

GASB STATEMENT NO. 77

TAX ABATEMENT DISCLOSURES

Certified Public Accountants & Business Consultants



CLARK SCHAEFER HACKETT
CPAs & BUSINESS CONSULTANTS

Presented by
Larry Weeks, CPA

Objectives:

Identify which type of agreements are required to be disclosed under this standard, and just as important, which ones are **not** required to be disclosed.

GASB 77 – *Tax Abatement Disclosures*

- Issued on 8/25/2015.
- Effective for fiscal periods beginning after 12/31/2015
 - 12/31/2016
 - 6/30/2017
- Applies to all periods presented – comparative financial statements implications.



GASB 77 – *Tax Abatement Disclosures*

- No statement implications
- Disclosure requirement only (footnotes)
- Advance preparation necessary:
 - Coordination with other governments
 - Locating necessary agreements
 - Reporting and auditing deadlines

GASB 77 – *Tax Abatement Disclosures*

- Why is Standard is important:
 - Provides insight into the reporting entity’ s revenue raising ability (or limitations to raise revenue).
 - Provides “starting point” for determining if abatement programs are cost-beneficial.
- Practical implications:
 - Completeness of disclosure responsibility of reporting entity (opinion/report implication).
 - Materiality of disclosures.

Background/Applicability

- “Tax Expenditure” = when governmental program(s) are employed to lower the taxes of a class of taxpayers or those of specific individuals or entities. Common tax expenditures include:
 - Tax exemption,
 - Tax deductions, and
 - Tax abatements.

Background/Applicability

- GASB 77 applicable to tax abatement programs only.
- Tax abatement is defined as a program having a combination of the following elements:
 - ❖ Purpose of tax abatement,
 - ❖ Type of tax revenue they reduce, and
 - ❖ Existence of an agreement with specific individual or entity as the basis for the abatement.

Background/Applicability

- Purpose of tax abatement – program designed to:
 - Increase tax base (property or income),
 - Retain or attract new industries,
 - Retain or increase number of job positions at existing employers, or
 - Revitalizing local economy.

Background/Applicability

- Purpose of tax abatement programs generally are thought of in terms of economic development only, but may also be designed to address:
 - Historical preservation projects,
 - Housing construction, and
 - Environmental incentives and brownfield projects.

Background/Applicability

- Revenues reduced by tax abatement programs:
 - Tax revenue (nonexchange transaction) must be reduced by program,
 - Reduction in charges for services (exchange transaction) do not meet definition of Standard, and
 - Decision to grant tax abatement is made distinct from service delivery decision.



Background/Applicability

- Specific agreement between a government and the individual/entity is most significant factor in determining GASB 77 applicability.
- Two components must be present in agreement:
 - Agreement must reduce individual/entity's taxes, and
 - Individual/entity's promise to subsequently perform desired beneficial action.

Background/Applicability

- Tax abatement agreements do not have to be in writing or “legally enforceable” to fall within scope of GASB 77. Statement focus is on reduction or foregoing tax revenue the reporting government would otherwise be entitled to collect (substance over form).
- Agreement must be in place prior to the reduction of taxes or action taken by the individual/entity to reduce taxes.

Background/Applicability

- GASB 77 disclosures provide user with necessary information to determine how tax abatement programs have affected the reporting government's financial position and results of operations (including ability to raise resources in future).
- Disclosures are to include all tax abatement agreements affecting the reporting government's tax revenues – those entered into by the reporting government as well as those entered by overlapping governments.



General Disclosure Principles

- Information about tax abatement programs disclosed should include:
 - a) Segregate programs entered into by reporting government and those entered into by other governmental entities that reduce the reporting government's tax revenue(s).
 - b) Information about programs may be displayed for each individual agreement or can be aggregated.

General Disclosure Principles

- Information about tax abatement programs disclosed should include: (continued)
 - c) Abatement programs entered into by the reporting government should be organized by each major abatement program purpose (i.e. economic development, housing, etc.).
 - d) Abatement programs entered into by other governments, should be organized by government that entered into the agreement as well as the specific tax being abated.



General Disclosure Principles

- Information about tax abatement programs disclosed should include: (continued)
 - e) Required disclosure information should commence in the period the abatement agreement is entered into and continue until tax abatement agreement expires or until all commitments made by the reporting government contained within the agreement have been fulfilled.

Specific Disclosure Principles

- Decisions that need to be made:
 - Information presented for each individual agreement or aggregated.
 - Individual agreements should only be presented for those that meet or exceed quantitative threshold established by reporting government (i.e., 10% of total tax being abated).
 - Individual agreements still need to be grouped by type and by government agreeing to abatement.



Specific Disclosure Principles

Reporting Government Agreements

- Narrative information on agreements
 - a) Type and purpose of tax abatement program(s),
 - b) Specific tax source being abated,
 - c) Authority under which agreement are entered,
 - d) Criteria that makes recipient eligible to receive abatement,
 - e) Mechanism by which taxes are abated (i.e., reduction in property value, specific \$ amount or % of tax owed),
 - f) Conditions under which abated taxes could be recouped if any, and
 - g) Types of commitments made by the individual/entity receiving abatement.

Specific Disclosure Principles

Reporting Government Agreements (continued)

- Gross dollar amount (accrual basis) by which tax revenue was reduced for the year as a result of the abatement.
- If amounts are received or are receivable from other government(s) due to the agreement, disclose:
 - a) Names of the other government(s),
 - b) Authority under which amounts were or will be paid, and
 - c) Dollar amount received or receivable from other government(s).

Specific Disclosure Principles

Reporting Government Agreements (continued)

- If government made other commitment(s) in agreement besides reduced taxes, description of:
 - a) Type of commitment(s) agreed to,
 - b) Most significant individual commitment(s) made, and
 - c) Disclosure required until commitment(s) have been fulfilled.
- If reporting government decides to report agreements individually, the quantitative threshold used to determine which agreements to report.

Specific Disclosure Principles

Reporting Government Agreements (continued)

- Finally, if certain agreements or specific conditions of certain agreements can not be disclosed due to legal constraints, a general description of the nature of the omitted information and the specific legal constraints prohibiting disclosure.

Specific Disclosure Principles

Other Government Agreements

- Description of agreements, including:
 - a) Name of government(s) that entered into the abatement agreement and
 - b) Specific taxes being abated.
- Gross dollar amount (accrual basis) by which the reporting government's tax revenue was reduced for the year as a result of the abatement.

Specific Disclosure Principles

Other Government Agreements (continued)

- If amounts are received or are receivable from other government(s) due to the agreement, disclose:
 - a) Names of the other government(s),
 - b) Authority under which amounts were or will be paid, and
 - c) Dollar amount received or receivable from other government(s).
- If reporting government decides to report agreements individually, the quantitative threshold used to determine which agreements to report.

Specific Disclosure Principles

Other Government Agreements (continued)

- Finally, if certain agreements or specific conditions of certain agreements can not be disclosed due to legal constraints, a general description of the nature of the omitted information and the specific legal constraints prohibiting disclosure.



Summary of GASB 77

- Governmental financial statements for periods beginning after 12/15/2015 must describe tax abatement programs that affect its tax revenue reported, including:
 1. Descriptive information about the abatement program including the relevant tax program, the authority to abate the taxes, and the eligibility criteria.
 2. Information about the recipient(s) including mechanism for abatement, commitment made to receive abatement, and any recapture provisions.
 3. Total dollar amount of tax revenue abated for current year.
 4. Other commitments made by the government (i.e., infrastructure).
- Report agreements entered into other governments that affect reporting government's tax revenue separately.



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Question 4.77

- Government enters into TIF to encourage economic development – provisions include:
 - Bonds issued to finance infrastructure improvements in specific geographical area;
 - Baseline for tax revenue for area established for geographical area prior to start of project;
 - Tax revenue above baseline are set aside for repayment of the above noted bonds.
- Are requirements of GASB77 applicable?

GASB 2016 Implementation Guide

Question 4.77

- GASB 77 Requirements NOT applicable:
 - No specific agreement with individual or entity (area in general) and therefore no specific action required to take place.
 - Only “redirects” certain portion of revenue for debt service repayment but does not reduce tax revenue in total.

GASB 2016 Implementation Guide

Question 4.78

- State enters into agreement with a business – provisions include:
 - Business agrees to open 10 new retail stores within the state;
 - State agrees business can retain 40 percent of the sales tax collected from its customers in the new stores for first 5 years of operation.
 - Without the agreement, the business would have been obligated to remit 100 percent of the sales taxes collected to the State.
- Are requirements of GASB77 applicable?

GASB 2016 Implementation Guide

Question 4.78

- GASB 77 Requirements ARE applicable:
 - Specific agreement with individual or entity in place which requires individual or entity to take action (build 10 new retail stores in the state).
 - State forgoes tax revenue it would have otherwise been entitled to receive as a result of the agreement.
 - Does not matter the taxes are obligations of the business customers' for which it would not have been otherwise liable to repay to the State.

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Question 4.79

- City enters into agreement in 2/2017 with entity to relocate office and warehouse inside City limits – provisions include:
 - City agrees to forgo all property taxes related to office and warehouse for 10 year period;
 - Entity agrees to hire and maintain workforce of at least 200 employees.
- City abates 2017 property taxes but construction not complete so no employees hired at 12/31/17 - GASB77 disclosures required for 2017?



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Question 4.79

- GASB 77 disclosures ARE required for 2017:
 - Agreement was in place prior to the performance of the required action by the entity (relocation and hiring of employees).
 - Reduction in taxes in relation to performance of required action not relevant for disclosure purposes.
 - Abatement of taxes may begin before or after the entity has fulfilled its commitment(s) under the agreement.

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Question 4.80

- State enters into agreements with gasoline distributors throughout the State in which:
 - State agrees companies can retain a portion of the gas tax they collect (a portion of which the State shares with local governments);
 - Companies agree to install safer and more ecologically sensitive equipment.
- Are both the State and the local governments required to disclose these tax abatement agreements?

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Question 4.80

- State IS required to disclose agreements as its gas tax revenues have been reduced.
- Local governmental entities are NOT required to disclose the agreements as the revenue that is being reduced is shared revenue (passed through from the State) not considered to be tax revenue.

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Question 4.81

- County has identified a total of 25 tax abatement agreements and can group 20 of these agreements under 3 major abatement programs or activities.
- Is the County required to disclose information about the 5 remaining programs not included within the identified major abatement programs or activities?

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Question 4.81

- YES – information related to the 5 remaining programs should be disclosed. If the three major programs/activities are reported in the aggregate for the 20 individual agreements, the remaining 5 agreements should be reported in the aggregate as well. However, if quantitative threshold used to disclose individually significant agreements within the three major programs/activities types, the same threshold should also be applied to the remaining 5 agreements.



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Question 4.82

- For its own tax abatement agreements, a City chooses to disclose information about agreements above a specific dollar threshold. Is the City required to apply the same threshold to disclosure of agreements entered into by other governments that reduce the City's tax revenues?

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Question 4.82

- NO – the City may apply a different quantitative threshold to the agreements entered into by other governments. Furthermore, the City may even elect to disclose information related to agreements entered into by other governments in the aggregate and not disclose any of the agreements individually.

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Question 4.83

- State law prohibits public disclosure of tax information which directly or indirectly relates to a taxpayer's income or earnings. A City within the State that has an agreement which abates 30% of a company's corporate tax liability for moving within the City's limits. How would the City meet the disclosure requirements of GASB 77 given the legal prohibition of disclosing tax information?



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Question 4.83

- The City should disclose whatever information which is not prohibited by law regrading the agreement. In this instance, the gross amount of income tax revenue that were reduced by the agreement would be excluded, but all other information required by paragraph 7 of GASB 77 should be included.

GASB 77 Implementation

Practical Considerations

- Local Government Services assisted in the early implementation of GASB 77 for a few entities at 12/31/2015.
 - City of Bedford, Cuyahoga County
- It identified several types of potential tax abatement programs:
 - Community Reinvestment Areas (CRAs)
 - Enterprise Zone Agreements
 - Income Tax (ORC § 718.15; 718.151; and 718.16)
 - Other

GASB 77 Implementation

Practical Considerations

- Potential sources of information:
 - Planning/economic development departments (individual agreements issued by reporting government).
 - Form C from CRA annual report for Ohio, which lists status of individual agreements.
 - Exempt property listing from County Auditor
 - Nature of exemption
 - Amount of individual exemption
 - Other Governments with ability to abate government's taxes:
 - Identification of programs – general discussion.
 - Identify those affecting your government specifically.

Questions?

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