PROPERTY TAX ABATEMENT IN INDIANA

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I. WHAT PROPERTY IS ELIGIBLE FOR TAX ABATEMENT UNDER INDIANA LAW (IC 6-1.1-12.1)?

A. ELIGIBLE:

1. New (Non-Retail, Non-Residential) Buildings
2. Improvements to Existing (Non-Retail, Non-Residential) Buildings
3. New Manufacturing Equipment, New Logistical Distribution Equipment, New Information Technology Equipment, and New Research and Development Equipment
4. Certain Eligible Vacant Buildings

B. NOT ELIGIBLE:

1. Land
2. Existing Buildings
3. Package Liquor Stores
4. Facilities whose primary purpose is (a) retail food and beverage service; (b) automobile sales or service; or (c) other retail; <u>UNLESS</u> located in an "economic development target area."
5. Residential facilities, <u>UNLESS</u> (a) located in an "economic development target area"; (b) located in a "residentially distressed area;" or (c) facility is a multifamily facility with certain low-income set asides.
6. Private or commercial golf courses
7. Country Clubs
8. Massage Parlors
9. Tennis Clubs
10. Skating facilities
11. Racquet sports facilities
12. Hot tub facilities
13. Suntan facilities
14. Race Tracks

II. LENGTH OF TAX ABATEMENT

A. Generally, the designating body may designate between one and ten years.

Note: The ELIGIBLE VACANT PROPERTY abatement was originally limited to two years (or up to 100% for three years if property meets certain tests). However, **Under House Enrolled Act 1545 (2013), effective July 1, 2013,** the abatement may now be up to100% for up to ten (10) years.

B. **2013 LEGISLATIVE CHANGES**:

1. **An abatement schedule must specify the percentage amount of the deduction for each year of the deduction. An abatement schedule may not exceed ten (10) years.**

(Note: An abatement schedule approved for a particular taxpayer before July 1, 2013, remains in effect until the abatement schedule expires under the terms of the resolution approving the taxpayer's statement of benefits.)

B. **2014 LEGISLATIVE CHANGES**: **SUPER ABATEMENT FOR NEW BUSINESS PERSONAL PROPERTY**

1. **Under Senate Enrolled Act 1 (2014), effective July 1, 2015, a designating body may grant up to a twenty (20) year tax abatement for new business personal property.**

III. PROCESS FOR GRANTING TAX ABATEMENTS

A. DESIGNATION OF ERA (IC 6-1.1-12.1-2.5)

1. FISCAL BODY OF THE UNIT is the designating body
2. DECLARATORY RESOLUTION: The fiscal body passes a resolution declaring the area to be an economic revitalization area. Note: an "ERA" is an area that has become "undesirable for, or impossible of, normal development and occupancy because of a lack of development, cessation of growth, deterioration of improvements or character of occupancy, age, obsolescence, substandard buildings, or other factors which have impaired values or prevent a normal development of property or use of property."
3. NOTICE OF PUBLIC HEARING
4. PUBLIC HEARING
5. CONFIRMATORY RESOLUTION

B. STATEMENT OF BENEFITS

1. Designating unit may require it to be filed before designating an area as an ERA.
2. Otherwise, it must be filed with the designating body BEFORE BEGINNING THE REDEVELOPMENT OR REHABILITATION, or

BEFORE INSTALLING THE EQUIPMENT for which the applicant wants to claim a deduction.

3. Designating body must approve the statement of benefits and make required statutory findings relating to benefits of the project.

C. DEDUCTION APPLICATION

1. ANNUAL FILING WITH DESIGNATING BODY AND AUDITOR: Must show compliance with Statement of Benefits.

2. POSSIBLE DETERMINATION OF NON-COMPLIANCE WITH STATEMENT OF BENEFITS; POSSIBLE TERMINATION OF ABATEMENT.

3. POSSIBLE CLAWBACK FOR INTENTIONALLY FALSE INFORMATION.

D. MISCELLANEOUS PROVISIONS

1. PARTIAL REBATE OF ABATED TAXES. Company and designating body may agree to have a part of abatement benefit directed to a public or non-profit entity established to promote economic development.

2. REDEVELOPMENT COMMISSION APPROVAL: Required for abatements in TIF Districts. (Note: Effective July 1, 2008, the legislative body of the applicable unit must provide approval.)

3. PROVISIONS FOR WAIVER OF NON-COMPLIANCE

4. COMPARISON TO TIF DISTRICTS

IV. POLICY CONSIDERATIONS

A. POLICY CONSIDERATIONS FAVORING TAX ABATEMENT

1. Stimulation of economic growth and job creation.

2. Allowed in at least 35 states.

3. Without tax abatements, many projects would not happen.

4. Tax abatements provide some revenue during the term of the abatement. Full abatement occurs only in the first year.

5. Decreased incentives from the state and federal government.

6. Desirability of a pro-business reputation.

6. Limiting abatements to ERA's: focus on areas with true need.

7. Incidental tax benefits: income taxes, spin-off.

8. If you don't offer abatements, other cities will.

B. POLICY CONSIDERATIONS DISFAVORING TAX ABATEMENTS

1. Uncertainty of cost-effectiveness in some cases.

2. Effect on other taxpayers: fairness issues.

3. Financial incentives are not usually the key deciding factor for a business. Other major factors:

   a. Workforce

   b. Real estate costs

   c. Nearness to customers

   d. Access to interstates

   e. Characteristics of a site

   f. Cultural and historic factors

   g. Quality of schools

   h. State Taxation

   i. Crime