

GASB Statement No. 77: A New Tool for Strengthening Responsible Budget Research & Advocacy

EXECUTIVE SUMMARY

A new public-sector accounting rule is beginning to reveal in unprecedented detail how corporate tax breaks granted in the name of economic development erode the tax base for public goods and services. That is: revenues needed for education, public safety, and infrastructure investments that benefit all workers and employers. The new data also has the potential to reveal whether the “the poor pay more” or “the rich get more.” What share of revenues are lost to such corporate tax breaks? Are the costs going up or down? And how do giveaways granted by one government affect the revenues of others (i.e., passive losses)?

The new rule is Governmental Accounting Standards Board (GASB) Statement No. 77 (“GASB 77”). Statements are amendments to Generally Accepted Accounting Principles (GAAP), and between three-fifths and two-thirds of the nation’s 90,000 local governments adhere to GAAP, especially the largest.

This primer highlights the intent and application of tax expenditures (including economic development tax breaks), details the importance and limitations of GASB 77, and offers suggestions to improve the accounting rule.

UNDERSTANDING TAX EXPENDITURES

When a government foregoes revenue to achieve a public policy goal, that is accounted for as a **tax expenditure**. Every state publishes a “tax expenditure budget,” documenting how much revenue it would have collected if a tax preference of some kind were not on the books.

Most such tax expenditures are not for economic development. For example, many states do not impose sales tax on food or medicine. Some states allow senior citizens to qualify for lower home property tax rates. States do not tax the interest paid on public school or sewer bonds. Some states have tax breaks for purchasing electric vehicles or solar energy panels.

This primer is about only one group of tax expenditures: those given to individuals or companies for economic development. These are very large costs, estimated at between \$70 billion and \$95 billion per year.

GASB and GAAP

The Governmental Accounting Standards Board (GASB) is the independent, professional organization that establishes and constantly improves standards of accounting and financial reporting for U.S. state and local governments. The GASB’s rules are known as Generally

Accepted Accounting Principles (GAAP). Most states legally require at least some localities (cities, counties, school districts, etc.) to conform to GAAP. Many other localities conform to GAAP as a condition of federal funding or to get the best credit ratings (and thus the lowest possible interest rates) when they sell bonds.

GASB STATEMENT NO. 77 ON TAX ABATEMENT DISCLOSURES

In August 2015, the GASB amended GAAP by adding Statement No. 77 on Tax Abatement Disclosures. Statement No. 77 requires that state and local governments (including school districts) include a note in their annual financial statements with information on revenues lost to economic development tax abatements.ⁱ Each taxing jurisdiction reports its own portion of the lost revenue, even when it loses revenue passively as the result of another government's tax abatement awards. (Although "tax abatement" is usually used in reference to a property tax reduction, in this case, the term refers to any kind of foregone revenue for economic development — property, sales, or income.)

"Tax abatements" as defined by GASB, require a two-party deal. There must be an agreement between a government and an individual or company in which the government promises to forego tax revenues and the person or company promises to take a specific action that contributes to economic development or otherwise benefits the government or its citizens.ⁱⁱ This agreement need not be a legally binding contract.

- Example: A corporation may receive a 10-year, 100% property tax abatement (i.e., exemption) from a city in exchange for building a new workplace projected to hire 25 new employees.

There are three features that, in combination, set tax abatements apart from tax expenditures in general:

- 1) government agrees to forego revenue;
- 2) a taxpayer agrees to do something good for the economy (so there is a quid pro quo) and;
- 3) these promises are set forth in an agreement.

Tax abatements are typically utilized as part of economic development programs to achieve goals such as:ⁱⁱⁱ

- increasing the property or other tax base;
- addressing cost disadvantages;
- revitalizing distressed local economies;
- retaining or attracting jobs, companies in particular industries, or a specific company; or
- increasing the number of persons employed by existing employers.

Note that this definition is not all "jobs, jobs, jobs." Tax abatements, as GASB defines them, may also be for other community benefits, such as historical preservation, brownfield cleanup, or affordable housing construction.

Why GASB Requires Tax Abatements To Be Accounted For. Tax abatements can become significant financial factors for states or communities; this is big one reason GASB decided to

finally codify them. Clearly, the main targets of this new disclosure rule are *local* governments and especially property tax abatements. Property taxes are still the largest single source of revenue for local public services, including education. And property taxes are the largest tax paid by the typical U.S. corporation. So property tax abatements are especially lucrative to corporations and especially costly for localities.

Abatements and Inequality. Equal access to good public services is fundamental to every American debate about economic opportunity, generational mobility, and civil rights. Whether one is fighting for adequate funding for K-12, affordable tuition for public colleges, better public health coverage, public transit service, ensuring good police and fire response times, or maintaining safe roads and other infrastructure—everything depends on a fair and sufficient tax base. By requiring the disclosure of revenue foregone due to property tax abatements, Statement No. 77 helps increase transparency of state and local government operations and contributes to a more informed dialogue about fiscal policy.

WHAT IS DISCLOSED UNDER STATEMENT 77?

Reporting governments document revenue-loss data in the Notes section of their Annual Comprehensive Financial Report (ACFR, the backwards-looking spending record) — not in the ACFR balance sheets. This applies to all ACFRs covering fiscal years which begin after December 15, 2015 (i.e., calendar 2016 or fiscal 2017 and beyond). The GASB 77 Note must include the following minimum information:^{iv}

- Brief descriptive information, such as the tax being abated, the authority under which tax abatements are provided, eligibility criteria, the mechanism by which taxes are abated, provisions for recapturing abated taxes if necessary (i.e., clawbacks), and the types of commitments made by the tax abatement recipients;
- The gross dollar amount of taxes abated during the period; and
- Commitments made by a government, other than to abate taxes, as part of a tax abatement agreement.

WHAT IS NOT DISCLOSED UNDER STATEMENT 77?

If a government does not lose any revenue to tax abatements, it has no obligation to make a “negative disclosure.” It may simply not include a Statement 77 Note.

The Statement only requires each losing government to report one dollar figure per tax-break program per year. Governments do not have to disclose any company-specific recipients, future-year revenue losses, or even the number of tax-break agreements underlying the dollar figures reported. The Statement says governments may voluntarily choose to disclose major recipients and some localities do so.

ENFORCEMENT AND COMPLIANCE

GASB, despite its name, is not a government body; it is a project of the non-profit 501(c)(3) Financial Accounting Foundation (FAF). (FAF is also parent to the accounting rules body for the private sector, the Financial Accounting Standards Board, or FASB). So GASB has no policing powers; those reside at the state level. As detailed in our 51 state “GASB 77 Roadmaps,” there is an irregular quilt-work of state laws, administrative codes and federal rules surrounding GAAP

compliance in ACFRs. Some states require all or most of their cities, counties, school districts and/or other localities to use GAAP; others do not.

The state laws and codes also empower state auditors, comptrollers or treasurers — and also sometimes Departments of Education — to ensure compliance with GAAP (when it is required). An estimated 50,000 local and state bodies (including more than 13,500 independent school districts) are required to comply. Some states collect and publish local-government ACFRs; others do not. Some states analyze or even “stress test” ACFR data to some degree; most do not. Some states provide GAAP compliance training, often through state universities; most do not. Many localities that are not required to use GAAP do so anyway because it enables them to get better credit ratings and thus lower borrowing costs.

IMPROVING THE STRENGTH OF STATEMENT NO. 77

As of Fall 2022, most jurisdictions have issued five ACFRs covered by GASB Statement No. 77 (for fiscal years 2017 through 2021). However, significant deficiencies remain. Compliance among states — and even *within* some states — is uneven, and the intended data is too often missing or misleadingly reported. GASB can and should strengthen Statement No. 77 to ensure better compliance and reporting by including the following recommendations in future Implementation Guides (annual FAQs issued by GASB to clarify how Statements should be interpreted). We offer eight ways GASB can improve Statements 77:

1. Clarify the definition of “tax abatement” to be simply the existence of agreements, not foregone revenues. If a government has agreements, it should report them, regardless of the abated amount. Even if no taxes have been abated yet (in the reporting fiscal year), abatement agreements can limit future revenue-raising capacity.

2. Require that *all* tax abatement revenue losses be reported, regardless of whether any of the foregone revenues were subsequently offset. Governments sometimes claim that no disclosures are necessary because offsetting payments (e.g., school equalization funds) canceled out some or all of the abatement. But such offsets are usually transfers from state taxpayers and thus may mask a locality’s fiscal condition. Other governments claim no revenue losses because they raised *tax rates*, but that could affect local economic development. Therefore, GASB should clarify that governments must report the *gross* foregone revenue due to tax abatements—as well as the *net* after any full or partial offsets.

3. Don’t let governments determine the materiality (and therefore the reporting threshold) of tax abatements, but instead require that all gross foregone revenues — however small — be disclosed. Being able to see the cost of a program each year is essential to determining its cost *trend*.

4. Require governments to disaggregate the revenue impact of their tax abatements by major public services. In more than 20 states, especially in New England, school districts are component units of cities or counties, so school boards do not issue their own ACFRs. That means the education impact is not separately reported. We recommend that GASB require

localities to apportion the costs of tax abatements to each public service that uses 5% or more of the taxing body's annual budget. The same standard should apply to discrete or blended component units, special funds, and departments. Such an improvement would enable the public to see how much each public service is affected (e.g., public safety, fire and rescue, sanitation).

5. Require governments to report at least the aggregate sum of all foregone revenues. In some places, if one company dominates a program, Statement 77 allows the government to not report the cost in the name of taxpayer confidentiality. To address that problem, we recommend that GASB direct governments to lump the cost of that one program with other programs' costs.

6. Require governments to report the latest available tax abatement information. Some governments fail to report tax abatements, claiming the information was not yet available, blaming the county tax assessor, or the actively abating government, or citing non-aligned fiscal years.

7. Close the gifts and gratuities loophole: Having failed to resolve the matter in its 2018 Implementation Guide, the GASB should amend Statement No. 77 to clarify that tax abatements awarded in tandem with industrial development/revenue bonds (IDBs/IRBs) and leasebacks (created to skirt constitutional gift and gratuities clauses in about a dozen states) are tax abatements and must be reported as such.

8. Close the tax increment financing (TIF) loophole. To ensure that Statement No. 77 captures what is, in some states, the costliest tax expenditure for economic development, GASB should amend the Statement to capture all Tax Increment Financing (TIF) funds, even those used to pay for infrastructure. TIF diversions impose long-term limitations on a jurisdiction's revenue-raising capacity and disproportionately benefit small numbers of property owners at the expense of all other businesses and homeowners. TIFs are tax abatements and must be reported under Statement No. 77.

For a more comprehensive discussion of these recommendations, see Good Jobs First's *Revealing the True Costs of Tax Incentives: Eight Critical Improvements Needed for GASB Statement No. 77*.

ⁱ Good Jobs First. <https://www.goodjobsfirst.org/wp-content/uploads/docs/pdfs/GASB77+GJF.pdf>

ⁱⁱ Summary of Statement No.77 Tax Abatement Disclosures. Governmental Accounting Standards Board. <https://gasb.org/page/PageContent?pagelid=/standards-guidance/pronouncements/summary--statement-no-77.html&isStaticPage=true>

ⁱⁱⁱ Summary of Statement No.77 Tax Abatement Disclosures. Governmental Accounting Standards Board. <https://gasb.org/page/PageContent?pagelid=/standards-guidance/pronouncements/summary--statement-no-77.html&isStaticPage=true>

^{iv} Summary of Statement No.77 Tax Abatement Disclosures. Governmental Accounting Standards Board. <https://gasb.org/page/PageContent?pagelid=/standards-guidance/pronouncements/summary--statement-no-77.html&isStaticPage=true>



Good Jobs First is a national policy resource that promotes corporate and government accountability in economic development. Since 1998, it has fought for reforms to increase transparency around the use of public money used in the name of economic development, and has revealed the numerous ways corporations – many of whom receive subsidies – violate civil and criminal regulations and laws.

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