OHIO ENTERPRISE ZONE PROGRAM

Enterprise Zones are designated areas of land in which businesses can receive tax incentives in the form of tax exemptions on eligible new investments. Enterprise Zones are not part of the traditional zoning program -- which limits the use of land -- instead they allow local officials to negotiate with businesses to encourage new business investment in the zone.

Enterprise Zones serve as an additional economic development tool for communities attempting to retain and expand their economic base. Because of the far-reaching affects of tax incentives, the Enterprise Zone should be used as a tool of the last resort. A community should attempt to satisfy the business's needs through other assistance programs prior to considering tax incentives. In all cases, Enterprise Zone Agreements should be negotiated cautiously.

COMMUNITY BENEFITS

- A community can assist local companies to become more competitive by offering an incentive to expand or modernize.
- A community can become more competitive in attracting new industry.
- A community can target the type of business it wants to attract.
- Attracting new business investment can increase local tax revenues and employment opportunities.
- Existing property remains fully taxable (note - large manufacturing facilities and brownfield exception).

BUSINESS BENEFIT

- Tax incentives help offset the high costs of business start-up activities.
- Enterprise Zone incentives help provide a competitive advantage for Ohio sites.
- Businesses can reinvest in their facilities and equipment, helping them grow and remain competitive in the long term.
- Additional corporate franchise tax benefits may be available for specific projects if certain conditions are met.
- Tax incentives provide a basis for a long-term relationship between the community and business.

CREATION OF A ZONE

Local communities must identify the Enterprise Zone's geographic area. This designated boundary should include areas appropriate for business development as well as areas evidencing the required distress characteristics. The defined area must meet minimum population requirements and have a single continuous boundary. Enterprise Zones proposed within counties with a population greater than 300,000 must have a minimum population of 4,000. Enterprise Zones proposed within counties with a population less than 300,000 must have a minimum population of 1,000. Once the zone is defined, the local legislative authorities participating in the creation of the zone must submit a petition to the Ohio Development Services Agency (ODSA) along with the local legislation, a map of the zone, a written description of the boundary and if necessary, the required information documenting distress.

In Ohio, the two types of Enterprise Zones are:

Distress Based (Full Authority Zones)
A distress-based (full authority) zone may be created if the local authority petitioning ODSA for certification documents that specific distress levels exist within the designated zone. MSA Principal Cities and Appalachian Counties must meet only one of the specified six distress criteria outlined in the law, while all other locations are required to document two of the distress criteria. The six distress criteria qualifying a distress-based zone are:

1. 125% of the state average unemployment during the most recent 12 months;
2. At least 10% population loss between 1980 and 2000;
3. Prevalence (minimum of 5%) of vacant or demolished commercial or industrial facilities;
4. 51% of the population is below 80% of the area's median income;
5. Specific vacant industrial facilities (zone applies to only those facilities); and
6. Income weighted tax capacity of the school district is below 70% of the state average.

Non-Distress Based (Limited Authority Zones)
Any Ohio community may establish a non-distress-based zone. These zones are not required to document distress. Under this limited zone authority, communities may not consider projects (enter into agreements) involving **intrastate** relocations unless a waiver is obtained from the Director of ODSA. (Please notes, that as of July 22, 1994 all zones certified prior to July 1, 1994 are now considered limited authority zones unless the zone is recertified as distress-based).

ELIGIBLE BUSINESSES

Only those businesses that are qualified by financial responsibility and business experience to create and preserve jobs within the zone may apply for the local tax incentives. Local officials may limit the type of businesses and projects, which are eligible through policy guidelines. A business must make a substantial investment in either real or personal property.

Establishing a new business is defined as making a significant investment in land, buildings, machinery, or equipment. Expansion projects must make investments that equal at least 10% of the value of the existing facility. In addition, the law permits incentives for a business to renovate an existing facility if the renovations exceed 50% of the facility's value. A business willing to occupy a vacant facility and invest at least 20% of the facility's value to alter or repair the facility is considered eligible for tax incentives. Please note that retail operations are not eligible for tax exemptions except in those urban areas, which have been designated as impacted cities.

TAX INCENTIVES

Once a community receives an Enterprise Zone Certification, state law provides local officials with the ability to negotiate a tax incentive agreement with a prospective company. The Enterprise Zone

Agreement is a contract between the community and the company. Care in developing the agreement will benefit both parties. This contract must be executed prior to any portion of the project beginning. The community and business must be in agreement on all Enterprise Zone details before continuing the project. Note that Ohio law requires specific references and commitments to be made within the agreement.

Only the minimum tax incentive necessary to bring about an investment should be considered. The amount and term of the tax exemption are negotiated between local officials and the company. Legislation must then be passed by the appropriate local legislative authorities to provide final approval of the agreement. A copy of the Enterprise Zone Agreement and appropriate legislation must be forwarded to ODSA and the Department of Taxation within fifteen days of final approval. Note that MSAs and urban clusters in a rural statistical area may act without county approvals if their certification is issued under Ohio Revised Code (ORC) Sections 5709.62 or 5709.632(A)(1).

The Enterprise Zone law permits municipalities to offer the following incentives:

> Exemption of real and/or personal property assessed values of up to 75% for up to 10 years or an average of 60% over the term of the agreement on new investments in buildings, machinery/equipment and inventory and improvements to existing land and buildings for a specific project.

The Enterprise Zone law permits unincorporated areas to offer the following incentives:

> Exemption of real and/or personal property assessed values of up to 60% for up to 10 years or an average of 50% over the term of the agreement on new investments in buildings, machinery/equipment and inventory and improvements to existing land and buildings for a specific project.

Maximum exemption levels may be exceeded with approval by the affected board of education. These approved thresholds may be up to 100 % exemption for up to 15 years.

Each Enterprise Zone Agreement submitted must include a $750 application fee payable to the Ohio Department of Development. In addition, each project is subject to an annual monitoring fee of 1% of the benefit received - a minimum of $500 and maximum of $2,500 payable to the local legislative authorities. The local legislative authorities may waive the annual monitoring fee.

A business in compliance with an existing Enterprise Zone Agreement, which resulted in positive job creation, may be eligible for additional State tax incentives under the Enterprise Zone Program.

NOTIFICATION REQUIREMENTS

<u>Board of Education</u>

Local legislative authorities entering into Enterprise Zone Agreements with eligible companies are required to notify all local boards of education having jurisdiction over the project site at least fourteen days prior to taking any formal action on the request for tax exemption incentives. If the exemption requested exceeds the maximum allowable levels, the board(s) of education must be notified a minimum of forty-five business days prior to the community and/or county taking formal action on the tax exemption request. The board(s) of education is then required to respond back to the local authority no later than fourteen days prior to the scheduled local review approving, conditioning or rejecting the proposal. Upon formal approval of the project by the board of education, the local jurisdiction may immediately proceed with the local review meetings. In addition, the board of education may by resolution expressly waive all or part of the notice period, either in general or on a case-by-case basis.

Relocation

If a community is considering an **intrastate** relocation project, it is necessary to notify both the community from which the business intends to depart and the Director of ODSA. This notification must be provided thirty days prior to any formal action being taken at the local level. This notification must be formal (personal service or certified mail). Depending on the nature of the enterprise zone where the business is relocating to, a relocation wavier from the Director of ODSA may be necessary for the community to enter into an enterprise zone agreement with the business.

A business entering into an Enterprise Zone Agreement will be restricted from receiving new Enterprise Zone benefits at a new site for a project that relocates all or a portion of the assets or employment for a minimum of five years after the term of the first agreement has expired. An ODSA waiver of this provision may be issued under special conditions.

TAX SHARING PROVISION

Local municipalities imposing a municipal income tax are required to enter into an income tax sharing agreement with the affected board of education on projects creating a minimum new annual payroll of $1,000,000. The community and board of education are encouraged to establish a procedure to document the tax sharing arrangements. If no agreement can be negotiated within six months of finalizing the Enterprise Zone Agreement, the new income tax is shared fifty-fifty. Tax sharing as stated in the agreement or required by the ORC will occur in each year the new payroll exceeds $1,000,000 and the Enterprise Zone Agreement remains in effect.

For more information please review the Ohio Revised Code Section 5709.61-.69 or contact the ODSA Office of Strategic Business Investments, Tax Incentive Section (614) 466-2317.