

# Montgomery County Enterprise Zone Process Guide Revised January 2009

Effective March 1, 1990, the State of Illinois designated 15.0 square miles in Montgomery County as an Enterprise Zone for a term of 20 years. As of January 9<sup>th</sup>, 2009 the Illinois Department of Commerce and Economic Opportunity (DCEO) extended the life of the Montgomery County Enterprise Zone for an additional 10 year term. **The new termination date is February 28<sup>th</sup>, 2020.** Qualified new and existing businesses in the Zone are offered state and local tax incentives and other benefits to reduce operating and construction costs.

The Enterprise Zone Program is a state and local partnership. It emphasizes a creative coalition of state and local governments, business, labor and community groups to encourage economic growth in the Enterprise Zone. The Montgomery County Enterprise Zone is set aside to attract new industry and revitalize existing businesses by providing initiatives and financial incentives.

The information in this Guide provides further information on which projects might qualify for the Montgomery County Enterprise Zone as well as further information on the incentives potentially available.

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## **Property Tax Abatement**

Property tax abatement shall be applicable for eligible office, warehouse/distribution and industrial real property for which construction improvements, renovation or rehabilitation has been completed after January 1<sup>st</sup>, 2008, and before February 28<sup>th</sup>, 2020.

**Property taxes are abated based on the increase in assessed valuation due to new construction, renovation or rehabilitation of eligible office, warehouse distribution and industrial properties. The abatement will begin with real estate taxes for the first full year of the facility's commercial operation.**

**The schedule is as follows: Incentives for Industrial and commercial Properties Only**

<b><u>Amount of Increase in Value:</u></b>	<b><u>Term of Abatement:</u></b>	<b><u>Amt. of Abatement</u></b>
<b>\$ 0 to 2 million</b>	<b>3 years</b>	<b>100%</b>
<b>\$ 2 million to 5 million</b>	<b>5 years</b>	<b>100%</b>
<b>\$ 5 million and above</b>	<b>10 years</b>	<b>100% for years 1 - 5 50% for years 6 - 10</b>

Abatement from participating governmental entities for the specific project will cease after the above stated time or upon expiration of the enterprise zone, whichever occurs first.

**In order to receive property tax abatement, the Montgomery County Enterprise Zone Administrator must receive a formal written request for abatement from the property owner. Project Forms must be completed and returned.**

**The formal written request includes submission of a completed sales tax exemption form (Addendum A) along with all required documentation and a narrative describing the project. (Addendum B)**

**Property tax abatement for eligible projects will not be granted if construction has begun prior to the Administrator's receipt of a formal request for abatement.**

## **Enterprise Zone Boundary Amendments**

Under special and unique circumstances, the Enterprise Zone Administrator will consider extending the Zone boundaries for qualified projects. This process is subject to the approval of Montgomery County and the State of Illinois. The review process may take up to 90 days.

## **Frequently Asked Questions:**

### **What is the enterprise zone property tax abatement incentive?**

The Illinois Revenue Act 35 ILCS 200/18-170, as amended, provides that any taxing district may order the county clerk to abate (that is, to give up) any portion of its taxes on real property, or on any particular class thereof, located within a zone and upon which new improvements have been renovated or rehabilitated.

### **Are taxes reduced on the current value of the property (or on existing improvements)?**

No. The abatement applies only to taxes on the increase in assessed value attributable to the new construction, renovation or rehabilitation. Taxes based on the assessed value of land and existing improvements continue to be extended and collected.

### **If property tax abatement is authorized, are new improvements made to property located within a zone assessed?**

Yes. By law, every time property is improved, it is reassessed.

### **How do these incentives affect the multiplier?**

They don't. The multiplier or equalization factor is the application of a percentage increase or decrease, generated by the Illinois Department of Revenue, in order to adjust assessment levels in various counties to the same percentage of full value. Multipliers are not affected by the enterprise zone property tax abatement provision or by county assessment reductions.

### **Does the abatement of taxes on improvements in an enterprise zone affect the tax rate?**

Yes, however in most cases the effect will be marginal. Tax rates depend on the levy (amount of tax revenue the local government is raising) and the size of the tax base (total equalized assessed valuation of the district less homestead exemptions, plus the value of any State assessed property).

Under normal circumstances, the tax rate for a district is calculated by dividing the district's tax levy by its tax base. The greater the tax base, the lower the rate needed to generate the amount of the levy.

Under the Enterprise Zone Program, the value of abated property is subtracted from the tax base prior to the calculation of the tax rate. In most cases, the tax base is large enough and the enterprise zone abatements are low enough that the overall effect is negligible.

### **How does the enterprise zone property tax abatement provision in 18-170 of the Revenue Act differ from the property tax provision in 18-165?**

The enterprise zone provision is broader and more flexible. The enterprise zone property tax abatement:

- May be offered on all classes of real property, including commercial, residential and industrial (18-165 abatements are limited to commercial and industrial improvements). Please see page 2 of this Guide to see if your project qualifies under the Montgomery County Enterprise Zone provisions.
- May be offered for any number of years, up to the termination date of zone certification (18-165 abatements cannot exceed 10 years). Please see page 2 of this Guide to see the years and percentage abatement offered to qualified projects under the Montgomery County Enterprise Zone provisions.
- May be offered by a taxing district in amount (the abatement offered under 18-165 limits the aggregated amounts of an abatement offered by all taxing districts to \$3,000,000).

**Are tax incentives and other benefits offered on a case-by case basis?**

No. “Case-by-Case” is contrary to the intent of the Enterprise Zone Act. Tax incentives must be offered uniformly and equitably by class. The local ordinance authorizing tax incentives, such as property tax abatement, extends the incentives automatically through eligibility criteria, such as class of property (i.e., residential, commercial and industrial) and formulas (i.e., percentages and number of years available).

**Can property tax be abated in a tax increment finance district (TIF)?**

Tax increment financing is a financing technique that cities may use to pay for public improvements such as land assemblage, building demolition, utilities, streets, and sidewalks. Property owners in the project area do pay their full share of taxes. Taxes generated by the increase in assessed valuation – the tax increment – go into a special allocation fund used to pay the bonds which financed the public improvement costs. This financing method is not a tool to speculatively prepare for development – tax increment financing requires an advance commitment by a developer to a project.

Property tax abatement is, however, a tool that is used for development. It is not a financing technique. The Revenue Act provides that any taxing district, upon a majority vote of its governing authority, may order the county clerk to abate any portion of its taxes on improvements made to real property located in a zone. The increase in assessed valuation due to new construction, rehabilitation or renovation is not taxed for the term of the abatement as set by local ordinance.

A TIF district may be included in the legal description of the zone and consequently be eligible to receive other tax incentives and benefits, but the property tax abatement provision must exclude the TIF district from the area eligible for abatement.

**Sales Tax Exemption**

A point-of-sale tax exemption is available on building materials incorporated into real estate in the Montgomery County Enterprise Zone. In order to receive this exemption, building materials must be used for remodeling, rehabilitation or permanent new construction. **Construction must be of the nature that a building permit would be required. A completed exemption form with original signatures must be submitted to the Zone Administrator prior to the start of the project.** An exemption form is attached to this document (Addendum A).

In addition to the completed exemption form, the applicant must submit a copy of the approved building permit issued by the applicable local unit of government. The Administrator will verify the project is eligible and located within the Zone Boundary. The approval process for a sales tax exemption could take up to 5 days.

Residential properties are not eligible for sales tax exemption with the exception of certain multi-family developments. Eligible multi-family properties are defined as a project containing three (3) or more dwelling units in one building with a minimum construction/rehabilitation value of \$100,000 per unit. Construction value may include common area and building systems costs, apportioned to each unit within the structure.

The City, County and State exemptions provide a full abatement of sales tax on construction materials. Companies undertaking projects in the Enterprise Zone are encouraged to purchase building materials locally and to use local labor.

Enterprise Zone participants have been granted an exemption of the State, City and County sales tax. Sales tax is exempted on building materials incorporated into real estate located in the Montgomery County Enterprise Zone. The exemption applies to building and construction materials used for remodeling, rehabilitation or new construction.

**What is the sales tax deduction and what is the retailer’s role?**

Each retailer, who makes a qualified sale of building materials to be incorporated into real estate by remodeling, rehabilitation or new construction in the Montgomery County Enterprise Zone, may deduct receipts from such sales when calculating the tax imposed by this Act. For purposes of this Section, “qualified sale” means a sale of building materials that will be incorporated in to real estate as part of a building project for which a Certificate of Eligibility for Sales Tax Exemption has been issued by the administrator of the enterprise zone in which the building project is located. To document the exemption allowed under this Section, the retailer must obtain from the purchaser a copy of the Certificate of Eligibility for Sales Tax Exemption issued by the administrator of the Montgomery County Enterprise Zone.

The Certificate of Eligibility for Sales Tax Exemption must contain:

- a statement that the building project identified in the Certificate meets all the requirements for the building material exemption of the Montgomery County Enterprise Zone;
- the location or address of the building project; and
- the signature of the administrator of the Montgomery County Enterprise Zone.

In addition, the retailer must obtain certification from the purchaser that includes:

- a statement that the building materials are being purchased for incorporation into real estate located in the Montgomery County Enterprise Zone;
- the location or address of the real estate into which the building materials will be incorporated;
- the name of the enterprise zone – Montgomery County Enterprise Zone – in which that real estate is located;
- a description of the building materials being purchased; and
- the purchaser’s signature and date of purchase.

The ordinance that governs the enterprise zone into which the building materials will be incorporated may neither require nor prohibit the purchase of building materials from any retailer or class of retailers in order to qualify for the exemption.

**How does the enterprise zone sales tax deduction affect Home Rule Municipal Taxes or County Supplemental Taxes?**

Once the gross receipts from sales of building materials are excluded from the Illinois Retailers’ Occupation Tax base by virtue of exempted building materials, these receipts are also excluded from the Home Rule Muni Tax Base and County Supplemental Tax Base.

**Do all retailers offer a point of sale exemption?**

No. Retailers are not required by law to participate. The purchaser must ask the retailer for cooperation on this incentive. Retailers have, however, demonstrated good cooperation throughout the history of this program, as this incentive permits them to give customers a “break” without cost to themselves.

**What qualifies as “building materials” eligible for the sales tax deduction?**

Building materials that are eligible for the enterprise zone sales tax deduction include items that are permanently affixed to real property such as lumber, mortar, glued-down carpets, paint, wallpaper and similar affixed items.

## **Tax Credits:**

### **Investment Tax Credit**

The Illinois Income Tax Act 35 ILCS 5/201, as amended, allows corporations, trusts, estates, individuals, partners and Subchapter S shareholders a 0.5 percent credit against the state income tax for investments in qualified property which is placed in service in the Montgomery County Enterprise Zone. This credit is in addition to the existing 0.5 percent investment tax credit allowed statewide against the corporate personal property replacement tax. The investment tax credit applies against gross income subject to Illinois income tax and to the depreciable basis of qualified property placed in service within the Montgomery County Enterprise Zone. It is a one-time credit given in the taxable year in which the property is placed in service. If the amount of the credit exceeds the tax liability for that year, the excess may be carried forward and applied to the tax liability of the five taxable years following the excess credit year.

#### **Who are qualifying taxpayers?**

The credit may be taken by corporations, trusts, estate, individuals, partners and Subchapter S shareholders who make investments in qualified property and who otherwise meet the terms and conditions established by statute.

#### **What are examples of “qualified property”?**

Examples of qualified property include:

Buildings, structural components of buildings, elevators, materials tanks, boilers and major computer installations.

Examples of non-qualifying property include:

Land, inventories, small personal computers, trademarks, typewriters and other small non-depreciable or intangible assets.

#### **What does “Placed in service” mean?**

Qualified property is “placed in service” on the earlier of 1) the date the property is placed in a condition of readiness and availability for use, or 2) the date on which the depreciation period of that property begins. To qualify for the enterprise zone investment tax credit, the property must be placed in service on or after the date the zone is certified by the Department of Commerce and Economic Opportunity, and, on or before the last day of the firm’s taxable year.

#### **What is “depreciable” property?**

Property must be depreciable pursuant to Internal Revenue Code Section 167. Depreciable property is used in the taxpayer’s trade or business or held for the production of income (but not inventory) which is subject to wear and tear, exhaustion or obsolescence.

There are some types of assets that may not be depreciable, even though they are used in the taxpayer’s business or trade or are held for the production of income. Good will and land are examples. Other examples of tangible property which are not depreciable are inventories, natural resources and currency.

#### **Does “used” property qualify for the enterprise zone investment tax credit?**

Used property does not qualify if it was previously used in Illinois in such a manner and by such a person as would **qualify** for either the statewide investment tax credit or the enterprise zone investment tax credit.

Example: A corporation purchases a used pick-up truck for use in its manufacturing business in an enterprise zone from an Illinois resident who used the truck for personal purposes in Illinois. If the truck meets the other requirements for the investment tax credit, it will not be disqualified because it was previously used in Illinois for a purpose which did not qualify for the credit. However, had the corporation purchased the truck from an Illinois taxpayer in whose hands the truck qualified for the credit, the truck would not be qualified for the investment tax credit, even though the party from whom the truck was acquired had never received an investment tax credit for it.

### **What is the “basis” value of property?**

The “basis” value of property, for the purposes of this credit, is defined the same way it is defined for purposes of federal depreciation calculations. Essentially, the basis is the cost of the property, as well as related capital costs.

### **Does the enterprise zone investment tax credit carry forward?**

Yes. The credit is allowed for the tax year in which the property is placed in service, or, if the amount of the credit exceeds the tax liability for that year, the excess may be carried forward and applied to the tax liability of the five taxable years following the excess credit year. The credit must be applied to the earliest year for which there is a liability. If there is credit from more than one tax year that is available to offset a liability, the credit accruing first in time is applied first.

## **Jobs Tax Credit**

### **What is the enterprise zone jobs tax credit?**

The enterprise zone tax credit 35 ILCS 5/201 offers employers a tax credit on their Illinois income taxes for hiring individuals who are certified as economically disadvantaged or dislocated workers.

### **How much is the tax credit?**

An employer who conducts a trade or business in an enterprise zone is allowed a credit of \$500 per eligible employee hired to work in a zone during the taxable year. Any unused portion of the credit may be carried forward five years. The credit must be applied to the earliest year for which there is a tax liability.

### **How do employers qualify for the jobs tax credit?**

To qualify for the credit: a minimum of five eligible employees must be hired in a zone during the taxable year; and, the taxpayer’s total employees must increase by five beyond the total employed in the zone at the end of the previous tax year for which a jobs tax credit was taken.

### **What individuals qualify as eligible employees for the Jobs Tax Credit?**

An employee must be:

- Certified by a Sub-state Grantee (SSG) or Service Delivery Area Administrative Entity (SDA) as “eligible for services” under Titles II or III of the Job Training Partnership Act (JTPA);
- employed in an enterprise zone where the employee either works in the zone or the zone is the base of operations for the services performed; and,
- employed at least 180 consecutive days for 30 or more hours per week.

### **How do employers obtain jobs tax credit eligible individuals?**

An employer should list job openings with the local SSG or SDA; note that the business is within an enterprise zone; and specify that the business seeks to hire workers certified as eligible for services under Title II or III of WIA formerly known as JTPA. If employers have job applicants who have not been referred by the SSG or SDA, they can offer to determine if they are eligible. Eligible individuals will be issued a Jobs Tax Credit Certification Voucher to present to prospective employers. When a person is hired, the employer keeps the voucher for tax records. This voucher is all the paperwork required.

## **Tax Exemptions**

### **Utility Tax Exemption**

#### **What is the Utility Tax Exemption?**

The Public Utilities Act 220 ILCS 5/9-222.1, as amended, and the Telecommunications Excise Tax Act 35 ILCS 630/2(a)(5), as amended, allows a business enterprise certified by DCEO as making an investment in a zone that either creates a minimum of 200 full-time equivalent jobs in Illinois or retains a minimum of 1,000 full-time jobs in Illinois, a 5 percent state tax exemption on gas, electricity and the Illinois Commerce Commission .1 percent administrative charge and excise taxes on the act or privilege of originating or receiving telecommunications. Local units of government may also exempt their taxes on gas, electricity and water.

#### **How does a business become eligible for the Utility Tax Exemption?**

To be eligible for this incentive, DCEO must certify that the business makes an investment of at least \$5 million in an enterprise zone and has created a minimum of 200 full-time equivalent jobs in Illinois or makes an investment of at least \$20 million in an enterprise zone and has retained a minimum of 1,000 full-time jobs in Illinois. A business must submit an application to DCEO documenting the eligible investment and that the job creation or job retention criteria has been met.

#### **What is an eligible investment?**

For purposes of this incentive, eligible investment may be either: 1) investments in qualified property as defined in the Enterprise Zone Investment Tax Credit (described on Page 1 of this publication); or, 2) non-capital and non-routine investments and associated service costs made for the basic construction, renovation or improvement of qualified property including productive capacity, efficiency, product quality or competitive position. Regular maintenance and routine expenditures are not included.

### **Open Market Natural Gas Tax Exemption**

Companies who are located within the boundaries of the Montgomery County Enterprise Zone are entitled to an exemption on the state sales tax for “wheeled” or open market natural gas transactions. In order to receive the exemption, the Form RG-61 Gas Use Tax Exemption Certificate (Addendum B) must be completed and given to your delivering supplier. If any of the information you provide on Form RG-61 changes, you must complete a new Form RG-61. Even if no changes are required, a new Form RG-61 must be completed every five years to keep records current.

### **Manufacturing Machinery and Equipment (M, M & E Sales Tax Exemption)**

#### **What is the Enterprise Zone Manufacturing Machinery and Equipment (M, M & E) Sales Tax Exemption?**

The Revenue Act 35 ILCS 120/1d-1f, as amended, allows a business enterprise that is certified by DCEO, as making a \$5 million investment that either: creates a minimum of 200 full-time equivalent jobs in Illinois; or retains a minimum of 2,000 full-time jobs in Illinois; or which retains 90% of the existing jobs, a 6.25 percent state sales tax exemption on all tangible personal property which is used or consumed within an enterprise zone in the process of manufacturing or assembly of tangible personal property for wholesale or retail sale or lease. This exemption includes repair and replacement parts for machinery and equipment used primarily in the process of manufacturing or assembling tangible personal property for wholesale or retail sale or lease, and equipment, manufacturing fuels, material and supplies for the maintenance, repair or operation of manufacturing, or assembling machinery or equipment.

### **How does a business become eligible for the M, M & E Sales Tax Exemption?**

To be eligible for this incentive, DCEO must certify that the business has made an investment of at least \$5 million in an enterprise zone and has created a minimum of 200 full-time equivalent jobs in Illinois, or has made an investment of at least \$40 million in an enterprise zone and has retained a minimum of 2,000 full-time jobs in Illinois or has made an investment of \$40 million in an enterprise zone and retained 90 percent of the jobs in place on date of certification. A business must submit an application to DCEO documenting the eligible investment and that the job creation or job retention criteria will be met.

### **What is an eligible investment?**

For the purposes of this incentive, eligible investment may be either: 1) investments in qualified property as defined in the Enterprise Zone Investment Tax Credit (described on Page 1 of this publication); or, 2) non-capital and non-routine investments and associated service costs made for the basic construction, renovation or improvement of qualified property including productive capacity, efficiency, product quality or competitive position. Regular maintenance and routine expenditures are not included.

### **Are eligible sales limited to the units of government sponsoring the zone?**

No. Items eligible for the 6.25 percent state sales tax exemption may be purchased anywhere in Illinois.

### **What tangible personal property is eligible for the M, M & E sales tax exemption?**

To be eligible for this exemption the tangible personal property must be directly used or consumed in the process of manufacturing or assembling tangible personal property for wholesale or retail sale or lease. Examples of this include: repair and replacement parts; hand tools; materials and supplies such as abrasive, acids or lubricants; protective clothing and safety equipment; and, any fuel used for machinery and equipment.

**Note:** The above examples are only exempt to the extent they are used with machinery and equipment that qualifies for the statewide Manufacturing Machinery and Equipment Sales Tax Exemption.

### **Pollution Control Facilities Exemption**

For eligible businesses, a sales tax exemption is available on tangible person property (e.g., machinery, equipment, supplies, etc.) used or consumed within the Montgomery County Enterprise Zone in the operation of pollution control facilities. The Illinois Department of Commerce and Economic Opportunity must certify the business as “eligible” to qualify, which means a business must make an investment in the Montgomery County Enterprise Zone that creates a minimum of 200 full time jobs or retains a minimum of 2,000 full time jobs.

### **Income Tax Deductions**

#### **Corporate Contribution Deduction**

The Illinois Income Tax Act 35 ILCS 5/203 provides that corporations may make donations to designated zone organizations for projects approved by the Illinois Department of Commerce and Economic Opportunity and claim an income tax deduction at double the value of the contribution, to the extent that the contribution qualifies as a charitable contribution under Section 170, Subsection (c) of the Internal Revenue Code; and the Department approves the amount and type of contribution which may be claimed as a deduction.

**What is a designated zone organization?**

Only an organization that meets the eligibility criteria set forth in the Enterprise Zone Act, including approval from the local government and the Illinois Department of Commerce and Economic Opportunity, is a designated zone organization. For a list of these groups, contact local zone administrators or call the Department of Commerce and Economic Opportunity at 217.785.6142.

**Who is an eligible taxpayer?**

Only corporations may deduct twice the amount of cash or in-kind contribution made to a designated zone organization project.

**What is an approved contribution?**

In order to deduct twice the amount of a contribution, the contribution must be approved by the Illinois Department of Commerce and Economic Opportunity and must be made to an approved designated zone organization.

**Dividend Income Deduction**

The Illinois Income Tax Act 35 ILCS 5/203 provides that taxpayers may deduct from their taxable income an amount equal to those dividends which were paid to them by a corporation which conducts substantially all of its operations in an enterprise zone or zones.

**Can dividends from companies like Ameren be deducted?**

No. The firm must conduct substantially all of its operations within a zone or zones, and firms with locations throughout the state (such as Commonwealth Edison, Verizon, AT&T, Sears, Occidental Petroleum, etc.) do not fit this definition.

**Who is an eligible taxpayer?**

Individuals, corporations, partnerships, trusts and estates are eligible to take the dividend deduction on their Illinois income tax returns.

**Which dividends may be subtracted?**

Only dividends paid on or after the date of the zone certification and before the last day of your taxable year may be deducted.

**Is there a list of companies doing substantially all of their business in enterprise zones?**

No. Corporations must be contacted directly to verify their eligibility.

**Income Tax Deduction for Financial Institutions**

The Illinois Income Tax Act 35 ILCS 5/203 provides that financial institutions in Illinois, such as banks and savings and loans, are eligible for a special deduction from their Illinois corporate income tax return. Such institutions may deduct from their taxable income an amount equal to the interest received from a loan for development in an enterprise zone. This is limited to the interest earned on loans or portions of loans secured by property which is eligible for the enterprise zone investment tax credit, described elsewhere in this publication. Please refer to the section on the investment tax credit for a definition of eligible property.

### **State Regulatory Relief**

The Illinois Department of Commerce and Economic Opportunity reviews and identifies State agency rules and regulations affecting the conduct of business in Enterprise Zones. Enterprise Zone participants are exempt from any State regulations which impose excessive cost on the creation, expansion or conduct of business.

### **Business Financing**

#### **Tax Exempt Bonds**

The Illinois Development Finance Authority has reserved \$100 million in tax exempt bonds for use exclusively in Enterprise Zones. Preference is given to projects creating new permanent employment for Enterprise Zone residents and/or persons eligible for services under the Federal Workforce Investment Act.

Eligible expenses include land and building acquisition; site preparation; purchase of machinery and equipment; building renovation, restoration or remodeling; new construction; and preliminary expenses.

#### **Enterprise Zone Loan Program**

The Illinois Department of Commerce and Economic Opportunity (DCEO), in cooperation with financial institutions, offers below market rate loans for businesses located in Illinois Enterprise Zones.

- Participating financial institutions must enter into a Participation Agreement with DCEO.
- DCEO may participate in an eligible loan for \$10,000 to \$750,000. DCEO's participation will not exceed 25% of the total project (NOT total borrowed).
- DCEO's rate is two percent below prime rate but not less than 3%.
- DCEO's term will match the term of the participating bank but may not be amortized longer than 10 years unless there is a balloon payment provision.