TAX ABATEMENT AUTHORITY

Minnesota Municipal Clerks Institute
Year 3 Program
May 6, 2024

RC 24-234, Muni 24-146, PE 24-04
Today’s Session

- Scheduled for 1:00 pm to 3:15 pm
Session Overview

- Overview of Tax Abatement authority and how it works
- Use of case studies to help explain
- You will learn about Tax Abatement:
  - How it may be used
  - How to calculate
  - Key limitations and process for approving
Focus on Key Questions for Tax Abatement

- Can you use Tax Abatement?
- What is the funding capacity?
- What can you use it for?
- How can project costs be funded?
- What is the process for using?
- How do you administer?
Session Handouts

- Handout 1: Tax Abatement Profile
- Handout 2: Enabling Statutes, Minnesota Statutes, Sections 469.1812 through 469.1815
- Handout 3: Session PowerPoint Slides
Session Presenters

- Peter Meidal, Northland Public Finance
  - Vice President, Public Finance
What is “Tax Abatement”? 

- Authorized by Minnesota Statutes, Sections 469.1812 to 469.1815
- A copy of current statute included in handouts
- Initially adopted in 1997
What is “Tax Abatement”?

- Not really “abatement”
- No authority to abate taxes
- All taxes paid by property owners
- Raise money through an “abatement levy”
- For development projects, tax abatement may be used for purposes similar to TIF
Basic Facts for Example Case Studies

Example City

- **Current Property Tax Rates**
  - City: 70.0%
  - County: 30.0%
  - School District: 15.0%

- **Current Tax Capacity Amounts**
  - Tax Capacity: $100,000,000
  - TIF Tax Capacity: $5,000,000
  - Net Tax Capacity: $95,000,000
Case Study 2 – Clinic Expansion
Case Study 1 – New City Park

- Basic Facts for Case Study 1
  - City plans to acquire property for a new park and construct improvements within the park
  - City plans to issue bonds to finance land acquisition and park improvements
Basic Facts for Case Study 2

- Private clinic plans to expand its existing clinic within the City
  - Estimated Taxable Market Value of Expansion is $4,000,000
  - Taxable Market Value of existing property (tax parcel) is $10,000,000
Question 1 – Can You Use Tax Abatement

- Depends on political subdivision
- Power given to:
  - Cities (statutory or home rule charter)
  - Towns
  - School districts
  - Counties
- Power not given to EDAs or HRAs
Can you make the findings?

- Far less detailed statutory findings than TIF
- Statutory authority has two requirements:
  - Expect benefits to equal or exceed costs
  - Is it in public interest
Benefits and Costs

- No specific statutory criteria
- Potential benefits
  - Jobs
  - Tax base
  - Attract other businesses
  - Good and services
- Should include statement in approving resolution
## Public Interest

### Eight Areas of Public Interest Listed in Statute

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Tax base</td>
<td>6. Infrastructure</td>
</tr>
<tr>
<td>2. Jobs</td>
<td>7. Phase in tax increase from significant investment</td>
</tr>
<tr>
<td>3. Public facilities</td>
<td>8. Stabilize tax base for utility property</td>
</tr>
<tr>
<td>4. Redevelopment</td>
<td></td>
</tr>
<tr>
<td>5. Access to services for residents</td>
<td></td>
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</tbody>
</table>
Public Interest

- No statutory criteria for these findings
- May use one or multiple criteria
- Should be stated in approving resolution
Question 1 – Can You Use Tax Abatement

- Is Tax Abatement needed?
  - No statutory requirement for “but for” test
  - Still prudent to determine need for assistance
  - Why is use of Tax Abatement needed to make development financially feasible?
Is proposed Tax Abatement within the statutory limit?

- Total amount of property taxes abated in any year may not exceed greater of:
  1. ten percent of the net tax capacity of the political subdivision for the taxes payable year to which the abatement applies, or
  2. $200,000, whichever is greater.
## Example of Statutory Limitation

**Net Tax Capacity**: 
95,000,000

**Multiplied by 10.00%**: 
10.0%

**Maximum Abatement for Calendar Year**: 
9,500,000

**Within Tax Abatement Limitation?**: YES

<table>
<thead>
<tr>
<th>Year</th>
<th>Tax Abatement for Proposed 2019A Bonds</th>
<th>Tax Abatement for Proposed Clinic Expansion</th>
<th>Total Tax Abatement Levy</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Term</td>
<td>Amount</td>
<td>Term</td>
</tr>
<tr>
<td>2019</td>
<td>1</td>
<td>200,000</td>
<td></td>
</tr>
<tr>
<td>2020</td>
<td>2</td>
<td>200,000</td>
<td>1</td>
</tr>
<tr>
<td>2021</td>
<td>3</td>
<td>200,000</td>
<td>2</td>
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<tr>
<td>2022</td>
<td>4</td>
<td>200,000</td>
<td>3</td>
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<td>2023</td>
<td>5</td>
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<td>4</td>
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</tr>
<tr>
<td>2026</td>
<td>8</td>
<td>200,000</td>
<td>7</td>
</tr>
<tr>
<td>2027</td>
<td>9</td>
<td>200,000</td>
<td>8</td>
</tr>
<tr>
<td>2028</td>
<td>10</td>
<td>200,000</td>
<td>9</td>
</tr>
</tbody>
</table>
Can you use Tax Abatement?
- Eligible political subdivision
- Project provides benefits
- Use is in public interest
- Development would not occur but for assistance through abatement
- Tax Abatement does not exceed statutory limit
Question 2 – What is Funding Capacity

- Tax Abatement based on value
  - Basic options:
    - Value from new development
    - Value of existing parcels
    - Some other basis
  - May use only development parcel or broader area
### Basis for Annual Tax Abatement

<table>
<thead>
<tr>
<th>Items</th>
<th>Amounts</th>
</tr>
</thead>
<tbody>
<tr>
<td>Estimated Taxable Market Value Included within Tax Abatement Project Area</td>
<td>$14,285,700</td>
</tr>
<tr>
<td>Tax Capacity of Property within Tax Abatement Project Area</td>
<td>$285,714</td>
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<tr>
<td>Tax Abatement Levy:</td>
<td></td>
</tr>
<tr>
<td>City</td>
<td>$200,000</td>
</tr>
<tr>
<td>County</td>
<td>$0</td>
</tr>
<tr>
<td>School District</td>
<td>$0</td>
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</table>
## Basis for Annual Tax Abatement

<table>
<thead>
<tr>
<th>Items</th>
<th>Amounts Based on Value of Expansion Only</th>
<th>Amounts Based on Total Value of Tax Parcel (Existing and Expansion)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Estimated Taxable Market Value Included within Tax Abatement Project Area</td>
<td>$4,000,000</td>
<td>$14,000,000</td>
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<tr>
<td>Tax Capacity of Property within Tax Abatement Project Area</td>
<td>$80,000</td>
<td>$280,000</td>
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<tr>
<td>Tax Abatement Levy:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>City</td>
<td>$56,000</td>
<td>$196,000</td>
</tr>
<tr>
<td>County</td>
<td>$24,000</td>
<td>$84,000</td>
</tr>
<tr>
<td>School District</td>
<td>$12,000</td>
<td>$42,000</td>
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</tbody>
</table>
Calculating Tax Abatement Levy

\[
\text{Annual Tax Abatement Levy} = \sum \text{Parcels Subject to Abatement} \times \text{Abated Tax Capacity Value of Parcels} \times \text{Jurisdiction’s Tax Rate}
\]
Funding Capacity

- Which political subdivisions will abate?
  - Independent authority
    - Base decision to abate
    - Terms of Tax Abatement
    - Use of revenue

- What is rationale for other jurisdictions to abate?
How many years of Tax Abatement?

- Basic maximum = 15 years
- May go to 20 years if:
  - Other political subdivision decline written request to grant Tax Abatement
  - Granted to “qualified business”
Question 2 - Recap

What is funding capacity?
- Value basis for Tax Abatement
- Will other subdivisions grant Tax Abatement?
- Years of Tax Abatement
Tax Abatement can finance broad range of activities

- Specific uses not clearly defined or limited in statute

- Typical uses
  - Public improvements
  - Land development
Public Improvements

- Street and roads
- Public utilities (water, sewer, storm)
- Parking facilities
- Parks
- Transit improvements
- Other public facilities
Land Development

- Acquisition
- Demolition and clearance
- Remediation
- Relocation
- Site improvements
Case Study 1 – New City Park

- Acquire land for park
- Construct parking lot
- Construct walking paths
Case Study 2 – Clinic Expansion

- Acquire land for expansion
- Construction parking lot
- Increased public utility capacity
- Construct street improvements for additional traffic
Limits for Bond Funded Projects

- Proceeds of Tax Abatement Bonds only used for:
  - Public improvements that benefit the property
  - Acquire and convey land or other property
  - Reimburse the property owner for the cost of improvements made to the property
  - Pay the costs of issuance of the bonds

- …more on Tax Abatement Bonds later
Why Use Tax Abatement

- Projects that do not meet criteria for other financing, including criteria for TIF:
  - Redevelopment lacking “substandard” buildings
  - Housing without specific income requirements
  - Economic development other than stated “industrial” uses in TIF Act
Why Use Tax Abatement

- Incentive to achieve public objectives, for example:
  - Incentive to induce private investment in property
  - Matching funds for storefront renovations
  - Incentive for energy improvements or alternative energy initiatives
  - Improvements difficult to assess
Question 3 - Recap

- How will Tax Abatement be used?
  - Public costs
  - Private costs
  - Implications of issuing Tax Abatement Bonds
Question 4 – How are Costs Funded

Funding options

- Similar to TIF
- Three basic options:
  - Pay-As-You-Go (reimbursement over time)
  - Issuance of Bonds
  - Inter-fund Loan
Pay-As-You-Go

- What costs will be reimbursed?
  - Specify activities and amounts
- Will interest be paid on outstanding costs?
Options for “Pay-As-You-Go”

- Incremental construction of park improvements
- $200,000 annually for 20 years for total of $4,000,000
## Case Study 2 – Clinic Expansion

### Options for “Pay-As-You-Go”

<table>
<thead>
<tr>
<th>Scenarios</th>
<th>City Only Tax Abatement</th>
<th>City, County, and School Tax Abatement</th>
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<tbody>
<tr>
<td></td>
<td>Annual</td>
<td>Term</td>
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<tr>
<td>Include Value of Expansion Only</td>
<td>$56,000</td>
<td>20</td>
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<tr>
<td>Inclue Value of Entire Parcel (Existing Building and Expansion)</td>
<td>$196,000</td>
<td>20</td>
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</table>

Note: Present Value (PV) calculated at rate of 4.0%.
Tax Abatement Bonds

- Authority to issue general obligation Tax Abatement Bonds
- Limits on use of proceeds
  - Described previously
- Not subject to debt limit
- No election required
Tax Abatement Bonds

- Maximum total principal payments on Tax Abatement Bonds cannot exceed sum of approved total Tax Abatements
  - Would require other revenues to pay interest
- May issue bonds on behalf of other taxing jurisdictions that have authorized a Tax Abatement
### Example of Schedule for Tax Abatement Bonds

<table>
<thead>
<tr>
<th>Year</th>
<th>Term</th>
<th>Principal</th>
<th>Interest</th>
<th>Total Debt Service Payment</th>
<th>105% of Debt Service</th>
<th>Tax Abatement Levy</th>
<th>Debt Service Levy</th>
<th>Total Levies</th>
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<td>1</td>
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<td>367,889</td>
<td>386,283</td>
<td>135,000</td>
<td>251,283</td>
<td>386,283</td>
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<td>2020</td>
<td>2</td>
<td>140,000</td>
<td>154,600</td>
<td>294,600</td>
<td>309,330</td>
<td>140,000</td>
<td>169,330</td>
<td>309,330</td>
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<td>2021</td>
<td>3</td>
<td>145,000</td>
<td>149,000</td>
<td>294,000</td>
<td>308,700</td>
<td>145,000</td>
<td>163,700</td>
<td>308,700</td>
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<td>4</td>
<td>150,000</td>
<td>143,200</td>
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<td>150,000</td>
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<td>5</td>
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<td>137,200</td>
<td>292,200</td>
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<td>155,000</td>
<td>151,810</td>
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<td>2024</td>
<td>6</td>
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<td>131,000</td>
<td>291,000</td>
<td>305,550</td>
<td>160,000</td>
<td>145,550</td>
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<td>2025</td>
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<td>8</td>
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<td>117,800</td>
<td>292,800</td>
<td>307,440</td>
<td>175,000</td>
<td>132,440</td>
<td>307,440</td>
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<td>110,800</td>
<td>295,800</td>
<td>310,590</td>
<td>185,000</td>
<td>125,590</td>
<td>310,590</td>
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<td>2028</td>
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<td>103,400</td>
<td>293,400</td>
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<td>190,000</td>
<td>118,070</td>
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<td>102,440</td>
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<td>13</td>
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<td>235,000</td>
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<td>297,600</td>
<td>312,480</td>
<td>245,000</td>
<td>67,480</td>
<td>312,480</td>
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<td>250,000</td>
<td>57,440</td>
<td>307,440</td>
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<td>265,000</td>
<td>47,690</td>
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<td>37,060</td>
<td>312,060</td>
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<td>280,000</td>
<td>25,760</td>
<td>305,760</td>
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<td>1,962,289</td>
<td>5,962,289</td>
<td>6,260,403</td>
<td>4,000,000</td>
<td>2,260,403</td>
<td>6,260,403</td>
</tr>
</tbody>
</table>
Other Types of Bonds

- May pledge Tax Abatement revenues to other bonds
- Use of proceeds must be consistent with statute and Tax Abatement resolution
Bonding Considerations

- Costs of issuance of bonds
- Need for capitalized interest
  - Time lag between borrowing and first revenue (from Tax Abatement levy)
- Bonds may or may not be tax-exempt, depends on purpose of financing
Interfund Loan

- Can use available reserves to provide up-front funding for projects
- Adopt resolution authorizing inter-fund loan and setting the terms
How will costs be funded?

- Pay-go reimbursement of developer project costs
- Pay-go funding of public improvements
- City issued bonds
- Internal funding

How does funding decision influence funding capacity?
Five basic steps:

- Determine need and funding capacity
- Determine participation of other subdivisions
- Determine if business subsidy applies
- Call for public hearing
- Approve Tax Abatement resolution

Each subdivision conducts its own process
Participation of Others

- Best to deal with early in process
- Is there a clear financial need?
- Do you have a specific request?
- How do other subdivisions benefit?
- Do the other subdivisions have Tax Abatement policies?
Benefits of New City Park to Other Taxing Jurisdictions?

- Amenity for residents outside of city
- Ability to attract and retain residents
  - Students for school system
- School district use of the park
- Ability to attract and retain other businesses
Benefits of Clinic Expansion to Other Taxing Jurisdictions?

- Jobs and tax base
- Services for residents outside of city
- Ability to attract and retain residents
  - Students for school system
- Ability to attract and retain other businesses
Uses of Tax Abatement may create a business subsidy

- See Minnesota Statutes, Sections 116J.993 to 116J.995

Requires public hearing and subsidy agreement

Coordinate with Tax Abatement process
Notice of Public Hearing

- Published in newspaper of general interest and readership
- One publication
- At least once more than ten days but less than 30 days before the hearing
Notice Contents

- Date/time/place of hearing
- Statement that Tax Abatement will be considered
- Identification of properties to be included in the Tax Abatement project area
- Total estimated (not to exceed) amount of Tax Abatement
Tax Abatement Resolution

- Resolution must be approved by resolution of governing body
- Resolution contains:
  - Statement of expected public benefits
  - Statement of findings
  - Terms of Tax Abatement
  - If applicable, maximum amount of bonds to be issued
Terms in Resolution

- Subject Parcels
- Calculation/limits on Tax Abatement
- Purpose/use of Tax Abatement
- Duration of Tax Abatement
- Relationship (if any) to other abating political subdivisions
- Maximum amount of Tax Abatement bonds to be issued
What is process for using Tax Abatement?

- Understand need and potential
- Determine participation of other subdivisions
- Determine business subsidy implications
- Conduct a public hearing
- Adopt Tax Abatement resolution
Question 6 – How to Administer

- Benefits of development assistance agreement
- Making the Tax Abatement levy
- Benefit of having a Tax Abatement Policy
Not required, but useful and recommended

- Defines roles and responsibilities of parties
- Provides compliance with business subsidies reporting (if applicable)
- Defines terms of use of Tax Abatement
Development Agreement

- Draft Development Agreement to be a useful administrative guide
  - Carefully review before adopting
- Expectation of actions by developer
- Practical description of calculation of Tax Abatement
- Defines structure for conveying Tax Abatement revenue to developer
Making the Tax Abatement Levy

- Tax Abatement revenue comes from certification and collection of a property tax levy
- Special levy under current State Law
- Timing same as all other levies
- Essential to coordinate with other participating subdivisions
Making the Tax Abatement Levy

- WILL know applicable estimated property value
  - Estimated property value as of January 2 in current year for taxes payable in following year
  - Final value certified after set levy
- Will NOT know actual tax rate
  - Actual tax rate calculated after set levy
  - Must use best guess
<table>
<thead>
<tr>
<th>Scenarios</th>
<th>A</th>
<th>B</th>
<th>C</th>
<th>D</th>
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<tbody>
<tr>
<td>No Tax Abatements</td>
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</tr>
<tr>
<td>General Fund Levy</td>
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<td>65,100,000</td>
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<tr>
<td>Debt Service Levies</td>
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<td>Tax Abatement Levies</td>
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<td>56,000</td>
<td>400,000</td>
<td>456,000</td>
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<tr>
<td>Total Levies Certified</td>
<td>66,100,000</td>
<td>66,156,000</td>
<td>66,500,000</td>
<td>66,556,000</td>
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<tr>
<td>With Tax Abatements for Clinic Expansion</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>General Fund Levy</td>
<td>65,100,000</td>
<td>65,100,000</td>
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<tr>
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<tr>
<td>Tax Abatement Levies</td>
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<td>400,000</td>
<td>456,000</td>
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<td>Total Levies Certified</td>
<td>66,156,000</td>
<td>66,500,000</td>
<td>66,556,000</td>
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<tr>
<td>With Tax Abatements for New City Park</td>
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</tr>
<tr>
<td>General Fund Levy</td>
<td>65,100,000</td>
<td>65,100,000</td>
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<tr>
<td>Debt Service Levies</td>
<td>1,000,000</td>
<td>1,000,000</td>
<td>1,000,000</td>
<td>1,000,000</td>
</tr>
<tr>
<td>Tax Abatement Levies</td>
<td>400,000</td>
<td>456,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total Levies Certified</td>
<td>66,500,000</td>
<td>66,556,000</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Note: The scenarios shown here do not account for fiscal disparities. Only certain taxing jurisdictions in MN are subject to fiscal disparities tax base sharing. Scenario A and Scenario C assume no clinic expansion and increased valuation (tax capacity).
Tax Abatement Policy

- Helpful to create and adopt policy guidelines
  - Define objectives/criteria for use in advance
  - Provide consistent framework for evaluating requests
  - Determine information and monies required from developer to apply to use
How do you administer a Tax Abatement?

- Use a development agreement
- Understand timing and calculation of annual levy
- Coordinate with other subdivisions
- Create meaningful policies on use of Tax Abatement
Closing Comments

- Tax Abatement is:
  - Powerful and flexible tool
  - Variety of basic and creative applications
  - Limited resource – use wisely
  - Think through ongoing administration at the outset
Thank You

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Year 3: Tax Abatement

May 6, 2024, 1:00 PM – 3:15 PM

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