



Credits & Incentives talk with Deloitte

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September 2017

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When a business is looking to open a facility in the Midwest, there are many factors to consider. Is a skilled workforce available? Does adequate access exist to highways, airports, railroads or ports? What is the proximity to community colleges and universities for recruiting purposes? Does location of a business and employment in specific geographic areas offer enhanced benefits from a credit and incentive perspective? In this C&I context, such areas are commonly referred to as enterprise zones (EZs), locations where states seek to attract businesses to specific, economically depressed areas in their respective states to improve the local economy. These distressed areas are often designated as "zones" and state EZ programs

typically offer tax credits and operating cost deductions to incentivize businesses to invest in those specific geographic areas.

EZs are a relatively new economic development tool in the tax incentive landscape. Connecticut approved one of the first EZ programs in 1981, and a handful of states followed shortly thereafter, including Illinois and Indiana.¹ This article will provide an overview of the respective EZ programs in Illinois, Indiana and Wisconsin, as well as highlight some of the more notable differences.

Enterprise zone locations and designation

The manner in which Illinois, Indiana and Wisconsin aim to attract new business and retain existing businesses within their EZ programs varies considerably. The first step in a comparative analysis of the states' EZ programs is to understand how each state designates an EZ.

The Illinois EZ Program is administered at the state level by the Illinois Department of Commerce and Economic Opportunity (DCEO).² In Illinois, an EZ can be located in either rural or urban locations. As of June 2017, there are 96 EZs in Illinois.³ As older EZs expire, new designations become available as part of a competitive application process. The applicant must be a municipality or county, or a combination thereof. The DCEO reviews and scores the applications pursuant to 10 factors, at least three of which the applicant must meet. Some of the factors include degree of unemployment, poverty, vacant structures and whether large-scale businesses have closed in recent years.⁴ The applications are submitted to a five member Enterprise Zone Board, which determines which local jurisdictions are awarded new EZ designations.⁵

The Illinois Enterprise Zone statute provides certain designating factors to benefit specific geographic locations. For example, the relocation of a significant plant or business, or the existence of an abandoned coal mine, are relevant factors in qualifying for the Illinois EZ designation.⁶ While these specific types of factors may serve to incentivize business location in more rural areas of Illinois, the DCEO focuses more broadly on the geographic regions of the state where there may have been large job losses.

Indiana's EZ program specifically targets urban communities and former military bases. Applications for zone designation are received and approved by the Indiana Economic Development Corporation (IEDC) Board, which administers the Indiana Enterprise Zone Program.⁷ Similar to Illinois, the applicant must meet minimum criteria to be eligible. Indiana's criteria includes: poverty levels, population size, proposed zone size, suitability for development, and the municipality's willingness to provide incentives.⁸ Once approved, each zone remains in effect for 10 years with the option for two, five-year renewal periods.⁹

Should an applicant meet these threshold factors, then the IEDC Board applies additional criteria to ultimately determine zone designation. In this context, efforts to promote economic development in the proposed area—including streamlining regulation, crime prevention programs, and a plan for infrastructure improvement—are significant additional factors the IEDC Board considers when making a final zone application decision.¹⁰

Based on the designation requirements, the municipalities are partners with the state of Indiana and must do more than administer a state program. For example, the municipality must be willing to offer local incentives in addition to the state incentives and make efforts to promote economic development with policies that would attract business into the area. According to the IEDC website, as of May 11, 2017, Indiana has 22 active urban EZs¹¹ (listed in the accompanying Exhibit 1).

The Wisconsin Economic Development Corporation (WEDC), a joint public-private enterprise created to promote economic development within Wisconsin, is statutorily responsible for administering the state's EZ program.¹² Unlike Illinois and Indiana, Wisconsin's EZ program is an application-based designation awarded to a specific economic development project.¹³ The WEDC relies on many factors when deciding whether to award an EZ designation, including, but not limited to: whether the project might not occur without EZ incentives, increased employment, contribution to the state's economic growth, and how the project increases geographic diversity of available tax credits throughout the state.¹⁴

The WEDC has the authority to designate 30 EZs, all of which may exist for up to 12 years.¹⁵ As of June 30, 2016, there were 11 zones still available to be designated by the WEDC.¹⁶ There is a geographic component to Wisconsin's EZ program mandated by statute. Specifically, a minimum of three EZs must be designated in areas where the population is under 5,000, and another two EZs where the population is between 5,000 and 30,000.¹⁷ Otherwise, an EZ can be designated anywhere in Wisconsin.

The expected outcome for Wisconsin's EZ program for its 2017 fiscal year is to designate three EZs that result in the creation of 1,500 jobs along with the retention of 1,000 more.¹⁸ Pursuant to Wisconsin's 2016 fiscal year "Annual Report on Economic Development," WEDC had the same goals for 2016, and reported two designations with a total award amount of \$23,500,000.¹⁹ These awards assisted in the creation of 1,144 new jobs along with the retention of 820 jobs.²⁰

Although there are some similarities in the three states' EZ programs regarding designation, each state has some unique differences in process, procedure, and ultimately the geographic location of a designated zone.

What are the benefits?

Vying for competitive economic development projects has forced states to offer a wide range of incentives in order to attract new business. A state's EZ program can offer lucrative benefits for companies that are eligible for these incentives. An important distinction between the Illinois, Indiana and Wisconsin EZ programs is the nature of the benefits that are potentially available to businesses.

The Illinois EZ program was established on December 7, 1982.²¹ Since inception, its stated purpose has remained unchanged: to stimulate economic growth through capital investment, job creation, and job retention to directly aid local communities.²²

The following benefits are available to businesses located within the boundaries of an Illinois EZ:

- a sales tax exemption on building materials used in an EZ,
- an investment tax credit on qualified property,
- an expanded state sales tax exemption on purchases used or consumed in the manufacturing process or in a pollution control facility,
- an exemption on the state utility tax for electricity and natural gas, the Illinois Commerce Commission's administrative charge and telecommunication excise tax,
- a dividend income deduction, and
- an interest income deduction for financial institutions.²³

Although eligible businesses are entitled to some of the aforementioned benefits for simply being located in the zone, there are other incentives that require separate applications with minimum requirements in order to receive the benefit. Specifically, in order to be approved for the expanded state sales tax exemption, a company must make a minimum investment of \$5 million and create 200 new full-time jobs; or make an investment of \$40 million and retain a minimum of 2,000 full-time jobs; or make an investment of \$40 million that causes the retention of at least 90% of the current workforce.²⁴ Similarly, the utility tax exemption requires approval and is contingent on the business making a minimum investment of \$5 million and creating 200 new full-time jobs, or an investment of \$20 million which causes the retention of a minimum of 1,000 full-time jobs.²⁵

Indiana's EZ program is unique in that it takes a broad approach whereby the incentives are not targeted simply to the businesses making capital investments and creating jobs in the EZ. The program offers specific incentives to employees, employers, financial lenders and investors to help stimulate economic activity in the respective zones. Indiana has five tax benefits available to businesses located within an EZ

which include an employee income tax deduction, an employment expense credit, a loan interest credit, an investment cost credit and a property tax investment credit.²⁶

In order for an employee to take advantage of the tax credit, he or she must perform at least 90% of his or her services "directly related to the conduct of the taxpayer's business that is located" in the EZ.²⁷ The employee must also perform at least 50% of his or her service during the taxable year in the EZ.²⁸ In turn, the employee receives a deduction from adjusted gross income (AGI) equal to the lesser of 50% of his or her AGI for the taxable year, or \$7,500.²⁹

The Wisconsin EZ program specifically targets large-scale economic development projects that result in hundreds of jobs both newly created and/or retained along with significant capital investments. In order to achieve this result, the EZ program provides companies with refundable tax credits.³⁰ The components of the benefits include a job creation credit, a job retention credit, training credits, a capital investment credit and a supply chain credit.³¹

Location decision

A business looking to locate an office or manufacturing facility in the Midwest should consider the benefits that the EZ programs in Illinois, Indiana, and Wisconsin potentially may offer. Businesses should also be mindful of the eligibility factors required for obtaining certain benefits so that the incentives can be fully monetized, as well as noting the sunset date of the specific zones in order to qualify for the total value.

The variation of incentives offered to businesses by these different EZ programs should be closely compared as well. For example, should a company not have taxable income there could be a refundable tax credit or a sales and use tax benefit that can offset certain costs of a project. It is only by considering all of these factors that a business can evaluate whether the potential tax incentives available support operating in an EZ.

Exhibit 1. Indiana Urban Enterprise Zones

Bedford	Bloomington
Connersville	East Chicago
Elkhart	Evansville
Fort Harrison	Fort Wayne
Frankfort	Hammond
Jeffersonville	Lafayette
LaPorte	Michigan City
Mitchell	New Albany
Portage	Richmond
River Ridge Development Authority	Salem
South Bend	Vincennes

¹ <http://www.ct.gov/ecd/cwp/view.asp?a=1097&q=249762>.

² 20 Ill. Comp. Stat. 655/6(A).

³ 20 Ill. Comp. Stat. 655/5.3(d).

⁴ 20 Ill. Comp. Stat. 655/4(f)(1)-(10); Ill. Admin. Code tit. 14, § 520.210(d)(1)-(10).

⁵ 20 Ill. Comp. Stat. 655/5.2.1.

⁶ 20 Ill. Comp. Stat. 655/4(f)(4)-(5).

⁷ Ind. Code § 5-28-15-5(a).

⁸ Ind. Code § 5-28-15-9(C)(1)-(6).

⁹ Ind. Code § 5-28-15-10.

¹⁰ Ind. Code § 5-28-15-9(d)(3)(A)-(C).

¹¹ <http://www.in.gov/dor/3622.htm>.

¹² Wis. Stat. § 238.399(3)(a).

¹³ Wis. Stat. § 238.399(5).

¹⁴ <http://inwisconsin.com/grow/assistance/enterprisecredit/>.

¹⁵ Wis. Stat. § 238.399(3)(a).

¹⁶ <http://inwisconsin.com/inside-wedc/transparency/programs/enterprise-zone/>.

¹⁷ Wis. Stat. § 238.399(3)(d).

¹⁸ <http://inwisconsin.com/inside-wedc/transparency/programs/enterprise-zone/>.

¹⁹ http://inwisconsin.com/wp-content/uploads/2017/01/WEDC_ARED-FY2016.pdf.

²⁰ *Id.*

²¹ <https://www.illinois.gov/dceo/ExpandRelocate/Incentives/taxassistance/Documents/ezqa%202014.pdf>.

²² 20 Ill. Comp. Stat. 655/2.

²³ Ill. Admin. Code tit. 14, § 520.700.

²⁴ Ill. Admin. Code tit. 14, § 520.1010.

²⁵ Ill. Admin. Code tit. 14, § 520.910.

²⁶ State of Indiana Department of Revenue, Information Bulletin #66.

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

³⁰ <http://inwisconsin.com/grow/assistance/enterprisecredit/>.

³¹ *Id.*