



West Virginia DEPARTMENT OF
EDUCATION

GASB Statement No. 77 Tax Abatements

WVDE Office of School Finance
Amy Willard, CPA, Executive Director

July 19, 2017

Introduction

- Title: GASB Statement No. 77, Tax Abatement Disclosures
- Issued August 2015
- Effective Date: The requirements of this Statement are effective for reporting periods beginning after December 15, 2015. Earlier application is encouraged. (FY17).

Definition

- For financial reporting purposes, a tax abatement is defined as:

A reduction in tax revenues that results from an agreement between one or more governments and an individual or entity in which:

- a) One or more governments promise to forgo tax revenues to which they are otherwise entitled, and
- b) The individual or entity promises to take a specific action after the agreement has been entered into that contributes to economic development or otherwise benefits the governments or the citizens of those governments.

- A transaction's substance, not its form or title, is a key factor in determining whether the transaction meets the definition of a tax abatement for the purposes of this Statement (i.e. even if it is called an abatement, doesn't mean it meets the definition, above).

Why, GASB? WHY?

- Practice Issue – Tax Abatement Disclosures:
 - Many governments offer tax abatements, but little information is available to the public regarding the provisions of the tax abatement agreements or the magnitude of the effect those agreements have on the government's ability to raise resources in the future.
 - Tax abatements often take the form of In-Lieu-Of-Tax Agreements (a.k.a. PILT or PILOT agreements).
- State and local governments employ a variety of programs and policies that reduce the taxes an individual or entity otherwise would owe, with the intent of encouraging those individuals or entities to engage in certain behaviors such as constructing housing in a particular neighborhood or relocating/retaining a business within a government's geographic area. Certain of those programs and policies reduce tax revenues through agreements with individuals or entities, such as property tax abatements for businesses that build or expand office buildings.

Applicability to Boards of Education

Many county boards of education have Payment in Lieu of Tax arrangements in place. Based on the latest information provided to WVDE from the State Tax Department (as reported to them by the various county commissions), the following counties have PILOT agreements for 2017-18. It is anticipated that these PILOT agreements would qualify for disclosure under GASB 77.

Berkeley	Pleasants
Brooke	Putnam
Jackson	Raleigh
Mercer	Upshur
Monongalia	Wetzel
Nicholas	Wood

Objective

- The objective of this Statement is to provide financial statement users with essential information about the nature and magnitude of the reduction in tax revenues through tax abatement programs in order to better assess:
 - a) whether current-year revenues were sufficient to pay for current-year services,
 - b) compliance with finance-related legal or contractual requirements,
 - c) where a government's financial resources come from and how it uses them, and
 - d) financial position and economic condition and how they have changed over time.

Existence of an Agreement

- Tax abatements result from an identifiable agreement between a government and a specific individual or entity.
- Consist of at least two components:
 - A promise by the government to reduce the individual's or entity's taxes, and
 - A promise from the individual or entity to subsequently perform a certain beneficial action.
- May be in writing or may be implicitly understood by the government and the individual or entity.
- Legal enforceability does not matter for this GASB Statement.
 - Many tax abatement programs DO NOT include provisions for recapturing abated taxes if the individual or entity does not fulfill its promise.
 - This Statement requires disclosure regardless of a written/executed agreement.



Scope Exclusions

- Implicit in the notion that tax abatements are based on an agreement is the expectation that the agreement precedes the reduction of taxes and the fulfillment by the individual or entity of the promise to act.
- Programs where the government does not commit to abate the taxes until after the individual or entity has already performed the act are excluded from the scope of GASB Statement No. 77.



General Disclosure Principles

- Distinguish between tax abatements resulting from:
 - a) Agreements that are entered into by the reporting government, and
 - b) Agreements that are entered into by other governments and that reduce the reporting government's tax revenues.
- Information may be provided individually or in the aggregate.
- Disclosure information for tax abatements resulting from agreements entered into by the reporting government (whether presented individually or in the aggregate) should be organized by each major tax abatement program.
- Disclosure information for tax abatements resulting from agreements entered into by other governments (whether presented individually or in the aggregate) should be organized by the government that entered into the tax abatement agreement and the specific tax being abated.

Disclosure Requirements – LEA Enters into the Agreement

- A government that chooses to disclose information about individual tax abatement agreements (rather than in the aggregate) should present individually only those that meet or surpass a quantitative threshold selected by the government.
- Governments should disclose in the notes to the financial statements the following information:
 1. Brief descriptive information, including:
 - a) Names, if applicable, and purposes of the tax abatement programs,
 - b) The specific taxes being abated,
 - c) The authority under which the tax abatement agreements are entered into,
 - d) The criteria that make a recipient eligible to receive a tax abatement,
 - e) The mechanism by which the taxes are abated, including:
 - i. How the tax abatement recipient's taxes are reduced, such as through a reduction of assessed value or a reduction of the tax owed,
 - ii. How the amount of the tax abatement is determined, such as a specific dollar amount or a specific percentage of taxes owed.

Disclosure Requirements – LEA Enters into the Agreement (Continued)

1. Descriptive information (continued):
 - f) Provisions for recapturing abated taxes, if any, including the conditions under which abated taxes become eligible for recapture,
 - g) The types of commitments made by the recipients of the tax abatements.
2. The gross dollar amount, on an accrual basis, by which the government's tax revenues were reduced during the reporting period as a result of the tax abatement agreements.
3. If amounts are received or are receivable from other governments in association with the forgone tax revenue:
 - a) The names of the governments,
 - b) The authority under which the amounts were or will be paid, and
 - c) The dollar amount received or receivable from other governments.

Disclosure Requirements – LEA Enters into the Agreement (Continued)

4. If the government made commitments other than to reduce taxes as part of the tax abatement agreement, a description of:
 - a) The types of commitments made
 - b) The most significant individual commitments made.

**Information about a commitment other than to reduce taxes should be disclosed until the government has fulfilled the commitment.
5. If tax abatement agreements are disclosed individually, a brief description of the quantitative threshold the government used to determine which agreements to disclose individually.
6. If a government omits specific information required by this Statement because the information is legally prohibited from being disclosed, a description of the general nature of the tax abatement information omitted and the specific source of the legal prohibition.

Disclosure Requirements – Other Government Enters into the Agreement

- Governments should disclose in the notes to financial statements the following information related to tax abatement agreements that are entered into by other governments and that reduce the reporting government's tax revenues:
 1. Brief descriptive information, including the names of the governments entering into the tax abatement agreement and the specific taxes being abated.
 2. The gross dollar amount, on an accrual basis, by which the reporting government's tax revenues were reduced during the reporting period as a result of the tax abatement agreements.

Disclosure Requirements – Other Government Enters into the Agreement (Continued)

3. If amounts are received or are receivable from other governments in association with the forgone tax revenue:
 - a) The names of the governments,
 - b) The authority under which the amounts were or will be paid,
 - c) The dollar amount received or receivable from other governments.
4. If tax abatement agreements are disclosed individually, a brief description of the quantitative threshold the reporting government used to determine which agreements to disclose individually.
5. If a government omits specific information required by this Statement because the information is legally prohibited from being disclosed, a description of the general nature of the tax abatement information omitted and the specific source of the legal prohibition.

Recipient Names

- GASB 77 does not require the disclosure of the recipients' names.
- Essentially, if a user of the financial statements wants to know if a recipient fulfilled the promises they made, they would need to contact the reporting government.
- GASB does not believe that disclosure of recipients' names fulfills any of the objectives of financial reporting.
- Disclosure of recipients' names would also require individual disclosure of each tax abatement, which may not be practical for some governments.

Other Info. Not Required for Disclosure

- Number of agreements
- Amount of future taxes abated/forgone
- Amount remaining to be abated
- Date the tax abatement agreement originated
- Term and/or remaining duration of the agreement
- Commitments made by recipients when the agreements are entered into by other governments
- Recipients' compliance with their commitments/promises
- Abated taxes recaptured during the reporting period
- Abated taxes eligible for recapture at the end of the reporting period
- Confidential information

Required Disclosures Summary

Brief Descriptive Information	Government's Own Abatements	Other Government's Abatements
Name of program	✓	
Purpose of program	✓	
Name of government		✓
Taxes being abated	✓	✓
Authority to abate taxes	✓	
Recipient eligibility criteria	✓	
Abatement mechanism	✓	
Recapture provisions	✓	
Types of recipient commitments	✓	

Required Disclosures Summary

Other Disclosures	Government's Own Abatements	Other Government's Abatements
Dollar amount of taxes abated	✓	✓
Amounts received or receivable from other governments associated with abated taxes	✓	✓
Other commitments by the government	✓	
Quantitative threshold for individual disclosure	✓	✓
Information omitted due to legal prohibitions	✓	✓

Materiality

- Please note that GASB Statement No. 77 applies to material abatements. If an abatement is clearly immaterial for disclosure, these disclosure requirements need not be followed.

Examples

- Example 1:

A government utilizes tax increment financing (TIF) to encourage economic development. The provisions of the TIF agreement are (a) bonds are issued by the government to finance infrastructure improvements in a specific geographic area; (b) a baseline for sales tax revenues for the geographic area, including the proposed development, is established prior to the start of the project; and (c) the additional sales tax revenues above the baseline are specifically set aside for the payment of the bonds. Do the requirements of Statement No. 77, *Tax Abatement Disclosures*, apply to this TIF agreement?

Examples (Continued)

- Example 1 (Continued):

No. This arrangement does not meet the definition of a tax abatement under Statement 77 for several reasons. It is not an agreement with an individual or entity. Consequently, there are no individuals or entities that are required to perform any actions. Furthermore, the TIF agreement does not result in a reduction of the government's tax revenues. Rather, the additional tax revenues in the TIF area are earmarked for debt service on the bonds. It should be noted that the name of the transaction is not relevant to the determination of whether it is a tax abatement for financial reporting purposes. **A transaction entitled *TIF, Payment in Lieu of Taxes, or as-of-right agreement*, for example, does not automatically include or exclude the transaction from the requirements of Statement 77.**

Examples (Continued)

- Example 2:

A state government enters into an agreement with a business in which the business commits to open 10 new retail stores within the state. The agreement meets all of the aspects of the definition of a tax abatement, according to Statement 77, except that it does not involve taxes for which the business would otherwise be liable. Under the terms of the agreement, the business is allowed to retain 40 percent of the state sales tax collected from its customers in the new stores for the first 5 years of their operation. Those are taxes the business otherwise would remit to the state, but the taxes are being paid by the business' customers. Do the requirements of Statement 77 apply to this agreement?

Examples (Continued)

- Example 2 (Continued):

Yes. Even though the taxes are the obligation of the customers and the business is acting solely as the remitter of the sales taxes, the state government forgoes tax revenues as a result of this agreement. Consequently, this agreement meets the definition of a tax abatement under Statement 77.

Examples (Continued)

- Example 3:

A government enters into an agreement in February 20X1 with a business to relocate its corporate office and warehouse within the borders of the government. Under the terms of the agreement, the government will forgo all property taxes related to the office building and warehouse for a 10-year period, and the business will hire and maintain a workforce of at least 200 employees. The company begins construction in the summer of 20X1 but does not open the facility before the end of the year. The government abated property taxes of \$21,000 for the fiscal year ended December 31, 20X1. Considering that the government has abated the taxes prior to the business fulfilling its requirements under the agreement, is the government required to disclose information about this tax abatement agreement in its financial statements for the fiscal year ended December 31, 20X1?

Examples (Continued)

- Example 3 (Continued):

Yes. The definition of a tax abatement in Statement 77 requires that the agreement precede the performance of the required action by the individual or entity. However, the timing of the reduction in taxes in relation to the performance of the actions by the individual or entity is not relevant to determining whether an agreement meets the definition of a tax abatement for purposes of the Statement. The abatement of taxes may begin before or after the individual or entity has fulfilled its commitments under the agreement.

Examples (Continued)

- Example 4:

A state government shares a portion of the gas tax it collects with local governments. The state also enters into tax abatement agreements with companies that allow the companies to retain a portion of the gas taxes they collect in return for installing safer and more ecologically sensitive equipment. Those tax abatements reduce the amount of gas tax revenue that the state receives, and therefore, the amount that the state shares with local governments also is reduced. Assuming that the agreements otherwise qualify as a tax abatement under Statement 77, are both the state and local governments required to disclose information about these tax abatements?

Examples (Continued)

- Example 4 (Continued):

No. The state government would disclose information about those tax abatements because its gas tax revenues have been reduced. However, the local governments would not disclose information about the tax abatement agreements because the local government revenue that is reduced is shared revenue, which is not considered to be tax revenue.

Examples (Continued)

- Example 5:

A government with 25 tax abatement agreements identifies 3 major tax abatement programs that encompass 20 of those agreements. Is the government required to disclose information about the five tax abatement agreements not included in the major programs?

Examples (Continued)

- Example 5 (Continued):

Yes. Information about those five agreements should be disclosed. If the tax abatement agreements for the three major programs are reported in the aggregate for each program, the remaining five tax abatement agreements should be reported in the aggregate. If, however, a government applies a quantitative threshold to disclose individually some or all of the tax abatement agreements in the three major programs, the same quantitative threshold should be applied to the remaining five tax abatement agreements.

Examples (Continued)

- Example 6:

For its own tax abatement agreements, a government chooses to disclose information about individual tax abatement agreements above a specified dollar threshold. Is the government required to apply the same threshold to its disclosure of tax abatement agreements that are entered into by other governments and reduce the reporting government's tax revenues?

Examples (Continued)

- Example 6 (Continued):

No. The government may apply a different quantitative threshold to the tax abatements of other governments. Moreover, the government may choose to disclose information about tax abatement agreements of other governments in the aggregate and not disclose any of them individually.

Examples (Continued)

- Example 7:

Among the tax abatement programs administered by a government is one that encourages businesses in the aerospace industry to locate their manufacturing facilities in its jurisdiction. In 20X4, one business participated in the program and received an income tax credit equal to 30 percent of its corporate income tax liability. A law in the state where the government is located prohibits the public disclosure of aggregated tax information if the information relates directly or indirectly to a taxpayer's income or earnings. How would the government meet the requirements of Statement 77 in light of this legal prohibition?

Examples (Continued)

- Example 7 (Continued):

The government should disclose whatever information is not specifically prohibited by the state law. For instance, if disclosing the gross amount of the tax revenues that were reduced as a result of this tax abatement agreement (paragraph 7b of Statement 77) violates the state law as it relates to the single business participating in the program, the government may omit that amount but should disclose all of the other information required by paragraph 7 of Statement 77. The government also should disclose what type of information it omitted and cite the state law that prohibits its disclosure.

Questions?

**PUBLIC SCHOOL SUPPORT PROGRAM
PORTION OF IN LIEU OF TAX PAYMENTS ATTRIBUTABLE TO REGULAR LEVY
FOR THE 2017-18 PRELIMINARY COMPUTATIONS**

County	Regular & PI Levy	Excess Levy	Bond Levy	Total	Ratio Reg. & PI To Total	Total In Lieu Tax Payments	Regular Levy Portion
Barbour	19.40	-	-	19.40	1.00	-	-
Berkeley	19.40	22.50	4.03	45.93	0.42	1,770,377	743,558
Boone	19.40	22.95	-	42.35	0.46	-	-
Braxton	19.40	-	6.69	26.09	0.74	-	-
Brooke	19.40	22.95	3.62	45.97	0.42	45,000	18,900
Cabell	19.40	22.95	4.99	47.34	0.41	-	-
Calhoun	19.40	0.40	3.45	23.25	0.83	-	-
Clay	19.40	7.25	-	26.65	0.73	-	-
Doddridge	19.40	22.95	1.47	43.82	0.44	-	-
Fayette	19.40	22.95	-	42.35	0.46	-	-
Gilmer	19.40	9.18	-	28.58	0.68	-	-
Grant	19.40	-	-	19.40	1.00	-	-
Greenbrier	19.40	11.48	8.36	39.24	0.49	-	-
Hampshire	19.40	-	-	19.40	1.00	-	-
Hancock	19.40	22.95	8.05	50.40	0.38	-	-
Hardy	19.40	-	5.27	24.67	0.79	-	-
Harrison	19.40	20.33	-	39.73	0.49	-	-
Jackson	19.40	22.95	-	42.35	0.46	960	442
Jefferson	19.40	22.95	2.03	44.38	0.44	-	-
Kanawha	19.40	16.18	-	35.58	0.55	-	-
Lewis	19.40	10.32	-	29.72	0.65	-	-
Lincoln	19.40	22.95	-	42.35	0.46	-	-
Logan	19.40	22.95	-	42.35	0.46	-	-
Marion	19.40	22.95	2.34	44.69	0.43	-	-
Marshall	19.40	20.20	1.74	41.34	0.47	-	-
Mason	19.40	22.95	-	42.35	0.46	-	-
McDowell	19.40	22.95	-	42.35	0.46	-	-
Mercer	19.40	22.95	-	42.35	0.46	14,971	6,886
Mineral	19.40	22.95	-	42.35	0.46	-	-
Mingo	19.40	22.95	-	42.35	0.46	-	-
Monongalia	19.40	16.99	1.85	38.24	0.51	1,717,979	876,169
Monroe	19.40	17.21	-	36.61	0.53	-	-
Morgan	19.40	16.08	-	35.48	0.55	-	-
Nicholas	19.40	15.14	-	34.54	0.56	94,986	53,192
Ohio	19.40	21.69	1.41	42.50	0.46	-	-
Pendleton	19.40	-	-	19.40	1.00	-	-
Pleasants	19.40	19.06	7.75	46.21	0.42	1,473,486	618,864
Pocahontas	19.40	-	-	19.40	1.00	-	-
Preston	19.40	-	8.56	27.96	0.69	-	-
Putnam	19.40	22.95	6.03	48.38	0.40	21,600	8,640
Raleigh	19.40	22.95	-	42.35	0.46	40,701	18,722
Randolph	19.40	-	-	19.40	1.00	-	-
Ritchie	19.40	14.92	-	34.32	0.57	-	-
Roane	19.40	-	-	19.40	1.00	-	-
Summers	19.40	-	-	19.40	1.00	-	-
Taylor	19.40	11.48	3.58	34.46	0.56	-	-
Tucker	19.40	-	-	19.40	1.00	-	-
Tyler	19.40	22.95	-	42.35	0.46	-	-
Upshur	19.40	9.83	-	29.23	0.66	11,246	7,422
Wayne	19.40	22.95	3.77	46.12	0.42	-	-
Webster	19.40	-	-	19.40	1.00	-	-
Wetzel	19.40	22.95	-	42.35	0.46	286,464	131,773
Wirt	19.40	20.66	-	40.06	0.48	-	-
Wood	19.40	18.36	3.48	41.24	0.47	627,888	295,107
Wyoming	19.40	22.95	-	42.35	0.46	-	-
Total	-	-	-	-	-	6,105,657.38	2,779,675

**PUBLIC SCHOOL SUPPORT PROGRAM
PORTION OF IN LIEU OF TAX PAYMENTS ATTRIBUTABLE TO REGULAR LEVY
FOR THE 2016-17 PRELIMINARY COMPUTATIONS**

County	Regular & PI Levy	Excess Levy	Bond Levy	Total	Ratio Reg. & PI To Total	Total In Lieu Tax Payments	Regular Levy Portion
Barbour	19.40	-	-	19.40	1.00	-	-
Berkeley	19.40	22.50	5.64	47.54	0.41	2,148,520	880,893
Boone	19.40	22.95	-	42.35	0.46	-	-
Braxton	19.40	-	7.26	26.66	0.73	-	-
Brooke	19.40	22.95	4.04	46.39	0.42	29,500	12,390
Cabell	19.40	22.95	4.82	47.17	0.41	-	-
Calhoun	19.40	0.40	3.60	23.40	0.83	-	-
Clay	19.40	7.25	-	26.65	0.73	-	-
Doddridge	19.40	22.95	2.21	44.56	0.44	-	-
Fayette	19.40	22.95	-	42.35	0.46	-	-
Gilmer	19.40	9.18	-	28.58	0.68	-	-
Grant	19.40	-	-	19.40	1.00	-	-
Greenbrier	19.40	11.48	8.33	39.21	0.49	-	-
Hampshire	19.40	-	-	19.40	1.00	-	-
Hancock	19.40	22.95	8.28	50.63	0.38	-	-
Hardy	19.40	-	5.26	24.66	0.79	-	-
Harrison	19.40	20.33	-	39.73	0.49	-	-
Jackson	19.40	22.95	-	42.35	0.46	913	420
Jefferson	19.40	22.95	2.10	44.45	0.44	-	-
Kanawha	19.40	16.10	-	35.50	0.55	-	-
Lewis	19.40	10.32	-	29.72	0.65	-	-
Lincoln	19.40	22.95	-	42.35	0.46	-	-
Logan	19.40	22.95	-	42.35	0.46	-	-
Marion	19.40	22.95	2.53	44.88	0.43	-	-
Marshall	19.40	20.66	1.95	42.01	0.46	-	-
Mason	19.40	22.95	1.49	43.84	0.44	-	-
McDowell	19.40	22.95	-	42.35	0.46	-	-
Mercer	19.40	22.95	-	42.35	0.46	-	-
Mineral	19.40	22.95	-	42.35	0.46	-	-
Mingo	19.40	22.95	-	42.35	0.46	-	-
Monongalia	19.40	16.99	1.91	38.30	0.51	1,840,183	938,493
Monroe	19.40	17.21	-	36.61	0.53	-	-
Morgan	19.40	16.08	-	35.48	0.55	191	105
Nicholas	19.40	13.31	-	32.71	0.59	94,986	56,041
Ohio	19.40	21.46	1.43	42.29	0.46	-	-
Pendleton	19.40	-	-	19.40	1.00	-	-
Pleasants	19.40	19.06	7.08	45.54	0.43	703,034	302,305
Pocahontas	19.40	-	-	19.40	1.00	-	-
Preston	19.40	-	9.08	28.48	0.68	-	-
Putnam	19.40	22.95	6.56	48.91	0.40	28,953	11,581
Raleigh	19.40	22.95	-	42.35	0.46	36,515	16,797
Randolph	19.40	9.25	-	28.65	0.68	-	-
Ritchie	19.40	14.92	-	34.32	0.57	-	-
Roane	19.40	-	-	19.40	1.00	-	-
Summers	19.40	-	-	19.40	1.00	-	-
Taylor	19.40	11.48	3.80	34.68	0.56	-	-
Tucker	19.40	-	-	19.40	1.00	-	-
Tyler	19.40	22.95	-	42.35	0.46	-	-
Upshur	19.40	9.83	-	29.23	0.66	-	-
Wayne	19.40	22.95	3.77	46.12	0.42	-	-
Webster	19.40	-	-	19.40	1.00	-	-
Wetzel	19.40	22.95	-	42.35	0.46	285,636	131,393
Wirt	19.40	20.66	-	40.06	0.48	-	-
Wood	19.40	18.36	3.52	41.28	0.47	628,233	295,270
Wyoming	19.40	22.95	-	42.35	0.46	-	-
Total	-	-	-	-	-	5,796,664.88	2,645,688

OSF

12/09/15

Local Share Adjustments 17