

ENTERPRISE ZONE PROGRAM
TAX QUESTIONS AND ANSWERS

The Illinois Enterprise Zone Act took effect December 7, 1982. An enterprise zone is a specific area designated by the State of Illinois in cooperation with a local government to receive various tax incentives and other benefits to stimulate economic activity and neighborhood revitalization.

The Enterprise Zone Program is administered at the state level by the Illinois Department of Commerce and Economic Opportunity. For general information on the program, contact the Department at 217/785-6193. The hearing impaired may call 800/785-6055.

Enterprise zones range from a half square mile to fifteen square miles.

ENTERPRISE ZONE TAX BENEFITS

The following summarizes the most often asked questions on the tax benefits offered through the Enterprise Zone Program.

INVESTMENT TAX CREDIT

What is the enterprise zone investment tax credit? The Illinois Income Tax Act 35 ILCS 5/201, as amended allows a .5 percent credit against the state income tax for investments in qualified property, which is placed in service in an enterprise zone.

Who are qualifying taxpayers? The credit may be taken by corporations, trusts, estates, individuals, partners and Subchapter S shareholders who make investments in qualified property and who otherwise meet the terms and conditions established by statute.

What is qualified property? "Qualified property" is property which:

- is tangible; whether new or used, including buildings and structural components of buildings;
- is acquired by purchase as defined in Internal Revenue Code (IRC) Section 179(d);
- is depreciable pursuant to IRC Section 167;
- has a useful life of four or more years as of the date placed in service in an enterprise zone;
- is used in the enterprise zone by that taxpayer;
- has not been previously used in Illinois in such a manner and by such a person as would qualify for the credit; and, is an improvement or addition made on or after the date the zone was designated to the extent that the improvement or addition is of a capital nature, which increases the adjusted basis of the property previously placed in service in an enterprise zone and otherwise meets the requirements of qualified property.

What are examples of "qualified property"? Examples include buildings, structural components of buildings, elevators, materials tanks, boilers, and major computer installations. Examples of non-qualifying property are land, inventories, small personal computers, trademarks, typewriters, and other small, non-depreciable, or intangible assets.

What does "placed in service" mean? Qualified property is "placed in service" on the earlier of 1) the date the property is placed in a condition of readiness and availability for use, or 2) the date on which the depreciation period of that property begins. To qualify for the enterprise zone investment tax credit, the property must be placed in service on or after the date the zone was certified by the Department of Commerce and Economic Opportunity, and on or before the last day of the firm's taxable year.

What is "depreciable" property? Property must be depreciable pursuant to Internal Revenue Code Section 167. Depreciable property is used in the taxpayer's trade or business or held for the production of income (but not inventory), which is subject to wear and tear, exhaustion or obsolescence.

There are some types of assets that may not be depreciable, even though they are used in the taxpayer's business or trade or are held for the production of income. Good will and land are examples. Other examples of tangible property, which are not depreciable, are inventories, natural resources and currency.

Does “used” property qualify for the enterprise zone investment tax credit? Used property does not qualify if it was previously used in Illinois in such a manner and by such a person as would qualify for either the statewide investment tax credit or the enterprise zone investment tax credit.

Example: A corporation purchases a used pick-up truck for use in its manufacturing business in an enterprise zone from an Illinois resident who used the truck for personal purposes in Illinois. If the truck meets the other requirements for the investment tax credit, it will not be disqualified because it was previously used in Illinois for a purpose, which did not qualify for the credit. However, had the corporation purchased the truck from an Illinois taxpayer in whose hands the truck qualified for the credit, the truck would not be qualified for the investment tax credit, even though the party from whom the truck was acquired had never received an investment tax credit for it.

What is the “basis” value of property? The "basis" value of property, for the purposes of this credit, is defined the same way it is defined for purposes of federal depreciation calculations. Essentially, the basis is the cost of the property, as well as related capital costs.

Does the enterprise zone investment tax credit carry forward? Yes. The credit is allowed for the tax year in which the property is placed in service, or, if the amount of the credit exceeds the tax liability for that year, the excess may be carried forward and applied to the tax liability of the five taxable years following the excess credit year. The credit must be applied to the earliest year for which there is a liability. If there is credit from more than one tax year that is available to offset a liability, the credit accruing first in time is applied first.

SALES TAX DEDUCTION

What is the sales tax deduction and what is the retailer's role? Each retailer who makes a qualified sale of building materials to be incorporated into real estate in an enterprise zone established by a county or municipality under the Illinois Enterprise Zone Act by remodeling, rehabilitation or new construction, may deduct receipts from such sales when calculating the tax imposed by this Act. For purposes of this Section, "qualified sale" means a sale of building materials that will be incorporated into real estate as part of a building project for which a Certificate of Eligibility for Sales Tax Exemption has been issued by the Illinois Department of Revenue (IDOR). To document the exemption allowed under this Section, the retailer must obtain from the purchaser a copy of the Certificate of Eligibility for Sales Tax Exemption issued by IDOR. Here is a link to the IDOR bulletin outlining the process for receiving the building material sales tax exemption:

<http://www.revenue.state.il.us/Publications/Bulletins/2013/FY-2013-16.pdf>

Do all retailers offer a point of sale exemption? No. Retailers are not required by law to participate. The purchaser must ask the retailer for cooperation on this incentive. Retailers have, however, demonstrated good cooperation throughout the history of this program, as this incentive permits them to give customers a "break" without cost to themselves.

What qualifies as "building materials" eligible for the sales tax deduction? Building materials that are eligible for the enterprise zone sales tax deduction include items that are permanently affixed to real property such as lumber, mortar, glued-down carpets, paint, wallpaper and similar affixed items.

EZ MACHINERY AND EQUIPMENT SALES TAX EXEMPTION

What is the EZ Manufacturing Machinery and Equipment (M, M & E) Sales Tax Exemption?

The Revenue Act 35 ILCS 120/1d-1f, as amended allows a business enterprise that is certified by DCEO, that either creates a minimum of 200 full-time equivalent jobs in Illinois; or retains a minimum of 2,000 full-time jobs in Illinois; or which retains 90% of the existing jobs, a 6.25 percent state sales tax exemption on all tangible personal property which is used or consumed within an enterprise zone in the process of manufacturing or assembly of tangible personal property for wholesale or retail sale or lease. This exemption includes repair and replacement parts for machinery and equipment used primarily in the wholesale or retail sale or lease, and equipment, manufacturing fuels, material and supplies for the maintenance, repair or operation of manufacturing, or assembling machinery or equipment.

How does a business become eligible for the M, M & E Sales Tax Exemption? To be eligible for this incentive, DCEO must certify that the business has made an investment of at least \$5 million in an enterprise zone and has created a minimum of 200 full-time equivalent jobs in Illinois or has made an investment of at least \$40 million in an enterprise zone and has retained a minimum of 2,000 full-time jobs in Illinois or has made an investment of \$40 million in an enterprise zone and retained 90 percent of the jobs in place on date of certification. A majority of the "jobs created" or "retained" must be in the Enterprise Zone in which the eligible investment is made. A business must submit an application to DCEO documenting the eligible investment and that the job creation or job retention criteria will be met.

What is an eligible investment? For purposes of this incentive, eligible investment may be either: 1) investments in qualified property as defined in the Enterprise Zone Investment Tax Credit (described on Page 3 of this publication); or, 2) non-capital and non-routine investments and associated service costs made for the basic construction, renovation or improvement of qualified property including productive capacity, efficiency, product quality or competitive position. Regular maintenance and routine expenditures are not included.

Are eligible sales limited to the units of government sponsoring the zone? No. Items eligible for the 6.25 percent state sales tax exemption may be purchased anywhere in Illinois.

What tangible personal property is eligible for the M, M & E sales tax exemption? To be eligible for this exemption the tangible personal property **must** be directly used or consumed in the process of manufacturing or assembling tangible personal property for wholesale or retail sale or lease. Examples of this include: repair and replacement parts; hand tools; materials and supplies such as abrasives, acids or lubricants; protective clothing and safety equipment; and, any fuel used for machinery and equipment.

NOTE: The above examples are only exempt to the extent they are used with machinery and equipment that qualifies for the statewide Manufacturing Machinery and Equipment Sales Tax Exemption.

UTILITY TAX EXEMPTION

What is the Utility Tax Exemption? The Public Utilities Act 220 ILCS 5/9-222.1, as amended and the Telecommunications Excise Tax Act 35 ILCS 630/2(a)(5), as amended allows a business enterprise that is certified by DCEO, as making an investment in a zone that either creates a minimum of 200 full-time equivalent jobs in Illinois or retains a minimum of 1,000 full-time jobs in Illinois, a 5 percent state tax exemption on gas, electricity and the Illinois Commerce Commission .1 percent administrative charge and excise taxes on the act or privilege of originating or receiving telecommunications. Local units of government may also exempt their taxes on gas, electricity and water.

How does a business become eligible for the Utility Tax Exemption? To be eligible for this incentive, DCEO must certify that the business makes an investment of at least \$5 million in an enterprise zone and has created a minimum of 200 full-time equivalent jobs in Illinois or makes an investment of at least \$175 million in an enterprise zone and has created a minimum of 150 full-time equivalent jobs in Illinois or makes an investment of at least \$20 million in an enterprise zone and has retained a minimum of 1,000 full-time jobs in Illinois. A majority of the “jobs created” or “retained” must be in the Enterprise Zone in which the eligible investment is made. A business must submit an application to DCEO documenting the eligible investment and that the job creation or job retention criteria has been met.

What is an eligible investment? For purposes of this incentive, eligible investment may be either: 1) investments in qualified property as defined in the Enterprise Zone Investment Tax Credit (described on Page 3 of this publication); or, 2) non-capital and non-routine investments and associated service costs made for the basic construction, renovation or improvement of qualified property including productive capacity, efficiency, product quality or competitive position. Regular maintenance and routine expenditures are not included.

PROPERTY TAX INCENTIVES

There are two types of property tax incentives related to the Enterprise Zone Program: tax abatement and assessment reduction. Assessment reduction is available in Cook County only.

What is the enterprise zone property tax abatement incentive? The Revenue Act 35 ILCS 200/18-170, as amended provides that any taxing district may order the county clerk to abate (that is, to give up) any portion of its taxes on real property, or on any particular class thereof, located within a zone and upon which new improvements have been constructed or upon which existing improvements have been renovated or rehabilitated.

Are taxes reduced on the current value of property (or on existing improvements)? No. The abatement applies only to taxes on the increase in assessed value attributable to the new construction, renovation, or rehabilitation. Taxes based on the assessed value of land and existing improvements continue to be extended and collected.

If property tax abatement is authorized, are new improvements made to property located within a zone assessed? Yes. By law, every time property is improved, it is reassessed.

What is the Cook county assessment reduction incentive? Cook County offers special property tax incentives for property anywhere in the county. However, property in enterprise zones receives special consideration under the Class 6b - Industrial Program. Industrial property in Cook County is generally assessed at 25 percent of market value in the absence of any incentives. For information about the special incentives for improvements to enterprise zone property, contact the Development Incentives Department of the Office of the Cook County Assessor at 312/603-7529.

Why is this available only in Cook County? All other counties assess all property at 33 percent of market value. Cook is the only county that classifies property at different assessment rates.

What is the process for obtaining these incentives? For tax abatement, contact local zone administrators to find out if abatements are available in their zone. Most of the property tax abatements and the Cook County program require taxpayers to apply or give some formal notice **before** beginning construction. Contact the local zone administrator, and, if applicable, Cook County Assessor as early as possible to assure that eligibility is not denied due to tardy notice.

How do these incentives affect the multiplier? They don't. The multiplier or equalization factor is the application of a percentage increase or decrease, generated by the Illinois Department of Revenue, in order to adjust assessment levels in various counties to the same percentage of full value. Multipliers are not affected by the enterprise zone property tax abatement provision or by county assessment reductions.

Does the abatement of taxes on improvements in an enterprise zone affect the tax rate? Yes, however in most cases the effect will be marginal. Tax rates depend on the levy (amount of tax revenue the local government is raising) and the size of the tax base (total equalized assessed valuation of the district less homestead exemptions, plus the value of any State assessed property). Under normal circumstances, the tax rate for a district is calculated by dividing the district's tax levy by its tax base. The greater the tax base, the lower the rate needed to generate the amount of the levy.

Under the Enterprise Zone Program, the value of abated property is subtracted from the tax base prior to the calculation of the tax rate. In most cases, the tax base is large enough and the enterprise zone abatements are low enough that the overall effect is negligible.

How does the enterprise zone property tax abatement provision in 18-170 of the Revenue Act differ from the property tax provision in 18-165? The enterprise zone provision is broader and more flexible. The enterprise zone property tax abatement:

may be offered on all classes of real property, including commercial, residential and industrial (18-165 abatements are limited to commercial and industrial improvements).

may be offered for any number of years, up to the termination date of zone certification (18-165 abatements cannot exceed 10 years).

may be offered by a taxing district in any amount (the abatement offered under 18-165 limits the aggregated amounts of an abatement offered by all taxing districts to \$4,000,000).

Can property tax be abated in a tax increment-financing district (TIF)? Tax increment financing is a financing technique that cities may use to pay for public improvements such as land assemblage, building demolition, utilities, streets, and sidewalks. Property owners in the project area do pay their full share of taxes. Taxes generated by the increase in assessed valuation -- the tax increment -- go into a special allocation fund used to pay the bonds, which financed the public improvement costs. This financing method is not a tool to speculatively prepare for development -- tax increment financing requires an advance commitment by a developer to a project.

Property tax abatement is, however, a tool that is used for development. It is not a financing technique. The Revenue Act provides that any taxing district, upon a majority vote of its governing authority, may order the county clerk to abate any portion of its taxes on improvements made to real property located in a zone. The increase in assessed valuation due to new construction, rehabilitation or renovation is not taxed for the term of the abatement as set by local ordinance.

A TIF district may be included in the legal description of the zone and consequently be eligible to receive other tax incentives and benefits. However, the Enterprise Zone designating Ordinance pertaining to property tax abatement must be amended to exclude the TIF district from the area eligible for abatement.

Am I automatically entitled to 100 percent abatement? No. Eligibility criteria and abatement formulas are established by local ordinance and vary with the zone. Contact the zone administrator to determine the amount of abatement, the number of years of abatement, and the classes of real property eligible for abatement.

TAX INCENTIVE ADMINISTRATION

Are tax incentives and other benefits offered on a case-by-case basis?

No. "Case-by-Case" is contrary to the intent of the Enterprise Zone Act. Tax incentives must be offered uniformly and equitably by class. The local ordinance authorizing tax incentives, such as property tax abatement, extends the incentives automatically through eligibility criteria, such as class of property (I.e., residential, commercial and industrial) and formulas (i.e., percentages and number of years available).

ADDITIONAL INFORMATION

What other incentives are available? To learn more about a specific enterprise zone, please contact the local zone administrator. The Department maintains a list of local zone administrators. This list can be found on the Department of Commerce and Economic Opportunity (DCEO) website http://www.illinoisbiz.biz/dceo/Bureaus/Business_Development/Tax+Assistance/Enterprise-Zone.htm

If you would like additional information on how the Department can help small businesses, call DCEO's Business Hotline at 800/252-2923.

Where can income tax forms be obtained? Income tax forms are available from the Illinois Department of Revenue (DOR) at: <http://tax.illinois.gov/taxforms/>

IDOR's toll free number is 800/732-8866.