N.J. Economic Opportunity Act of 2013

Garden State Growth Zones

P.L.2013, CHAPTER 161 @52:27D-489q

Meetings with EDA August 5, 2015 & September 11, 2015

**Questions**

1. What documentation is to be given to the municipal assessor by the Garden State Growth Zone applicant to prove it is a GSGZ Entity?

Certification of Formation with GSGZE in its title? Or with authorization to operate in a Growth Zone? Who issues the document? Need a sample copy.

“Garden State Growth Zone Development Entity” is defined in the Act as…”a private corporation incorporated pursuant to Title 14A of the NJ statutes, or established pursuant to Title 42 of the Revised Statutes, for which the profits of the entity are limited as follows. …determined by applying the allowable profit rate to the total project cost, and all capital costs, determined in accordance with generally accepted accounting principles, of any other entity whose revenue is included in the computation of excess profits, for the period commencing on the date on which the construction of the project is completed, and terminating at the close of the fiscal year of the entity preceding the date on which the computation is made…”

1. Does the Growth Zone eligibility status have to be confirmed annually? If yes, who does this and what documentation is needed?
2. Is there an appeal process if the entity loses its Growth Zone status or is initially denied such status? If status is lost, the municipal assessor must be notified. And the tax collector???
3. For appeal purposes will these entities be treated similarly to the Long Term Tax Exemption and be subject to N.J.S.A. 54:3-21 (b).[ Appeals to Superior Court in lieu of prerogative writ, correct]?

Subsection( b ) reads, “No taxpayer or taxing district shall be entitled to appeal either an assessment or an exemption or both that is based on a financial agreement subject to the provisions of the "Long Term Tax Exemption Law" under the appeals process set forth in subsection a. of this section.”

With respect to the Long Term Tax Exemption P.L. 2003, C.125 provides,” The validity of a financial agreement or any exemption granted pursuant thereto may be challenged only by filing an action in lieu of prerogative writ within 20 days from the publication of a notice of the adoption of an ordinance by the governing body granting the exemption and approving the financial agreement. Such notice shall be published in a newspaper of general circulation in the municipality and in a newspaper of general circulation in the county if different from the municipal newspaper.”

1. Exemption and PILOT Calculations. Calculations during a Revaluation Program.

b. “… [E]very Garden State Growth Zone Development Entity that owns real property within a Garden State Growth Zone and that undertakes the clearance, re-planning, development, or redevelopment of such property is hereby granted an exemption on improvements to such eligible property for any new construction, improvements, or substantial rehabilitation of structures on real property for a period of 20 years from receiving a final Certificate of Occupancy,… The exemption allowed by this subsection shall be dependent upon: (1) the owner of the real property making improvements to the real property after the enactment of P.L.2013, c.161 (C.52:27D-489p et al.); and (2) the Division of Codes and Standards, in consultation with the eligible municipality, issuing a final Certificate of Occupancy within 10 years of the date of enactment of P.L.2013, c.161 (C.52:27D-489p et al.).”

c. The exemption granted by subsection b. of this section shall be for a period of 20 years. For the first 10 years immediately subsequent to the issuance of a Certificate of Occupancy, the Garden State Growth Zone Development Entity shall be exempt from the payment of taxes on the improvements to the eligible property. Thereafter, the Garden State Growth Zone Development Entity shall pay to the municipality in lieu of full property tax payments an amount equal to a percentage of taxes otherwise due…”

A. Without revaluation – 1st 10 years taxed at assessed value pre-existing on existing improvements and land – new construction, improvements , substantial rehabilitation, etc. not taxed.

11th year – tax phase-in pilot takes place for next 10 years.

B.With a revaluation occurring within the 20 year period.

* 1. The law does not address what happens in the case of a municipal- wide revaluation; but if a revaluation occurs an adjustment to the land value must be made.
  2. Most likely a revaluation or full reassessment will raise assessed valuations. Budget divided by Total Assessed Valuations produces the tax rate. The tax rate would fall if budget requirements remain the same. Therefore, the taxes may be less than in any prior years 1 through 10.

11th year- valued as everyone else, new revalued numbers at appropriate percent of PILOT tax phase in.

1. What happens if a pre-existing structure is demolished? Is the Land Value and Value of the pre-existing improvements utilized or a “zero” value on the demolished improvements?

**Tenant Concerns**

1. How will “eligible person” be policed?

‘“Eligible person” means any individual purchasing or renting an eligible residential residence within a growth zone after enactment of P.L. 2013, Chapter 161. For the purpose[s] of this definition, an eligible person is limited to those who establish a permanent residency at the eligible residential residence, are subject to the “New Jersey Gross Income Tax Act” and are current with all State and local tax obligations.

* 1. Purchaser – will have deed so this transaction is known to assessor.
  2. Renter – how does the assessor know? Will a third party qualify the person as an eligible renter? Is this EDA? DCA? Property Owner?
  3. Assessors cannot guarantee a rented apartment is a tenant’s principal residence, cannot guarantee filing of federal and state taxes. Will an individual need a tax clearance? Usually this is done for businesses. This cannot be policed by assessors.

**Final Issues**

What value is used for a contaminated property ? Dirty soil value? Has all soil been cleared as not contaminated? EOZ zone? Brownfields?

Can Growth Zone Exemptions co-exist with other exemption programs? There are long-term abatement and/ or exemption programs in Growth Zones.] Does the exemption process they fall under continue?

Where a Growth Zone Project is built in stages, final COs would be issued at varying times and portions of a single project could have different starting dates for exemption. –EXAMPLE: A block and lot contains multiple buildings, a building gets a CO for that building, then the 20 year phase- in begins on it. Another building on that same block and lot is complete 2 years later and the 20 year phase- in also starts 2 years later.