

# **BASTROP COUNTY TAX ABATEMENT POLICY**

## **(Guidelines and Procedures)**

### **BASTROP COUNTY POLICY:**

Minimum investment - New business: \$5,000,000 Expansion: \$3,000,000.

1. Applicable to new construction and expansions/modernization.
2. Abatement on eligible real and fixed personal property.
  - (a) Minimum job requirements include 25 jobs for new business and sustained employment level for existing business expansions.
  - (b) Abatement for companies moving within the County; considered if agreeable to both cities.
3. Additional evaluation criteria:
  - (a) Environmental impacts of project;
  - (b) Diversity of employment base and commitment to a diversified workforce;
  - (c) Minimum of 25% of new jobs created filled by Bastrop County residents (includes transferring employees who move to and reside in Bastrop County);
  - (d) Provision of health care benefits at a rate reasonable to allow access by majority of employees.
4. Value of existing personal property currently on tax rolls will remain taxable and be included in base value, even if the property is moved to a new abated location or replaced due to modernization or expansion.
5. Project is ineligible for abatement if the application for County abatement was filed after the commencement of construction, alteration or installation of new improvements.

### **GENERAL PROCEDURES:**

1. For projects in which the County is to create the reinvestment zone, the Company shall submit an application to the County Judge. Such reinvestment zones must be located outside the taxing jurisdiction of a municipality.
2. For reinvestment zones to be created by a municipality in the County, the Company begins negotiations with the municipality; and the municipality shall make County aware of request

and invite County comments during negotiations. The County will make the municipality aware of concerns/changes prior to final action by the municipality.

2. Company makes application to County for participation in abatement. County negotiates additional performance criteria with Company required for County participation.

## **GUIDELINES AND CRITERIA**

### **I. GENERAL PURPOSE AND OBJECTIVES**

As authorized under Chapter 312 of the Texas Tax Code, Bastrop County has established this policy so as to work in concert with other taxing authorities as part of an overall publicly supported incentive program designed to create job opportunities that bring new economic advantages or strengthen the current economic base of our community.

It is the intent of the Commissioners Court to consider approval or denial of any request for tax abatement for projects in unincorporated Bastrop County or participation in any tax abatement agreement agreed to and adopted by an incorporated city, which meets the minimum eligibility criteria as set forth in this policy, following the filing of a formal application for tax abatement from the County. As prescribed by Section 312.206 of the Tax Code, the Commissioners Court may approve participation with a municipality in a tax abatement agreement no later than the 90th day after the date the municipal agreement is executed. Further, it is the intent of Bastrop County that the County will not approve nor join an abatement agreement that provides one Bastrop County city a competitive advantage over another Bastrop County city seeking the same project or encourages an applicant to move from one Bastrop County city to another, unless such agreement is agreeable to both such incorporated cities and both parties have indicated their approval in writing to Bastrop County.

For those areas within Bastrop County that are not located within the taxing jurisdiction of a municipality, the guidelines and criteria contained in this policy will be applied by the Commissioners Court when considering the establishment of a reinvestment zone and the adoption of an abatement agreement. If the area is in a municipality's extraterritorial jurisdiction and no part of the area is in the taxing jurisdiction of a municipality, either the County or the municipality may initiate the reinvestment zone.

### **II. DEFINITIONS**

(a) "Abatement" means the full or partial exemption from ad valorem taxes of certain real and/or personal property in a reinvestment zone designated for economic development purposes.

(b) "Agreement" means a contractual agreement between a property owner and/or lessee and an eligible jurisdiction for the purposes of tax abatement.

(c) "Applicant" means the legal entity seeking tax abatement.

(d) "Base Year Value" means the assessed value of the applicant's real and personal property located in a designated reinvestment zone on January 1 of the year of the execution of the

agreement, plus the agreed upon value of real and personal property improvements made after January 1, but before the execution of the agreement.

(e) "Commencement of Construction" means the placement or construction of any improvements that are part of the project in the reinvestment zone. The storage of building materials in the reinvestment zone that are to be used in construction of the improvements does not constitute commencement of construction. Engineering, site preparation and similar activity shall not be considered commencement of construction so long as permanent improvements that are part of the project have not been constructed and placed in the reinvestment zone.

(f) "Deferred Maintenance" means improvements necessary for continued operations which do not improve productivity or alter the process technology.

(g) "Economic Life" means the number of years a property improvement is expected to be in service in a facility.

(h) "Eligible Jurisdiction" means Bastrop County and any municipality, school district, college district, or other entity, which is located in Bastrop County, that levies ad valorem taxes upon and provides services to property located within the proposed or existing reinvestment zone.

(i) "Expansion" means the addition of buildings, structures, fixed machinery and equipment, and fixed personal property for the purposes of increasing production capacity.

(j) "Facility" means property improvements completed or in the process of construction which together comprise an integral whole.

(k) "Fixed Machinery and Equipment and/or Personal Property" means tangible machinery, equipment, or personal property that is securely placed or fastened and stationary within a building or structure, or which is movable but remains at and is used solely at the project site.

(l) "Manufacturing Facility" means buildings and structures, including fixed machinery and equipment, and fixed personal property, the primary purpose of which is or will be the manufacture of tangible goods or materials or the processing of such goods or materials by physical or chemical change.

(m) "Modernization" means the replacement and upgrading of existing facilities which increases the productive input or output, updates the technology or substantially lowers the unit cost of the operation, and extends the economic life of the facility. Modernization may result from the construction, alteration or installation of buildings, structures, fixed machinery and equipment, and fixed personal property. It shall not be for the purpose of reconditioning, refurbishing, repairing, or completion of deferred maintenance.

(n) "New Facility" means a property previously undeveloped which is placed into service by means other than or in conjunction with expansion or modernization.

(o) "Non-Manufacturing Facility" means buildings and structures used to service and/or house individuals on a permanent or temporary basis.

(p) "Other Basic Industry" means buildings and structures, including fixed machinery and equipment and fixed personal property not elsewhere described, used or to be used for the production of products or services which primarily serve a market outside Bastrop County and result in the creation of new permanent jobs and bringing new wealth into Bastrop County.

(q) "Regional Distribution Center Facility" means buildings and structures, including fixed machinery and equipment and fixed personal property, used or to be used primarily to receive, store, service or distribute goods or materials owned by the facility operator.

(r) "Regional Entertainment Facility" means buildings and structures, including machinery and equipment, used or to be used to provide entertainment through the admission of the general public where the majority of the users reside at least 100 miles from the facility's location in the County.

(s) "Regional Retail Facility" means buildings and structures, including fixed machinery and equipment, used or to be used to provide retail services from which a large portion of the revenues generated by the activity at the facility are derived from users outside the County.

(t) "Regional Service Facility" means building and structures, including fixed machinery and equipment and fixed personal property, used or to be used to service goods.

(u) "Reinvestment Zone" is an area designated as such for the purpose of tax abatement as authorized by Chapter 312 of the Texas Tax Code.

(v) "Research Facility" means building and structures, including fixed machinery and equipment and fixed personal property, used or to be used primarily for research or experimentation to improve or develop new tangible goods or materials or to improve or develop the production processes thereto.

### **III. ABATEMENT AUTHORIZED**

(a) Authorized Facility. A facility may be eligible for abatement if it is a Manufacturing Facility, a Research Facility, a Regional Distribution Center Facility, a Regional Service Facility, a Regional Entertainment Facility, a Regional Retail Facility, a Non-Manufacturing Facility, or Other Basic Industry as defined. The economic life of a facility and any improvements must exceed the life of the abatement agreement.

(b) Creation of New Value. Abatement may be only granted for the additional value of eligible property improvements made subsequent to and listed in an abatement agreement between the County and the property owner and lessee, subject to such limitations as the Commissioners Court may require.

(c) New and Existing Facilities. Abatement may be granted for new facilities and improvements to existing facilities for purposes of modernization or expansion.

(d) Eligible Property. Abatement may be extended to the value above the Base Year Value of buildings, structures, fixed machinery and equipment, fixed personal property, and site improvements plus that office space and related fixed improvements necessary to the operation and administration of the facility.

(e) Ineligible Property. The following types of property shall be fully taxable and ineligible for abatement: land; inventories; supplies; tools; furnishings and other forms of movable personal property; vehicles; vessels; private aircraft; deferred maintenance investments; property to be rented or leased except as provided in Section III(f); also, any property included in the calculation of base year value as defined.

(f) Owned/Leased Facilities. If a leased facility is granted abatement, the agreement shall be executed with the lessor and the lessee.

(g) Value and Term of Abatement. Abatement shall be granted effective with the execution of the agreement. The value of the abatement will be determined based on the merits of the project, including, but not limited to, total capital investment value and added employment. Up to one hundred percent of the value of new eligible properties may be abated for a total term of abatement not to exceed ten years. However, a project must provide an extraordinary economic benefit to the County to be considered for a one hundred percent abatement.

(h) Economic Qualification. In order to be eligible for designation as a County reinvestment zone and/or receive County tax abatement, the planned improvement:

- (1) for new businesses, must be reasonably expected to produce a minimum added value of Five Million Dollars (\$5,000,000) in real and personal property to Bastrop County and create and sustain a minimum of 25 new full-time jobs.
- (2) for expansions or modernizations of existing businesses, must be reasonably expected to produce a minimum added value of Three Million Dollars (\$3,000,000) in real and personal property improvements to Bastrop County, and sustain existing employment levels.
- (3) must not be expected to solely or primarily have the effect of transferring employment from one part of Bastrop County to another without a majority vote of approval from the Commissioners Court.
- (4) must be necessary for expansion and/or modernization because the capacity cannot be provided efficiently utilizing existing improved property when reasonable allowance is made for necessary improvements.
- (5) the above investment and employment minimums may be waived at the discretion of the Commissioners Court for projects located in Federal or State designated Enterprise Zones.

(i) Additional Criteria For Abatement. To be eligible for abatement, the project must be expected to meet the specific goals and requirements as noted below. If a company is unable to meet the minimum requirements of this section, a variance must be requested with a detailed explanation as to the circumstances that preclude the company from meeting the minimum requirements.

- (1) Use of Bastrop County Businesses. The project must provide for the utilization of Bastrop County businesses for a minimum of 25% of the total costs for construction contracts and annual supply and services contracts.
- (2) Bastrop County Employment. The company must hire Bastrop County residents for a minimum of 25% of the new full time jobs to be created by the project. Residents, for the purpose of this policy, are those employees who reside in Bastrop County, whether through relocation or existing residency.
- (3) Environmental Impacts. Environmental impact information must be provided, noting any anticipated impacts of the project on the environment, including, but not limited to, water quality, storm water and runoff, floodplain and wetlands, solid waste disposal, noise levels, and air quality.
- (4) Employee Benefits. The company must offer a health benefit plan to its full-time employees at a rate that is reasonable to the majority of its employees and which allows access to the plan by the employees' dependents. For additional consideration, the company may provide information on other employee benefits provided, such as retirement/pension programs and subsidies for education, job-training, transportation assistance and child/elderly care.

(j) Taxability. From the execution of the abatement to the end of the agreement period taxes shall be payable as follows:

- (1) The value of ineligible property as provided in Section III(e) shall be fully taxable;
- (2) The Base Year Value of existing eligible property shall be fully taxable, as well as the value of any existing personal property currently on the tax rolls in Bastrop County that is either moved to a new abated location or is replaced due to modernization or expansion.
- (3) The additional value of new eligible property shall be taxable in the manner and for the period provided for in the abatement agreement, subject to the terms described in Section III(g); and
- (4) The additional value of new eligible property shall be fully taxable at the end of the abatement period.

#### **IV. APPLICATION**

- (a) Download a copy of the Tax Abatement Application.
- (b) Any present or potential owner of taxable property in Bastrop County may request the creation of a reinvestment zone and/or tax abatement by filing a written request with the County Judge.

(c) The application shall consist of a completed application form including, but not limited to: a general description of the new improvements to be undertaken; a descriptive list of the improvements for which an abatement is requested; a list of the kind, number and location of all proposed improvements of the property; a map and property description; a time schedule for undertaking and completing the proposed improvements; employment and contract information; the location of existing company locations in Bastrop County and the surrounding counties and the expected number of transferring employees; details of the environmental impacts of the project; and employee benefit information. In the case of modernization a statement of the assessed value of the facility, separately stated for real and personal property, shall be given for the tax year immediately preceding the application. The County may require such financial and other information as deemed appropriate for evaluating the financial capacity and other factors pertaining to the applicant, to be attached to the application.

(d) All applications for creation of reinvestment zones or abatements shall incorporate a feasibility study estimating the economic effect of the proposed reinvestment zone and tax abatement on Bastrop County, other eligible participating jurisdictions, and the applicant.

(e) Upon receipt of a completed application for creation of a reinvestment zone, the County Judge shall notify in writing and provide a copy of the application to the presiding officer of the governing body of each eligible jurisdiction.

(f) Upon receipt of a completed application and/or request to participate with a municipality in an abatement agreement, Bastrop County Judge's Office must review and provide a recommendation to the Commissioners Court within 30 days before the public hearing.

(g) The County shall not establish a reinvestment zone, nor participate in an abatement, if it finds that the application for a County reinvestment zone/tax abatement was filed after the commencement of construction, alteration, or installation of improvements related to the proposed modernization, expansion or construction of a new facility.

(h) Variance. Request for variance from the provisions of this policy must be made in written form to the County Judge and submitted with the application for abatement, provided, however, the total duration of an abatement shall in no instance exceed ten years. Such request shall include a complete description of the circumstances explaining why the applicant should be granted a variance. Requests for variance must be approved by a majority vote of the Commissioners Court.

## **V. PUBLIC HEARINGS AND APPROVAL**

(a) For projects in unincorporated Bastrop County, the Commissioners Court may not adopt a resolution designating a County reinvestment zone until it has held a public hearing at which interested persons are entitled to speak and present evidence for or against the designation. Notice of the hearing shall be clearly identified on the Commissioners Court agenda at least 30 days prior to the hearing. The presiding officers of eligible jurisdictions shall be notified in writing at least 15 days prior to the hearing.

(b) Prior to entering into a tax abatement agreement the Commissioners Court may, at its option, hold a public hearing at which interested persons shall be entitled to speak and present written materials for or against the approval of the tax abatement agreement.

(c) In order to enter into a tax abatement agreement, the Commissioners Court must find that the terms of the proposed agreement meet these Guidelines and Criteria and that:

- (1) there will be no substantial adverse affect on the provision of the jurisdiction's service or tax base; and
- (2) the planned use of the property will not constitute a hazard to public safety, health or morals.

(d) Any application requesting a variance under Section IV(g) shall be approved by a majority vote of the Commissioners Court. No application which deviates from the requirements of these Guidelines and Criteria shall be approved unless accompanied by a request for variance as provided under Section IV(g).

## **VI. AGREEMENT**

(a) After approval the County shall formally pass a resolution and execute an agreement with the owner of the facility and lessee as required. The Court Order shall include:

- (1) estimated value of real and personal property to be abated and the base year value;
- (2) percent of value to be abated each year as provided in Section III(g);
- (3) the commencement date and the termination date of abatement;
- (4) the proposed use of the facility, nature of construction, time schedule, map, property description and improvement list as provide in Section IV(c);
- (5) contractual obligations in the event of default, violation of terms or conditions, delinquent taxes, recapture, administration and assignment as provided in Sections III(a), III(e), III(g) VII, VIII, and IX, or other provisions that may be required for uniformity or by state law;
- (6) amount of investment and average number of jobs involved;
- (7) an assessment of the environmental impacts of the project, including a statement of the owner's policy addressing regional air quality and information on the use of alternative fuels in fleet vehicles; and
- (8) a statement indicating the provision of a health care benefit plan for employees and dependents.

Such agreement shall normally be executed within 60 days after the applicant has forwarded all necessary information and documentation to the County.

(b) Participation in tax abatement agreements with municipalities requires additional information to be included in the Court Order approving the agreement, as follows:



- (1) a copy of the agreement between the applicant and municipality shall be attached and made a part of the Court Order for all purposes; and
- (2) authorization for the County Judge to execute a signatory page on behalf of the Commissioners Court, which shall be attached and made part of the original agreement.

## **VII. RECAPTURE**

The Commissioners Court reserves the right to review compliance for full or partial recapture in the event that the applicant fails to perform in "good faith." If a project is not completed as specified in the tax abatement agreement, the County has the right to cancel the abatement agreement and abated taxes shall become due to the County and other affected taxing units as provided by law.

If any of the provisions contained in the tax abatement agreement, i.e., employment, amount of investment, etc., are not met, the County shall have the right to reduce or cancel the abatement agreement. If a project granted a tax abatement ceases to operate or is no longer in conformance with the tax abatement agreement, the agreement shall not be in effect for the period of time during which the project is not operating or is not in conformance.

## **VIII. ADMINISTRATION**

(a) The Chief Appraiser of the County shall annually determine an assessment of the real and personal property comprising the reinvestment zone. Each year, the company or individual receiving abatement shall furnish the assessor with such information as may be necessary for the abatement. Once value has been established, the chief Appraiser shall notify the affected jurisdictions which levy taxes of the amount of the assessment.

(b) The agreement shall stipulate that employees and/or designated representatives of the County will have access to the reinvestment zone during the term of the abatement to inspect the facility to determine if the terms and conditions of the agreement are being met. All inspections will be made only after the giving of twenty-four (24) hours prior notice and will only be conducted in such manner as to not unreasonably interfere with the construction and/or operation of the facility. All inspections will be made with one or more representatives of the company or the individual and in accordance with the facility's safety standards.

(c) Upon completion of construction the County and/or the jurisdiction creating the reinvestment zone shall annually (or at such other times as deemed appropriate by the Commissioners Court) evaluate each facility receiving abatement to ensure compliance with the agreement and report possible violations of the contract and agreement to the Commissioners Court and the District Attorney. On or before April 30th of every year during the life of the abatement agreement, the company or individual receiving the abatement shall complete and file a Tax Abatement Evaluation Report, along with other required written documentation, detailing and certifying the abatement recipient's compliance with the terms of the abatement agreement. Failure to provide information requested in the compliance evaluation by the prescribed deadline may result in taxes abated in the prior year being due and payable. The company or individual receiving a tax abatement shall provide information to the County for the evaluation which shall include, but not be limited to, the following:

- (1) the number and dollar amounts of all construction contracts and subcontracts awarded on the project;
- (2) the total number of employees of the company and their gross salaries, and the number of employees residing in Bastrop County and their gross salaries, reported in job classifications appropriate to the employees;
- (3) the gross dollars spent on supplier and professional service contracts, indicating the amounts by contract awarded and performed by Bastrop County businesses and individuals;
- (4) the dollar amount of contracts awarded to Disadvantaged Business Enterprises;
- (5) detail of actions taken to mitigate any adverse environmental impacts of the project, if applicable; and
- (6) should the dollars, percentages, or actions not meet the original or modified requirements of the abatement agreement, a statement shall be provided explaining the reason for the failure to meet the requirements and a recommended course of rectification.

#### **IX. ASSIGNMENT**

Tax abatement agreements may be assigned to a new owner or lessee of the facility with the written consent of the Commissioners Court, which consent shall not be unreasonably withheld. Any assignment shall provide that the assignee shall irrevocably and unconditionally assume all the duties and obligations of the assignor upon the same terms and conditions as set out in the agreement. Any assignment of a tax abatement agreement shall be to an entity that contemplates the same improvements or repairs to the property, except to the extent such improvements or repairs have been completed. No assignment shall be approved if the assignor or the assignee is indebted to the County for ad valorem taxes or other obligations.

#### **X. SUNSET PROVISION**

These Guidelines and Criteria are effective as of the date of adoption and will remain in force for two years, at which time all reinvestment zones and tax abatement contracts created pursuant to its provisions will be reviewed by the County to determine whether the goals have been achieved. Based on that review, the guidelines and criteria will be modified, renewed or eliminated. These guidelines and criteria may be amended by the Commissioners Court at any time during their effective period.