



MULTISTATE TAX

## Texas creates school district property tax incentive program

### Tax Alert

## Overview

On June 9, 2023, Texas [House Bill 5](#) (“H.B. 5”) was signed into law. The legislation—entitled the Texas Jobs, Energy, Technology, and Innovation Act—introduced an incentive program for certain large-scale economic development projects in qualified industries. Applicants who propose the construction of an eligible project in a school district (“incentive program”) can apply for a 10-year abatement of property taxes in that school district, which generally reduces the taxable value of property to 50% of market value for that tax year. If the property is located in a qualified opportunity zone, the taxable value is further reduced to 25% of the market value of the property for the tax year. Under the incentive program, the taxable value is completely waived (reduced to zero) during the construction period.

This Tax Alert summarizes some of the provisions of H.B. 5.

## The school district property tax incentive program

To participate in the incentive program, a person proposing the construction of an eligible project in that school district must submit an application to the Texas Comptroller of Public Accounts (“Comptroller”), who will determine whether the application should be recommended for approval. If approval is recommended, the application is subject to the final approval of the governor and the school district’s governing body.

If approved, the applicant will enter into an agreement with the governor and the governing body of the school district to reduce the taxable value of the eligible property for purposes of the school district’s property taxes.

### Eligible projects

An eligible project means the following:

- Newly built or expanded: (1) manufacturing facilities; (2) facilities providing utility services (e.g., electricity); (3) facilities for natural resource development; (4) and facilities engaged in the research,

development, or manufacture of high-tech equipment or technology;  
and

- Constructed or expanded critical infrastructure

### **Ineligible projects**

The following newly constructed or expanded projects are deemed ineligible for the incentive program:

- Non-dispatchable electric generation facilities
- Electric energy storage facilities

### **Job creation and investment requirements**

- Generally, eligibility for an agreement under the incentive program is contingent on the following: (1) creating and maintaining a certain number of full-time jobs in Texas and (2) investing a certain amount of capital in the eligible project.
- The minimum threshold for job creation/maintenance and investment amounts are based on the population of the county in which the project is located. The newly created/maintained job thresholds range from 10 to 75 full-time jobs, and the capital investment thresholds range from \$20 million to \$200 million.

### **Additional information**

- Under the incentive program, the taxable value of eligible property is reduced to zero during the construction period—which is defined as each tax year beginning with the tax year following the year in which the agreement relating to the property is entered into and ending December 31 of the tax year that includes the construction completion date for the eligible project.
- For the Comptroller to recommend approval of an application for participation in the incentive program, the Comptroller must find that “the agreement is a compelling factor in a competitive site selection determination and that, in the absence of the agreement, the applicant would not make the proposed investment in the state.”
- In addition to the application that includes detailed information about the proposed project, applicants must also submit application fees, including a fee payable to the school district of up to \$30,000.
- As a part of the agreement, applicants must execute a performance bond to protect the interests of the state and school district in an amount determined by the Comptroller. Applicants must also report certain information to the Comptroller on a biennial basis.
- The program is set to expire December 31, 2033.

### **Get in touch**

[Steven Carter](#)

[Carol Henderson](#)

[Brandon Budde](#)

[Brian Henderson](#)



[Deloitte.com](#) | [Unsubscribe](#) | [Manage email preferences](#) | [Legal](#) | [Privacy](#)

30 Rockefeller Plaza  
New York, NY 10112-0015  
United States

As used in this document, "Deloitte" means Deloitte Tax LLP, a subsidiary of Deloitte LLP. Please see [www.deloitte.com/us/about](http://www.deloitte.com/us/about) for a detailed description of our legal structure. Certain services may not be available to attest clients under the rules and regulations of public accounting.

This alert contains general information only and Deloitte is not, by means of this alert, rendering accounting, business, financial, investment, legal, tax, or other professional advice or services. This alert is not a substitute for such professional advice or services, nor should it be used as a basis for any decision or action that may affect your business. Before making any decision or taking any action that may affect your business, you should consult a qualified professional advisor. Deloitte shall not be responsible for any loss sustained by any person who relies on this alert. The services described herein are illustrative in nature and are intended to demonstrate our experience and capabilities in these areas; however, due to independence restrictions that may apply to audit clients (including affiliates) of Deloitte & Touche LLP, we may be unable to provide certain services based on individual facts and circumstances.

Copyright © 2023 Deloitte Development LLC. All rights reserved.