Urban Renewal Policies Authorized in Statute

Tax Increment Financing Districts Study
Prepared for the Revenue and Transportation Interim Committee
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This report for the study of tax increment financing districts provides an overview of policies contained in statute that may promote urban renewal. The report is split into two sections: one covering tax abatements and exemptions and the other discussing tax credits.

TAX EXEMPTIONS AND ABATEMENTS

Title 15, chapter 24, of the Montana Code Annotated (MCA) contains tax exemptions and abatements that reduce property taxes for a qualifying taxpayer. Such policies could be used to encourage development in urban areas. A taxpayer applies to the local governing body and the governing body must hold a public hearing before deciding whether to grant the exemption or abatement.

Property Tax Exemptions

Montana law allows local governments to grant property tax exemptions for a remodeled commercial building with a value increase of at least 5 percent, business incubators, industrial parks, and certain buildings and land owned by a local economic development organization.

Remodeling, Reconstruction, or Expansion of Existing Commercial Building with Value Increase of 5%

Section 15-24-1502, MCA, provides a property tax exemption for remodeling, reconstruction, or expansion of an existing commercial building or structure that increases value by at least 5 percent. The exemption is for a construction period of up to 12 months and for up to 5 years following the completion of construction. The exemption may not exceed 100 percent of the increase in taxable value caused by the remodeling, reconstruction, or expansion. The section of law does not specify whether the exemption applies only to mills levied by the entity granting the exemption or also to local school levies and mills levied by the state. A property eligible for this exemption is also eligible for a tax abatement following the exemption period, which is discussed below.

Business Incubators and Industrial Parks

Title 15, chapter 24, part 18, MCA, provides for a tax exemption for a business incubator[1] owned or leased and operated by a local economic development organization and Title 15, chapter 24, part 19, MCA, provides an exemption for an industrial park owned and operated by a local economic development organization or a port authority. The business incubator or industrial park must apply to each jurisdiction (city, county, school district) in which it wishes to receive an exemption and the exemption only applies to the mills levied by that jurisdiction. However, if a county, consolidated government, or incorporated city approves the exemption, the exemption also applies to state-levied mills.

[1] A business incubator is defined in section 15-24-1801, MCA, as "a facility in which space is leased to new small businesses and that provides shared services and business assistance to the new businesses in order to improve their chances of success. The services provided may include but are not limited to receptionist, copying, computer, telephone, secretarial, and meeting services. The assistance provided may include but is not limited to advice concerning marketing plans, business plans, accounting, and administration."

Certain Buildings and Land Owned by a Local Economic Development Organization
Title 15, chapter 24, part 20, MCA, provides for a tax exemption for buildings and land owned by a local economic development organization that the organization intends to sell or lease to a profit-oriented, employment-stimulating business. The taxpayer must apply to each jurisdiction (city, county, or school district) in which it wishes to receive an exemption and the exemption only applies to the mills levied by that jurisdiction. However, if a county, consolidated government, or incorporated city approves the exemption, the exemption also applies to state-levied mills.

Property Tax Abatements
Property tax abatements may be granted for new or expanded industry, remodeling a building that results in a value increase of at least 2.5 percent, remodeling a commercial building that results in a value increase of at least 5 percent, and for historic property.

New or Expanding Industry
Title 15, chapter 24, part 14, MCA, provides for an abatement for new or expanding industry. Property granted an abatement under this section is taxed at 50 percent of taxable value for the first 5 years after construction. The taxed portion is then increased by 10 percent of taxable value each year so that the property is taxed at 100 percent of taxable value in the tenth year. The abatement applies only to mills levied by the governing body granting the abatement and the mills levied by the local high school district and elementary school district. Mills levied by the state are not subject to the abatement.

Remodeling, Reconstruction, or Expansion of Existing Building with Value Increase of 2.5%
Section 15-24-1501, MCA, contains an abatement for remodeling, reconstruction, or expansion of existing buildings or structures that increases the taxable value by at least 2.5 percent. The abatement is for the construction period and the following 4 years. The abatement is for the increase in taxable value caused by the remodeling, reconstruction, or expansion. The reconstructed property is exempt during the construction period. In the first year following construction, taxes are paid on 20 percent of the taxable value. The percentage of taxable value subject to property taxes increases by 20 percentage points each year until taxes are paid on the full value in the fifth year.[2] The abatement applies to the mills levied by the governing body granting the abatement and the mills levied by the local high school district and elementary school district. Mills levied by the state are not subject to the abatement.

Remodeling, Reconstruction, or Expansion of Existing Commercial Building with Value Increase of 5%
Section 15-24-1502, MCA, provides for an abatement for remodeling, reconstruction, or expansion of an existing commercial building or structure that increases value by at least 5 percent. Property granted an abatement under this section is also eligible for an exemption during the first 5 years after construction as discussed above. The abatement is for the increase in taxable value in the 4 years following the exemption period. The percentage of taxable value subject to taxation is 20 percent in the first year after the exemption period and increases by 20 percentage points each year until the property is fully taxable in the fifth year following the exemption period. As discussed above, the section of law does not address which levies are subject to the abatement.

[2] Section 15-24-1501(4), MCA, allows a local government to modify the percentage of the abatement granted in the first year through the fifth year after construction but any modification applies to any remodeling, reconstruction, or expansion project approved by the governing body.

Historic Property

Title 15, chapter 24, part 16, MCA, provides for an abatement for eligible historic property including:

- property undergoing rehabilitation, restoration, or expansion located within a national register historic district;
- newly constructed property within a national register historical district that meets design review criteria for being architecturally compatible with the historic district; and
- property listed individually in the National Register of Historic Places.

The tax abatement is available during a construction period of up to 12 months and 5 years following the completion of construction. The abatement is limited to 100 percent of the increase in taxable value caused by the rehabilitation, restoration, expansion, or new construction. The part of law does not specify details of the amount of the abatement but does provide in section 15-24-1603, MCA, that the governing body "shall establish by resolution the process for the use of the tax abatement provisions..." Property granted a historic property tax abatement may not receive any other exemption or special valuation during the abatement period. The abatement applies to the mills levied for high school and elementary school district purposes and by the local governing body approving the abatement. Statewide levies are not eligible for the abatement.

TAX CREDITS

In addition to the tax exemptions and abatements discussed above, there are four tax credits that could promote urban renewal. The tax credits reduce individual or corporate income tax liability.

Historic Preservation Credit

Montana allows a tax credit for individual income or corporate income taxpayers for qualified rehabilitation expenditures for a certified historic building located in Montana. The credit is provided for in sections 15-30-2342 and 15-31-151, MCA. The credit piggybacks on a federal tax credit for the same purpose and the qualifications for the credit are contained in federal law. The Montana credit is for 25 percent of the amount of the credit determined under federal law.

This credit has been claimed by individual income taxpayers each tax year since 2005. The amount claimed ranges from a low of $57,358 in tax year 2005 to a high of $555,797 in tax year 2013.[3] The credit has been claimed less often by corporate income taxpayers. There have been no claims since fiscal year 2008, in which $43,370 was claimed. Fiscal year 2007 saw $129,479 in credits claimed but just $50 was claimed in fiscal year 2006.[4]

New or Expanded Industry Credit

Corporate income taxpayers may claim a credit of 1 percent of wages paid to a new employee of a new or expanding manufacturing corporation as provided in sections 15-31-124 through 15-31-127, MCA. The credit is allowed for the first 3 years of a new corporation or expansion of a corporation.

Since fiscal year 2006, fewer than 10 taxpayers have claimed the credit each year and no taxpayers have claimed the credit since fiscal year 2008. In fiscal year 2006, the total credits claimed amounted to $84,708. In fiscal year 2007, the total credits claimed were $83,570. In fiscal year 2008, the most recent

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[3] Department of Revenue, "Biennial Report: July 1, 2012 - June 30, 2014," page 317.

[4] Department of Revenue, "Biennial Report: July 1, 2012 - June 30, 2014," page 342.

year in which a credit was claimed, the credit claimed was $4,311.[5]

Empowerment Zone Tax Credit

Empowerment zones are provided for in Title 7, chapter 21, part 37, MCA, and the purpose, identified in section 7-21-3701, MCA, is "to be a tool of economic development that encourages the establishment of businesses in designated areas, which can cause the emergence of industry clusters." A county, consolidated local government, or city may create an empowerment zone after providing public notice and holding a public hearing. An empowerment zone must have an unemployment or poverty rate in the previous 2 years of at least 150 percent of the statewide average, must be contiguous, and must have an average annual population of at least 1,000 residents.

The credit may be used for the individual income tax, the corporate income tax, the alternative gross sales tax, or the insurance premium tax. The credit is for an increase in net employees. Section 7-21-3710, MCA, which outlines the specifics, requires that 35 percent of new employees reside in the county in which the empowerment zone is located and that the employee not be employed by the business within the last 12 months, work at least 1,750 hours per year, and be provided with health insurance.

Sections 15-30-2356, 15-31-134, and 33-2-724, MCA, provide the specific amounts of the credit. A credit of $500 for each qualifying employee is allowed the first year, $1,000 for the second year of employment, and $1,500 for the third year of employment. The credit may not be refunded but may be carried forward 7 years and back 3 years. Since 2005, fewer than 10 taxpayers have claimed the empowerment zone tax credit for the individual income tax each year. The total credit claimed by all individual income taxpayers each year was less than $1,000, except in 2006 when the total claimed was $17,201. No credits were claimed by individual income taxpayers in 2012 or 2013 or by corporate income taxpayers in fiscal years 2006 through 2012.[6]

Infrastructure Users Fee Credit

A business that pays an infrastructure users fee to a local government that extends infrastructure using a Board of Investments financed loan may claim a credit for the user fee paid. The credit, provided for in section 17-6-316, MCA, is against individual income or corporate income tax and the total credit claimed may not exceed the amount of the loan. The credit may be carried forward 7 years and back 3 years.

Individual income taxpayers have claimed the credit each year since tax year 2005 and corporate income taxpayers each fiscal year since 2006. The amount claimed by individual income taxpayers in 2005 was the most, $851,766, and the least, $24,311, was claimed in 2007. Corporate income taxpayers claimed the least, $50, in 2006, and the most, $1,345,829, in 2008.[7]

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[5] Department of Revenue, "Biennial Report: July 1, 2012 - June 30, 2014," page 343.

[6] Department of Revenue, "Biennial Report: July 1, 2012 - June 30, 2014," pages 319 and 343.

[7] Department of Revenue, "Biennial Report: July 1, 2012 - June 30, 2014," pages 318 and 342.