



Understanding the Tax Abatement Process

By Gary Nelson, Tax Abatement Specialist, Michigan Economic Development Corporation, and Jenn Fiedler, MTA Communications Specialist

Do you know how many townships in Michigan are eligible to grant property tax abatements to industrial facilities located in their taxing jurisdictions? If you answered “1,242,” you are correct.

All Michigan townships are eligible to grant industrial property tax abatements to provide incentives to renovate and expand aging manufacturing plants or to build new plants. Public Act 198 of 1974 is the primary tool townships use to encourage companies to renovate, locate or expand in the township, by reducing local property taxes.

More than 700 applications are approved by the Michigan Economic Development Corporation (MEDC) each year. Since 1974, more than 16,000 applications have been approved, accounting for 1.3 million jobs retained, 489,000 jobs created, and \$76 billion invested in the state.

What Facilities are Eligible?

Industrial plants eligible for tax abatements are those that primarily manufacture or process goods and materials by physical or chemical change. Related facilities of Michigan manufacturers such as offices, engineering, research and development, warehousing, or parts distribution are also eligible. Recent legislation has expanded the definition of “industrial property” to include privately held electric generating plants and high-technology activity as defined in the Michigan Economic Growth Authority Act: advanced computing, advanced materials, biotechnology, electronic device technology, engineering or laboratory testing, medical device technology, product research and development, and advanced vehicle technology.

The exemption applies to buildings, building improvements, machinery, equipment, furniture and fixtures. Real and personal property are eligible whether owned

or leased (provided the lessee is liable for payment of taxes on the property). Land is specifically excluded from the benefits of the act and is fully taxable.

What Taxes are Abated?

A tax abatement relieves the company of ad valorem property taxes on the requested real and/or personal property for a maximum of 12 years (MCL 207.551, *et seq.*). A separate industrial facility tax is applied and calculated by multiplying the taxable value by half the total millage rate (other than mills levied under the state education tax and/or for school operating purposes, depending on the effective date of the exemption certificate). This amounts to a reduction in property taxes of approximately 50 percent. The MEDC may abate three or six of the state education mills. Appreciation or depreciation applies to the taxable value for the real and/or personal property during the term of the abatement.

A rehabilitation facility abatement freezes the taxable value (on the real and/or personal property) prior to the start of the construction. The frozen taxable value moves from the ad valorem property tax roll to the specific roll for a maximum of 12 years. The industrial facilities tax is calculated by multiplying the frozen taxable value by the total millage rate. Appreciation or depreciation does not apply to the frozen taxable value for the term of the abatement. The real and/or personal property investment is not taxed for the duration of the certificate.

It is also important to note that once the taxable value (revised from state equalized value after the passage of Proposal A) is established for real property included in the tax abatement, it remains unchanged for the duration of the tax abatement. However, personal property depreciates in all classes of property, including industrial, on a yearly basis. Thus, personal property taxes decline on a yearly basis for tax abatement holders.

For speculative building applications, the township must approve a resolution declaring a manufacturing facility a "speculative building" prior to the identification of prospective occupants. Initial construction and finishing costs would be eligible for a reduction in property taxes of about 50 percent for a qualified applicant.

Important Things to Consider

When deciding a tax abatement request, a township must take numerous considerations into account to ascertain if granting the abatement is in the best interest of the community.

Grand Haven Charter Township (Ottawa Co.), which currently has 27 tax abatements, has a section addressing tax abatements in its Administrative Policies and Procedures Manual. The manual states the township's goal, in reference to PA 198 abatements, as "to provide an atmosphere which will encourage capital formation and investment in our community and create industrial jobs."

Among the objectives required in order to grant an abatement are:

- The project will expand the township's industrial tax base.
- The project will provide a beneficial public purpose through either the creation of

new industrial jobs within the community or the expansion/improvement of the important township infrastructure.

- The applicant meets all current financial obligations to the township, is in compliance with all applicable federal, state and township codes, and has no pending litigation with the township, including appeals to the Michigan Tax Tribunal.
- The development will provide economic stimulus to other private sector facilities.

Bedford Charter Township (Monroe Co.) has 61 tax abatement applications in effect for 21 different companies, a majority of which are located in a certified industrial park. Supervisor **LaMar Frederick** also recommends townships take the following into consideration before offering an abatement:

- Is the company perceived to be a good neighbor in terms of viability and fulfilling the requirements for new jobs?
- The long-term relationship between the company and the township.
- The effect on the total tax collection after the improvement, versus the collection without the improvement. Is the investment high quality and a long-term investment? Is the investment significant versus trivial?

Establishing an Evaluation Process

Many townships have developed a procedure or policy to establish guidelines that requesting companies and the township can use to evaluate an abatement application.

Grand Haven Charter Township has established a tax abatement review committee—comprised of the township supervisor, an additional board member, assessor, superintendent/manager and a resident representing the business community—to assist in evaluating all abatement applications for the impact the proposed project could have on the community and on township services.

Three years ago, **Summit Township** (Jackson Co.) developed a 100-point formula to determine the time frame offered for each tax abatement application. An appli-

cant earns points based on: if they are a first-time applicant; whether the application is for real or personal property, and the number of jobs created and retained. The number of points earned determines if the township grants a six-, eight-, 10- or 12-year abatement.

"After we developed the formula, we did not have as many 12-year exemptions," said Supervisor **Russ Youngdahl**, noting that the township has 33 abatements. "To us, it's a more appropriate way to determine the number of years for each application. We've been using it successfully."

According to Supervisor **Cindy King, Van Buren Charter Township** (Wayne Co.) has tax abatement guidelines to provide objectivity when reviewing abatement applicants. Van Buren has five tax abatements, ranging from two to 12 years, including a 12-year abatement to Visteon Corporation for locating its research and development, and world headquarters in the township.

"Since our ongoing objective over the past several years has been developing a 'premier community,' ensuring we attract viable businesses—businesses that can sustain a recession, for example—has been important," King said. "Our guidelines use a point system whereby the applicant will earn higher points if they are a 'white glove, smokestack-less' operation, have little impact on the natural environment, offer professional or highly compensated jobs and do not create other negatively viewed conditions such as high noise levels or significant truck traffic. Most applicants find achieving a 12-year abatement based on this point system to be a challenge, and I believe

continued ▶



Ayres, Lewis, Norris & May, Inc.
Engineers • Planners • Surveyors

Civil Engineering
Road & Bridge Design
Water Supply Treatment
Wastewater Engineering
Community Planning
Land Surveying

"Quality & Innovation Since 1923"

Ann Arbor • Canton • Detroit • Ferndale • Muskegon
(734) 761-1010

e-mail: mkg@alnm.com
visit our web site: www.alnm.com

the [township] board is comfortable with that.

"I believe the end result is a win-win situation for all. Van Buren has experienced unprecedented growth in the past six years—a 12 percent increase in population from 1990 to 2000—and businesses know we want to develop a premier community and realize that Van Buren is the 'place to be.' That makes it a good business decision for them to be here."

Townships may also consider developing a standard abatement contract to specify the precise obligations a business must adhere to for the duration of the abatement. They should ensure that all information on the abatement application is correct, and conduct an in-depth analysis of each tax abatement request, including solid background information on the requesting company, such as the product and any chemicals used, along with detailed short- and long-range company plans. Finally, if a business approaches the municipality to request a renewal when their abatements expire, it is important to consider these requests carefully, unless the company plans to reinvest major amounts of capital for revitalization and/or infrastructure improvements.

Why Grant Tax Abatements?

Many feel there are numerous benefits to offering abatements. For example, abatements allow the township to preserve the local tax base and provide for future tax revenue increases when the abatement expires. One-half of something is better than all of nothing. The township is still gaining revenue by granting an abatement and risks losing the local industry if it fails to show support for the expansion. Businesses paying property taxes also take some of the burden off residents paying property taxes.

Abatements can also be seen as a method to say "thank you" to a company that has been a good corporate citizen, and that has supported the community.

William Cargo, Grand Haven Charter Township superintendent, agrees, listing benefits of abatements as "the ability to encourage the creation of base industrial jobs—i.e. wealth creating jobs—that bring money in the community, and partnering with industry."

Frederick echoed Cargo, noting the

"Benefits to granting tax abatements include keeping businesses that might otherwise consider leaving one's community, and attracting new businesses and hence, jobs that will hopefully be here long after the expiration of the abatement."

—Cindy King, Supervisor, Van Buren Charter Township (Wayne Co.)

"maintenance of high paying industrial employment and opportunity for increased employment" as key benefits to abatements. He also points out the "increased local SEV and taxable values over time, and the increased SEV and taxable values compared to no increase if the investment is not made in the township."

He added, "In addition, there is the opportunity for MEDC grants and loans for infrastructure improvements and/or installation to support additional industrial growth opportunities, and a potential for mega-grants for employment training."

Tax abatements can be considered strong business incentives attracting industrial firms to one community over another.

King endorses this philosophy. "Benefits to granting tax abatements include keeping businesses that might otherwise consider leaving one's community, and attracting new businesses and hence, jobs that will hopefully be here long after the expiration of the abatement. This results in an investment in the township."

Additional benefits may be:

- Attracting new businesses to the township, and targeting the type of business you want.
- Annual salaries of the new and retained jobs would go into the local economy.
- Tax abatement is one of the key considerations used by companies to evaluate an area for potential location.

Why Oppose Abatements?

While there are solid reasons for granting tax abatements, townships should also be aware of some of the factors why abatements may not be considered desirable.

The township may not want an expansion of industries in the area, or might want to balance the percentage of industrial property versus other types of property. In addition, certain types of businesses may not be considered desirable by the township or its residents. Another consideration is that the

project may require certain infrastructure improvements, which result in revenue losses to the township. Of course, with an increase in development, comes an increase in the demand for township services.

In addition, according to Cargo, there may be a public perception that tax abatements are a form of "corporate welfare." However, he noted, "most residents understand that industry pays a higher tax rate even with abatements than homestead properties."

King cites the loss of tax revenue as a drawback as well, "particularly if this occurs when other revenue sources are diminished or lost, as was threatened recently with state-shared revenues."

She also added that some township residents perceive abatements "to be unfair since residential property taxpayers are not able to secure such tax relief. For the most part, however, Van Buren has received little opposition to abatements from township residents."

Youngdahl believes that offering tax abatements can sometimes hurt existing businesses in the township. "We've participated in this process since the public act passed in 1974," he said. "I don't believe it's necessarily a good thing, but it's the law and everyone uses it. There are existing businesses in the township, and their competitors can come in and [by offering an abatement], we give them a break. Existing businesses can benefit [from abatements] if they expand.

"But if we're going to play in the ballgame, we've got to play by the same rules. Our goal is to retain and attract businesses, and if this is the tool that permits that, we'll use it."

The Application Process

A request for establishment of a Plant Rehabilitation District (for rehabilitation projects) or an Industrial Development District (for new facility projects) must be

filed with the township clerk *prior* to commencement of construction, alteration or installation of equipment. After a public hearing, the township adopts a resolution establishing the district.

Once the district is established, the company may apply for the property tax exemption for a period of up to 12 years. Applications must be filed with the township clerk no later than six months after commencement of the project. The township notifies all taxing units and affords them the opportunity for a hearing. At a second meeting, the township would approve the abatement and set the number of years (between one and 12 years). The number of years is not subject to appeal.

The application package is forwarded to the State Tax Commission (STC). The STC and MEDC review the application for compliance with the statute. The STC, with concurrence from MEDC, grants final approval and issues the certificate. Locally approved applications (with attachments) must be received by the STC no later than October 31 in order to receive consideration and action by December 31. Applications filed with the STC after October 31 will be reviewed and acted upon the following year.

Applications to the STC must include an agreement signed by the township and operator of the facility outlining the conditions of the abatement. This shall include an affidavit that no payment of any kind in excess of the fee allowed by PA 198 has been made or promised in exchange for favorable consideration of the exemption application.

A Decision for Each Township

The decision to grant tax abatements is extremely subjective, and each township must decide for itself whether or not it is the proper route for the community. After heavily weighing all factors and taking residents' comments and concerns into consideration, officials can make a qualified decision that is right for the township. ■

For applications, sample resolutions, and other information concerning property tax abatements, contact Gary Nelson at: (517) 373-0304; fax: (517) 373-0198; or via e-mail: nelsong1@michigan.org.

Farmland Tax Abatements— The Mechanics of PA 116

**By Jon Mayes, Resource Specialist,
Michigan Department of Agriculture**

Beginning in the 2001 tax year, the State of Michigan began offering an enhanced benefit for landowners enrolled in Farmland Development Rights Agreements with the state. These agreements, commonly referred to as "PA 116 contracts," enable holders to claim a tax credit for the amount by which their property tax exceeds 3.5 percent of their household income. (The previous threshold for eligibility was 7 percent of household income.)

Another benefit of enrollment is that the land covered by the agreement is exempt from special assessments for sanitary sewer, water, lights and non-farm drainage unless the assessments were imposed prior to the recording of the Farmland Development Rights Agreement.

The purpose of the agreement is to ensure that the land remains in an agricultural use for a minimum of 10 years, and is not developed for any non-agricultural use.

In order for a parcel to qualify for enrollment, it must either be 40 acres or more in size with at least 51 percent active agricultural land, or be between five and 40 acres in size with 51 percent active agricultural land *and* producing a gross income per acre in excess of \$200.

What Townships Need to Know

Township officials will likely see increased enrollment activity as a result of the enhanced benefit and should be familiar with the proper procedure for enrolling a parcel of land. Application forms are available from the Michigan Department of Agriculture (MDA) Farmland and Open Space Preservation Program Office.

After the landowner fills out the application, it must be submitted to *the local governing body that has zoning authority* for the parcel in question. If a township without a zoning ordinance receives a PA 116 application for processing, the township clerk should forward the application to the county clerk for the county board of commissioners to act on.

The local governing body has 45 days to approve or reject the application. Within the 45-day period, the governing body must seek comments from the county or regional planning commission, the soil conservation district, a city if the land is within three miles, or a village if the land is within one mile. The reviewing agencies' comments should reflect whether the land cited in the application meets minimum enrollment requirements and whether the enrollment of the land is in line with the planning commission's long-range goals for the area.

The reviewing agencies are then allowed 30 days from the date of notification to forward their comments to the clerk of the local governing body. If approved, the application is forwarded to the MDA Farmland and Open Space Preservation Program Office for review and processing.

If all requirements are met and information is complete, MDA prepares the Farmland Development Rights Agreement and mails it to the landowner, who must then sign the document in front of a notary public. It is important to note that the local unit of government must approve the application for enrollment on or before November 1 in order for the landowner to be eligible for tax credits beginning that year.

When an Agreement Ends

One aspect of the program that is often misunderstood is what happens when a Farmland Development Rights Agreement reaches the end of its natural term. During the final year of the agreement, the agreement holders will be sent a notice from MDA inquiring whether they want the agreement to expire or be extended. If the landowner chooses to extend, the agreement may be extended for a minimum of seven years, or longer—up to a maximum of 90 years.

If the agreement holder chooses to let the agreement expire, he or she will be required to

continued ▶

repay the tax credits received during the last seven years of the agreement. The holder will be notified of the repayment amount by MDA once the calculation is received from the Michigan Department of Treasury. If the amount due is not repaid within 30 days, a lien will be placed against the property. No interest will accrue on this lien. If no tax credits were taken during the last seven years of the agreement, no lien would be placed against the land.

Township Approval Required for Agreement Termination

Another legislative change that has occurred in the program is the provision for termination of land from the program for commercial or industrial uses when the land is zoned commercial or industrial. The provision requires local government approval for the release, and the loss must be mitigated such that two acres of land elsewhere are permanently preserved with a conservation easement for every acre of land that is terminated from the agreement.


The land that is permanently preserved to mitigate the loss must be located within the same local unit of government as the land that is terminated from the program. If the conservation easement cannot be acquired as provided, the law allows the landowner to instead make a payment to the state's Agricultural Preservation Fund. The payment must equal twice the value of the development rights to the land being relinquished, as determined by a certified appraisal.

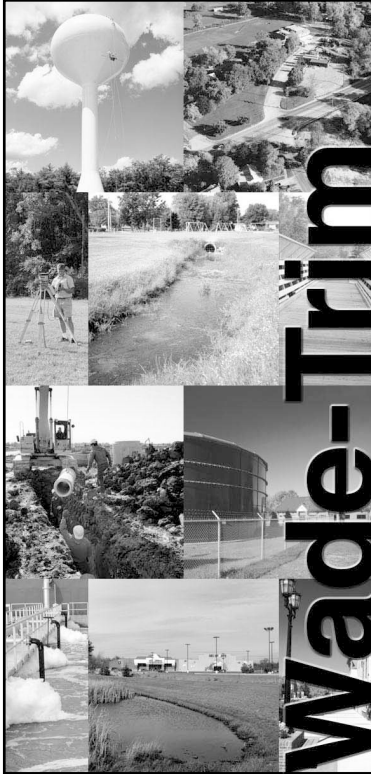
Grants for PDR Programs

Funds that accumulate in the Agricultural Preservation Fund will be used to administer the Farmland and Open Space Preservation Program and to provide grants to eligible local units of government for the purchase of agricultural conservation easements through Purchase of Development Rights (PDR) programs to preserve farmland.

To become eligible for these grants, a township or county must have adopted a comprehensive land use plan within the last 10 years that includes a plan for agricultural preservation or is included in a regional plan meeting the same requirements. In addition, the local unit of government must have adopted a development rights ordinance providing for a PDR program in accordance with the applicable zoning act (county, township, or city and village). The ordinance must include an application procedure, criteria for a farmland parcel selection/scoring system, and a method (which may include an appraisal, bidding, or formula-based process) to establish the price to be paid for the development rights. ■

For applications or more information, contact the MDA Environmental Stewardship Division, Farmland and Open Space Preservation Program at: P.O. Box 30449, Lansing, MI 48909; phone: (517) 373-3328; fax: (517) 335-3131; or e-mail: MajesJ@michigan.gov. Readers may also visit the Web site at: www.michigan.gov/mda, and use the keyword "preservation."

ENGINEERING	Civil Environmental Structural Mechanical Electrical
ENGINEERING & TECHNOLOGY	
 CAPITAL CONSULTANTS® LANSING • GAYLORD • GRAND RAPIDS	
TECHNOLOGY	Information Systems Web Development Ecommerce Geographic Information Systems (GIS)
Lansing (517) 371.1200 Gaylord (989) 732.8131 Grand Rapids (616) 791.1016 info@cceng.com	
Visit our web site at: www.cceng.com	

	Finding solutions you can stand behind
	Engineering Landscape Architecture Planning Sciences Surveying
	800.482.2864
	www.wadetrिम.com