Incentives Update

Arkansas Tax and Incentive

Current Legislation Update

A Cushman & Wakefield Business Incentives Practice Update

CUSHMAN & WAKEFIELD

EXECUTIVE SUMMARY

The Arkansas legislative session of 2017 included a bill that will sunset the InvestArk Sales/Use Tax Credit and instead offer an exemption for manufacturing partial repairs and replacement parts. While a welcome simplification of the Arkansas tax system, the loss of InvestArk will affect many Arkansas manufacturers. Eligible businesses should consider filing a final InvestArk application by June 30, 2017. Prior to the legislative sessions of 2017, Arkansas citizens voted for the Economic Development Issue 3. The passage of Issue 3 ensures that local governments can fund economic development projects, provide funds for economic development services (with chambers, EDCs, etc.), and enter into regional contracts with neighboring governmental bodies to fund projects. Furthermore, it removes the 5.0% budgetary cap on incenting large economic development projects, thereby allowing Arkansas to compete for more and larger projects.

A CLOSER LOOK

- The legislative session of 2017 included a bill that will sunset the InvestArk Sales/Use Tax Credit which will coincide with the eventual exemption of sales/use taxes on repair and replacement parts over a four-year period. With the sunset of InvestArk occurring on June 30, 2017, the exemption of sales/use tax on repair and replacement parts will follow this schedule:
  - July 1, 2018: 3.875%
  - July 1, 2019: 2.875%
  - July 1, 2020: 1.875%
  - July 1, 2021: 0.875%
  - July 1, 2022: 0% (fully exempted)
- Gives a common definition of Economic Development, Economic Development Infrastructure and Economic Development Services across all three areas addressed in Amendment #82, Article 12 Section 5, and Amendment #62. Having this common definition takes away the different uses of these amendments and allows for any of the three to be used, together or independently.
- Allows for cities and municipalities to "participate" in Economic Development Infrastructure and Economic Development Services. Article 12 Section 5 has prohibited this type of activity. Efforts to "work around" this issue have never been clearly defined and are constitutionally suspect. This change will clarify and allow efforts to be done by cities.
- Removes the 5% cap (to the state budget) on Super Project General Obligation Bonds issued under Amendment #82. This will basically remove the total cap of about $250+ Million on these projects and allow the legislature to determine whether the incentive should be offered based on the impact of a project. There is currently only about $30-$40 Million left available with the 5% limit (if projects in the pipeline come to fruition).
- Allows cities and municipalities to use the bonding capacity of Amendment #62 for Economic Development projects, as defined by amendment. In other words, with voter approval cities can sell bonds to offer infrastructure and incentives to companies.