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In the Zone: Tax Incentives for Businesses

It is said that the three most important considerations when purchasing real estate are location, location, location. However, the ultimate site selection factor for businesses may be tax incentive programs. Pennsylvania provides various tax incentive programs for businesses that are willing to relocate to deteriorated or distressed areas. The Local Economic Revitalization Tax Assistance Act (LERTA) and Keystone Opportunity Zones (KOZ) are two programs that are available for tax relief in Erie. LERTA allows local government bodies to extend a tax abatement to businesses making improvements to real estate in a LERTA-designated "deteriorated" area. The Keystone Opportunity Zone program creates tax-free locations in economically distressed areas of Pennsylvania utilizing various state and local tax credits and waivers.

LERTA

LERTA is available in many communities throughout Pennsylvania. The City of Erie taxing bodies, for example, have adopted an abatement program for certain improvements to "deteriorated" property and new construction of industrial and commercial property. This program is offered to encourage business expansion that may encompass the reuse of existing buildings or construction of new facilities.

LERTA tax exemption applies only to local taxing authorities. Furthermore, the exemption applies only to the additional assessment valuation attributable to the actual cost of improvements to the deteriorated property or not in excess of the maximum cost per unit established by the governing municipal body. The exemption does not apply to the land itself, which remains subject to the standard tax rate. Thus, when new construction takes place on a vacant lot, it becomes an improved lot and tax assessed on the land will increase. However, no taxes will be assessed for the improvement until the LERTA exemption terminates.

The Act requires that the taxpayer submit the tax exemption application at the time the taxpayer secures a building permit for the new construction or improvement. The tax exemption does not apply from the first day of property ownership, but from the time the applicant receives its occupancy permit. The exemption is limited to a maximum of 10 years and does not terminate upon sale or exchange of the property.

Keystone Opportunity Zones

The City of Erie has designated more than 467 acres throughout the city as Keystone Opportunity Zones. Within designated KOZs,

businesses and individuals enjoy exemption from nearly all state and local taxes. Taxes are essentially reduced to zero through a combination of credits, waivers and comprehensive reductions. Local taxes that are exempt under this program include real property tax, local sales and use tax, school district taxes, earned income/net profits tax, and local business occupancy and privilege tax. State taxes that are exempt under this program include corporate net income tax, stock and franchise tax, state sales and use tax, mutual thrift institution tax, bank and trust company shares tax, and insurance premiums tax.

In order to be eligible for this program, a business must:

- 1) own or lease real property in a designated KOZ;
- 2) actively conduct a trade, profession, or business from the property; and
- 3) remain compliant with state and local tax laws and building codes.

Existing businesses that are expanding, new businesses and out-of-state businesses moving into Pennsylvania need only move into a KOZ, file a one-page annual application for benefits and submit the application with a synopsis of the business. This synopsis must contain a description of the business, job creation potential and the anticipated capital investment.

An existing Pennsylvania business that is relocating to a KOZ, however, must also meet one of three relocation requirements such as increase full-time employment by at least 20 percent in the first full year of operation within the KOZ. Additionally, any qualified business that has received the KOZ tax abatements and moves out of the zone within the first five years may be required to refund the benefits the business received to state and local authorities. The tax-free status for most KOZs expires on December 31, 2010, although each KOZ can opt for an extension of the tax-free status through 2013 if the local municipality agrees to the extension.

In exchange for tax-free status or a tax abatement, businesses must be willing to relocate to deteriorated or distressed areas. With any luck, these tax incentives will create a significant economic boost for a community that is willing to forego taxes for new investments and jobs.

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