improv. Program	\$32,912,000
Film & Television Prod. Incentives:	
- Sales taxes	\$13,435,000
- Corp. income taxes	\$12,479,000
Economic Assistance Initiative	\$18,566,000
High-Tech Investment Program	\$9,578,000
Competitive County Credit	\$11,159,000
Renewable Energy Incentive	
- Sales taxes	\$8,157,000
- Corp. income taxes	\$4,619,000

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State of Sample Tax Abatements

County property tax revenues were reduced by \$28,346,000 under agreements entered into by the State of Sample. Under the State's biennial budget for fiscal year June 30, 2017, the State reimburses the County for one-third of the reduction in tax revenues. The County received \$9,449,000 in County fiscal year 2016.

Regional Economic Development Corporation (REDC) Tax Abatements

Under agreements entered into by REDC, County sales tax revenues were reduced by \$7,657,000.

Tax Abatement Disclosures

Who – What – When – Where – How in Georgia ????

- ❖ **159 Georgia counties = 159 property tax abatement methods**
- ❖ **Authority can vest with:**
 - **State of Georgia,**
 - **County commissions,**
 - **Development, redevelopment or industrial authorities,**
 - **Tax assessors,**
 - **Enterprise zones.**
- ❖ **Georgia is a “transaction” state = no property tax abatement without a transaction (few exceptions)**



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Who – What – When – Where – How in Georgia ?????

- ❖ *Titleholder or property needs to be exempt*
- ❖ *Bond-financed sale-leaseback transactions (Owner sells to Gov't for a Bond, a Lease & Purchase Option).*

A/k/a “Bonds for Title”.



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How Bonds for Title Works

- ❖ ***Property tax abatements (savings) may be provided by local communities if a company finances its capital investments using industrial revenue bonds (IRB's).***
- ❖ ***Title to the assets is provided to the local development authority, and the project is leased to the company and the rent paid by the company is used to pay the bonds.***
- ❖ ***Specific tax abatement is determined by local tax assessor's office upon recommendation by the development authority.***



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Step-by-Step = How Bonds for Title Can Work

- 1) Development authority issues bonds (for funds);**
- 2) Company gives deed to property and development authority provides bond funds for construction.**
- 3) Development auth. leases property to company (with \$1 purchase option at conclusion of rental period).**
- 4) Company pays rent to development authority.**
- 5) Development authority pays bondholders.**
- 6) Company pays reduced (zero or ratably) property taxes on project.**
- 7) Company pays \$1 for deed to property at conclusion.**



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Model Private Entity Working with Development Authority to Obtain Public Financing of Facility

Development Authority

		→	
1	Cash	5,000,000	
	Bond liability		5,000,000
<i>Proceeds of debt</i>			
2	Long-term receivable	5,000,000	
	Cash		5,000,000
<i>Deliver proceeds to private entity</i>			
A	Cash	100,000	
	Interest revenue		5,000
	Long-term receivable		95,000
	Bond liability	95,000	
	Interest expense	5,000	
	Cash		100,000
<i>Receipts on receivable, and payments on debt to the respective bondholders</i>			

Private Entity

1	Cash	5,000,000	
	Capital lease liability		5,000,000
<i>Receive proceeds from capital lease liability</i>			
2	Buildings and Land	5,000,000	
	Cash		5,000,000
<i>Use of proceeds for construction of facility</i>			
A	Capital lease liability	95,000	
	Interest expense	5,000	
	Cash		100,000
<i>Payments of principal and interest annually</i>			
B	Land	1	
	Cash		1
<i>Exercise of purchase option</i>			



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Enterprise Zones ??

- ❖ ***Est. 1997 via Ga. Dept. of Community Affairs.***
- ❖ ***Property tax exemption - OCGA 36-88-8(a)(1).***
- ❖ ***Local abatement or reduction in occupation taxes, regulatory fees, building inspection fees, and other fees that would be imposed on a qualifying business - OCGA 36-88-9(a).***
- ❖ ***Timing is key to abatement concept. Local process will dictate whether disclosure is required or not.***



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Tax Allocation Districts (TAD) --> Is this Abatement???

- ❖ ***Established by a City. Agreement entered into with Developer prior to establishing the TAD in which the Developer agrees to build a new shopping center and the TAD issues bonds to provide funding to help with the development.***
- ❖ ***The City, County, and School District all agree to allow the property tax increment revenue (above the base year) to go to the TAD (thus not going to the City, County, or School Board) and repay bonds.***



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Who – What – When – Where – How??

- ❖ ***Meet, Meet, Meet. This task is going to require a variety of parties to cooperate and assist:***
 - ***County officials should coordinate a joint meeting with respective: cities, school districts, tax assessors, tax commissioners, development authorities (and enterprise zone officials?).***
 - ***Meeting is to gain an understanding of what type of abatement programs may exist in your community.***



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Who – What – When – Where – How

- ❖ ***Meet, Meet, Meet. (Continued) :***
 - ***Meeting is to gain understandings of what type of abatement programs may exist in your community.***
 - ***Meeting is to delegate responsibilities.***
 - ***Development authorities and tax assessors should take the lead.***
 - ***Otherwise, each reporting entity could report differently and reinvent the wheel = not good.***



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Reflection (Gwinnett County Example)

- 1) Gwinnett County
 - 2) City of Auburn
 - 3) City of Berkley Lake
 - 4) City of Braselton
 - 5) City of Buford
 - 6) City of Dacula
 - 7) City of Duluth
 - 8) City of Grayson
 - 9) City of Lawrenceville
 - 10) City of Lilburn
 - 11) City of Loganville
 - 12) City of Norcross
 - 13) City of Peachtree Corners
 - 14) City of Rest Haven
 - 15) City of Snellville
 - 16) City of Sugar Hill
 - 17) City of Suwanee
 - 18) Braselton CID
 - 19) Evermore CID
 - 20) Gwinnett Place CID
 - 21) Gwinnett Village CID
 - 22) Lilburn CID
 - 23) Gwinnett County BOE
 - 24) City of Buford Schools
 - 25) State of Georgia
- Should each entity have to invent the wheel?*



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What is Ultimately Needed??

- ❖ **Obtain a list of properties in the name of the local industrial development authority from the local tax assessor's office.**
- ❖ **Identify properties and their valuations from the tax assessor's office, and determine how these properties are being billed / taxed annually.**
- ❖ **Obtain a listing from the local tax commissioner's office of the actual bills issued on those properties identified by the tax assessor's office.**
- ❖ **Obtain copies (as needed) of all tax abatement and PILOT agreements.**



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What is Ultimately Needed??

- ❖ ***Obtain and use development authority audited financial reports. Compare outstanding revenue bonds (conduit debt) to the list of properties in the name of the development authority.***
- ❖ ***Determine property taxes billed to the private entities with tax abatement agreement is correct, and determine the abatement amount.***
- ❖ ***Determine what property taxes would have been without abatement, and further determine the abatement amount.***



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Auditing Considerations



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Auditing Considerations

- ✓ ***Governments should be made aware (fye 12-31-16).***
- ✓ ***Governments responsible to prepare this disclosure.***
- ✓ ***Auditors “audit” the disclosure information, and should consider materiality and significance.***



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Closing Thoughts

- ✓ ***GASB continues with efforts to promote transparency and disclosures.***
- ✓ ***Footnotes continue to grow in importance.***
- ✓ ***Information will be tedious the first time.***
- ✓ ***Reflect and go back in time. Meet and talk with others. Determine what type of tax abatements may have been entered into years ago, and capture the information as it pertains today.***



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Lesson of the Day
Always Think Ahead



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Thank You !!!!

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