

# TAX ABATEMENT FOR TEXAS COUNTIES

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# CHAPTER 312-TEXAS TAX CODE-ABATEMENT

## CHAPTER 381-L.G.C.-ECONOMIC DEVELOPMENT

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- Tax Abatement-
  - County must:
    - Establish Guidelines and Criteria for Tax Abatement first
    - Receive an Application for Abatement that meets the criteria and that designates a proposed Reinvestment Zone. Application will typically request a level of abatement, usually 70-80%
    - County must carefully examine the real numbers, i.e. applications often portray an overly optimistic view of the project.
    - Publish Notice of Hearing to create the Reinvestment Zone at least 7 days prior to hearing.
    - Give notice to all taxing entities affected by the Reinvestment Zone of the zone and abatement agreement

# TAX ABATEMENTS AND P.I.L.O.T. PAYMENTS

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- Tax Abatement expressly authorized by Chapter 312
  - A percentage of the actual appraised value as determined by Chief Appraiser.
  - Reduces the tax burden on the project for no more than ten years (two 5 year increments)
  - Annual appraisals determines the taxable value, then the abatement is applied to reduce the levy.
- P.I.L.O.T.-Payment in Lieu of Taxes
  - The County grants 100% abatement, and in lieu of taxes, receives a negotiated amount.
  - Typically the monetary equivalent of a standard abatement, but the revenue is not treated as tax revenue, but contractual revenue. As a consequence, the PILOT payment does not calculate in the formula to determine the effective tax rate/roll back rate.

# FEDERAL TAX ISSUES

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- Wind projects typically utilize a “production tax credit” to deduct from their revenue taxation.
- Solar projects are eligible for an “investment tax credit”. This may impact the County ad valorem abatement deliberations:
  - Some Appraisal Districts allow the ITC to be deducted from the cost basis of the project, reducing the taxable value for ad valorem tax purposes by as much as 30% (declining). Where the ITC is deducted from value, the County should not grant as much ad valorem abatement.
  - Other Appraisal Districts do not allow the ITC to reduce the initial cost valuation of the project. Where the ITC is not allowed, the abatement percentage may be higher.

# TYPICAL ANALYSIS

Sample

Prepared by Bob Bass 3/29/2019

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Year	Install Cost	Stated Value	Abate	Taxable Value	DEPC	Tax Rate	Impact on ETC	Expected Revenue	PILOT Equivalent/ MW	MW	Annual PILOT
2020	\$ 137,500,000.00	\$ 137,500,000.00	80%	\$ 27,500,000.00	1.0000	\$ 0.615200	\$ -	\$ -		125	\$ 91,199.86
2021		\$ 128,012,500.00	80%	\$ 25,602,500.00	0.9310	\$ 0.615200		\$ 157,506.58			\$ 91,199.86
2022		\$ 117,755,000.00	80%	\$ 23,551,000.00	0.8564	\$ 0.615200		\$ 144,885.75			\$ 91,199.86
2023		\$ 106,686,250.00	80%	\$ 21,337,250.00	0.7759	\$ 0.615200		\$ 131,266.76			\$ 91,199.86
2024		\$ 94,723,750.00	80%	\$ 18,944,750.00	0.6889	\$ 0.615200		\$ 116,548.10			\$ 91,199.86
2025		\$ 81,812,500.00	80%	\$ 16,362,500.00	0.5950	\$ 0.615200		\$ 100,662.10			\$ 91,199.86
2026		\$ 67,870,000.00	80%	\$ 13,574,000.00	0.4936	\$ 0.615200		\$ 83,507.25			\$ 91,199.86
2027		\$ 52,813,750.00	80%	\$ 10,562,750.00	0.3841	\$ 0.615200		\$ 64,982.04			\$ 91,199.86
2027		\$ 36,547,500.00	80%	\$ 7,309,500.00	0.2658	\$ 0.615200		\$ 44,968.04			\$ 91,199.86
2028		\$ 27,500,000.00	80%	\$ 5,500,000.00	0.2000	\$ 0.615200		\$ 33,836.00			\$ 91,199.86
		\$ 27,500,000.00	80%	\$ 5,500,000.00	0.2000	\$ 0.615200		\$ 33,836.00			\$ 91,199.86
		20%						\$ 911,998.63	\$ 729.60		\$ 911,998.63
2029		\$ 27,500,000.00	0%	\$ 27,500,000.00	0.0000	\$ 0.615200	\$ 0.002000	\$ 169,180.00			
2030		\$ 27,500,000.00	0%	\$ 27,500,000.00	0.0000	\$ 0.613200		\$ 168,630.00			
2031		\$ 27,500,000.00	0%	\$ 27,500,000.00	0.0000	\$ 0.611200		\$ 168,080.00			
2032		\$ 27,500,000.00	0%	\$ 27,500,000.00	0.0000	\$ 0.609200		\$ 167,530.00			
2033		\$ 27,500,000.00	0%	\$ 27,500,000.00	0.0000	\$ 0.607200		\$ 166,980.00			
2034		\$ 27,500,000.00	0%	\$ 27,500,000.00	0.0000	\$ 0.605200		\$ 166,430.00			
2035		\$ 27,500,000.00	0%	\$ 27,500,000.00	0.0000	\$ 0.603200		\$ 165,880.00			
2036		\$ 27,500,000.00	0%	\$ 27,500,000.00	0.0000	\$ 0.601200		\$ 165,330.00			
2037		\$ 27,500,000.00	0%	\$ 27,500,000.00	0.0000	\$ 0.599200		\$ 164,780.00			
2038		\$ 27,500,000.00	0%	\$ 27,500,000.00	0.0000	\$ 0.597200		\$ 164,230.00			
2039		\$ 27,500,000.00	0%	\$ 27,500,000.00	0.0000	\$ 0.595200		\$ 163,680.00			
2040		\$ 27,500,000.00	0%	\$ 27,500,000.00	0.0000	\$ 0.593200		\$ 163,130.00			
2041		\$ 27,500,000.00	0%	\$ 27,500,000.00	0.0000	\$ 0.591200		\$ 162,580.00			
2042		\$ 27,500,000.00	0%	\$ 27,500,000.00	0.0000	\$ 0.589200		\$ 162,030.00			
2043		\$ 27,500,000.00	0%	\$ 27,500,000.00	0.0000	\$ 0.587200		\$ 161,480.00			
2045		\$ 27,500,000.00	0%	\$ 27,500,000.00	0.0000	\$ 0.585200		\$ 160,930.00			
2046		\$ 27,500,000.00	0%	\$ 27,500,000.00	0.0000	\$ 0.583200		\$ 160,380.00			
2047		\$ 27,500,000.00	0%	\$ 27,500,000.00	0.0000	\$ 0.581200		\$ 159,830.00			
2048		\$ 27,500,000.00	0%	\$ 27,500,000.00	0.0000	\$ 0.579200		\$ 159,280.00			
2049		\$ 27,500,000.00	0%	\$ 27,500,000.00	0.0000	\$ 0.577200		\$ 158,730.00			
		Total Benefit/30yrs		\$ 4,191,098.63				\$ 3,279,100.00			\$ 911,998.63

# CHAPTER 381-LOCAL GOVERNMENT CODE

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- Various provisions to authorize county efforts to promote economic development
  - Advertising, Industrial/Economic Development entities
  - Includes tax abatement, loans, grants, rebates to promote new industry
    - Article III, Section 52 prohibitions circumvented by public purpose of development efforts
    - Commissioners Court should make findings that the project will “stimulate, encourage, and development business location and commercial activity in the county.” and that such a program will serve a public purpose.
  - Program should not exceed 30 years, or if abatement, comply with Chapter 312.

# CHAPTER 381 COMMENTS

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- Less structured than Chapter 312 tax abatements
- Little guidance on organization and governance, other than where districts are created, with their own board of directors
- Economic modeling is difficult for ten years, making 30 year modelling speculative at best
- Careful examination of any 381 project to make sure there are provisions for monitoring and oversight to assure accomplishment of public purposes of project.

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