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CREDITS & INCENTIVES TALK WITH DELOITTE

The Home Field Advantage of Credits and Incentives

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In the world of North American major league[1] sports franchises, every team seeks to maximize home field advantage to give it the best chance to win. Similarly, when competing to attract major league sports franchises, states and cities utilize their own home field advantage, in the form of state and local credits and incentives to develop and maintain long-term relationships with these franchises.

In 2014, there were 113 major league sports teams located within the United States. However, these 113 teams are only located in 26 states, leaving 24 states without a sports team to call their own. This has created a very competitive market for the relocation of a team from one state or city to another due to the limited supply of teams for which there is great demand.

Professional sports has grown into a multi-billion dollar industry, with revenue from ticket sales, media rights, sponsorships and merchandising all reaching record levels. Additionally, local sports teams are often credited with helping to provide an economic boom to local communities on game days.

Local businesses such as bars, restaurants, parking garages and merchandise stores often report that a game can have a significant impact on their business. This has led to the creation of many jobs for the community, both for those working within the stadium and those in the surrounding area. These jobs can be vital to a community and are often at risk when the topic of franchise relocation is mentioned.

One less publicized benefit to a state derived from professional sports is the income generated by taxing professional athletes. Traditionally, an individual is taxed by the state in which the individual resides for all the income earned within a calendar year.[2] Professional athletes, however, are liable for personal income taxes to their state of residence and additional tax on income they earn in a state for which they are a nonresident.[3] This is commonly referred to as the "Jock Tax."[4]

Jock taxes require athletes to pay income taxes in every state where they earn income from participating in professional sporting events or practicing for such events.[5] Part of the appeal of the Jock Tax from a state standpoint is that professional athletes are "a highly concentrated pool that can be taxed with little enforcement."[6] Also, professional athletes compose a tax base that politicians can tax without fear of public backlash, because the public rarely will be upset that a millionaire athlete is being taxed, while the tax can generate significant revenue for a local jurisdiction.[7]

For example, according to the California Franchise Tax Board, professional athletes paid $216.8 million in California income taxes in 2012.[8] This includes state income taxes paid by athletes who are California residents and by those out-of-state professional athletes whose teams came to California to practice and play games.

Given the tax revenue and the general economic benefit provided by professional sports franchises and their athletes, there is strong competition for where these teams both play their games and hold their practices. States that host a franchise have been trying to maintain a competitive edge by using credits and incentives to encourage existing sports franchises to maintain their current location, while knowing that other states are aggressively pursuing the same franchises by offering similar incentives. For example, in an effort to influence franchise location, credits and financial incentives have played a significant role in the building or refurbishing of stadiums and practice facilities.

While the credits and incentives offered vary from state to state, they are similar in their goals of attracting sports franchises and the related economic benefit and tax revenue. From a sports franchise's standpoint, tax credits are the most lucrative type of incentive because they can be used to reduce, dollar for dollar, the amount of state tax owed. The following are some examples of how states have used tax credits and incentives to attract or retain sport franchises.

Massachusetts State Historic Tax Credit

In the sports world, Fenway Park is the highest profile example of the benefits a state historic tax credit can provide to the owners of a world-famous stadium. Fenway Park, located in Boston's dense Fenway-Kenmore neighborhood, has been the home of the Boston Red Sox MLB team since it began in 1912 and is the oldest ballpark in MLB.

Starting in the late 1990s, team officials began complaining about the age of the stadium and began considering locations for a new stadium, many of which were outside Boston. This created considerable controversy, as the people of Massachusetts viewed Fenway Park as a historic building that should be refurbished instead of destroyed. Together, team owners and local politicians negotiated a deal that included the Massachusetts State Historic Tax Credit, which resulted in an economically viable plan to renovate Fenway Park at its current location.

The Massachusetts State Historic Tax Credit[9] is one of the most effective jobs development programs in the Commonwealth.[10] This program allows a credit to be claimed against a corporation's excise tax liability for a percentage of the qualified rehabilitation expenditures incurred in connection with a certified rehabilitation project approved by the Massachusetts Historical Commission.[11]

Under the program, a certified rehabilitation project on an income-producing property is eligible to receive up to 20% of the cost of certified rehabilitation expenditures in state tax credits.[12] Every dollar of the State Historic Tax Credit typically generates $5.80 of total investment in Massachusetts.[13] This program serves to save and renovate important historic buildings and acts as a powerful revitalization stimulus for the historic areas of many Massachusetts cities and towns. Currently, the program distributes $50 million annually in the form of special tax incentives to assist owners of landmarks in recouping the expense of restoration.[14]

Between 2002 and 2011, the Red Sox spent $285 million in private capital to refurbish and upgrade Fenway Park.[15] Based upon a report released in 2010, the team has received $11.1 million in credits and hopes to receive another $28.4 million on qualifying renovations totaling almost $200 million.[16]

Due to these renovations, the stadium is expected to remain usable until as late as 2061.[17] Additionally, it was added to the National Register of Historic Places. The National Register designation recognizes how important Fenway Park is to the city of Boston. Red Sox fans should be proud to see Massachusetts step up to the plate through its use of tax credits to retain the Red Sox franchise in Boston, strategically leveraging state credits to initially save and ultimately improve Fenway Park.

New Jersey Economic Opportunity Act

Under Governor Chris Christie, New Jersey has committed nearly $5 billion dollars for incentives in an effort to increase business in the state. This amount is three times as much as New Jersey offered from 1996 through 2009. In 2013, the Economic Opportunity Act was passed, which streamlined all of the tax incentive programs and placed an emphasis on projects in Camden, New Jersey, which is one of the most impoverished cities in the state. In 2014, New Jersey's Economic Development Authority approved more than $500 million in tax credits for businesses with plans to develop or expand in Camden, which previously received little benefit from business incentive programs.[18]

In an effort to bring more business to Camden and to add another sports team to the state, New Jersey awarded the Philadelphia 76ers of the NBA $82 million in tax credits over 10 years to build a practice facility on the waterfront in Camden, with the requirement that the team employ 250 people in Camden and stay in the city for 15 years.[19] This will provide the 76ers with a dollar-for-dollar credit on every cent they spend up to the $82 million limit for the construction of a 120,000 square foot practice facility that will also serve as the team's headquarters.

The New Jersey Economic Development Authority has predicted that this deal will generate $76.6 million in benefits over the next 35 years, which will be shared between the city and state.[20] In addition to added tax revenue in the form of New Jersey wage taxes that the state anticipates will be generated as a result of the new practice facility, the state hopes this project will create opportunities to open retail and restaurant space around the area.

Although the 76ers will continue to play their games at the Wells Fargo Center in Philadelphia, the headquarters and practice facility in Camden will serve as the day-to-day home base for the team. This will have a direct impact on the surrounding area, as both players and team officials may place a priority on living closer to this location. Additionally, both players and team employees will begin paying income taxes to New Jersey attributable to their time spent in the state.

The required 250 minimum new jobs do not include the construction jobs that will also be created while this facility is being built. Based on the foregoing, the use of tax credits has served as an effective means for the State of New Jersey and the City of Camden to stimulate economic growth and development.

The credits offered by the Economic Opportunity Act were specifically cited by 76ers' management as the reason they chose Camden for their development. Philadelphia 76ers CEO Scott O'Neil stated that the team originally had plans to build the facility in Philadelphia; however, the credits offered by New Jersey allowed the team to take the next "step in terms of size and scope of the project."[21]

New Jersey previously was the home of the NBA New Jersey Nets from 1977 until 2012. However, in 2012, the Nets moved to a newly built arena (with the help of tax credits and incentives) in Brooklyn, New York. Additionally, the Nets are moving from New Jersey to a new practice facility that will also be in Brooklyn. New Jersey's ability to utilize the Economic Opportunity Act to secure the 76ers' headquarters and practice facility in Camden was an important strategic response to the loss of the Nets. It is hoped that the new 76ers' facility will pay considerable future economic dividends.

Tax credits and incentives play an important part in the geographical location of professional sports franchises in this country. As professional sports continue to grow into a multi-billion dollar industry, teams will become increasingly more valuable to the local economies in which they operate. State and local jurisdictions should explore what financial benefit a professional sports team can provide and work together with the team to create a credits and incentives package that will have a positive effect on that jurisdiction. The use of credits and incentives will play a large role in the future location of franchises across the country.

[1] Major league sports are defined as Major League Baseball (MLB), the National Basketball Association (NBA), the National Football League (NFL), and the National Hockey League (NHL).

[2] *See Jock Taxes,* Tax Policy Blog, http://www.taxfoundation.org/blog/topic/1.html.

[3] *Id*.

[4] *Id*.

[5] *Id*. Note that an athlete may be eligible to take a state personal income tax credit for taxes paid to other states to offset a portion of the tax liability on the athlete's taxable income in the state of residency.

[6] *See* David K. Hoffman, Nonresident State and Local Income Taxes in the United States: The Continuing Spread of "Jock Taxes," Tax Foundation Special Report, Issue 130, July 2004.

[7] *Id.*

[8] *See* Michael McCann and Robert Raiola, *Athletes paid $216.8 million in California income taxes in '12*, (July 21, 2014), http://www.si.com/mlb/2014/07/21/california-professional-athletes-taxes.

[9] 830 Mass. Code Regs. 63.38R.1.

[10] *See* Housing and Economic Development Subcommittee of the Urban Land Institute, *State, Historic Tax Credit-Cost/Benefit Analysis,* http://www.massinc.org/~/media/4CA3AD2877BA4F698E90F3EFC558A972.ashx.

[11] 830 Mass. Code Regs. 63.38R.1.

[12] *See* The Massachusetts Historic Rehabilitation Tax Credit Program-A Brief Description, http://www.sec.state.ma.us/mhc/mhcpdf/brief_description.pdf.

[13] *See* Housing and Economic Development Subcommittee of the Urban Land Institute, *State, Historic Tax Credit-Cost/Benefit Analysis,* (May 23, 2012), http://www.massinc.org/~/media/4CA3AD2877BA4F698E90F3EFC558A972.ashx.

[14] *See* The Massachusetts Historic Rehabilitation Tax Credit Program-A Brief Description, http://www.sec.state.ma.us/mhc/mhcpdf/brief_description.pdf.

[15] *See* Ben Strauss, *Fenway and Wrigley Find Two Sides to Landmark Status,* NYTimes.com (Dec. 15, 2011), http://bats.blogs.nytimes.com/2011/12/15/fenway-and-wrigley-find-two-sides-to-landmark-status/?_r=1.

[16] *See* Massachusetts Historical Commission, *State Historic Rehabilitation Tax Credit Program Round 18 Awards* (April 8, 2010), http://www.sec.state.ma.us/mhc/mhcpdf/round_18_awards.pdf.

[17] *See* Peter Abraham, *Lucchino: Fenway will stand for decades,* (Feb. 19, 2011), http://www.boston.com/sports/baseball/redsox/extras/extra_bases/2011/02/lucchino_fenway.html.

[18] *See* Geoff Mulvihill, *Businessincentivesboom in NJ*, TheDailyJournal.com (Nov. 29, 2014), http://www.thedailyjournal.com/story/news/local/new-jersey/2014/11/29/business-incentives-boom-nj/19687279/.

[19] *See* Julia Terruso, *N.J. offers Sixers $82 million in tax credits*, Philly.com (June 12, 2014), http://articles.philly.com/2014-06-12/news/50511493_1_tax-credits-ceo-scott-o-neil-camden-facility.

[20] *Id.*

[21] *Id*.