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November 6, 2023

Governor's Office of Economic Opportunity
c/o Jim Grover
Managing Director of Incentives and Grants
60 East South Temple, Suite 300
Salt Lake City, Utah 84111-1041

Mr. Grover,

On August 4, 2023 the Tax Commission received the Salt Lake City - 200 West 900 South- Housing and Transit Reinvestment Zone (HTRZ) Application dated July 2023. Pursuant to Subsection 63N-3-604(3)(c), the Tax Commission is required to review each HTRZ application and provide an evaluation to the Governor's Office of Economic Development describing any challenges it poses to tax administration or indicating that the proposal can be administered as presented.

For purposes of property tax increment, the proposal must:

- adequately identify the individual parcels subject to inclusion in the HTRZ;
- indicate the increment collection period; and
- establishes the base year against which the increment will be calculated during the collection period.

Based on a review of the above referenced application, the Tax Commission has identified the following challenge to the administration of the property tax increment:

1. It is problematic to create a tax increment entity with non-contiguous parcels because it precludes the ability to create a tax area. A tax area is the smallest subdivision of real property that can be managed by the certified tax rate system. The certified tax rate system is not designed or capable of tracking real property on a parcel by parcel basis. Without the ability to create a tax area, the certified tax rate system cannot be automatically adjusted to account for value changes of the properties included in the HTRZ. This shifts the burden of tracking the properties included in the HTRZ to the county recorder, assessor, and auditor. The county must then provide the increment value to the Tax Commission for manual inclusion in the certified tax rate. If the Tax Commission is not informed of the increment value for the specific properties the certified tax rate will not be adjusted correctly to generate the increment revenue. This could result in properties outside of the HTRZ bearing the property tax cost of the revenue going to the HTRZ.

2. We recommend that before this HTRZ is approved, the offices of the county recorder, assessor, and auditor should be consulted to determine whether they are capable of tracking these parcels as a non-contiguous group, properly calculating and tracking the increment value over time, and communicating the applicable increment value to the Tax Commission for inclusion in the certified tax rate.

For purposes of sales tax increment, each proposal must:

- clearly and unambiguously identify boundaries of the HTRZ based on state sales and use tax collection boundaries;
- establish a base year against which sales and use tax increment can be measured; and
- indicate a collection period for which increment revenue will be distributed.

Based on a review of the above referenced application, the Tax Commission has identified the following sales tax challenges, assumptions, and requirements:

1. The proposal does not clearly and unambiguously identify the sales and use tax boundaries of the HTRZ. Specifically, it is unclear whether the sales tax increment is intended to be calculated only from each "HTRZ parcel" or all transactions within the "HTRZ boundary," as indicated in the "proposed HTRZ location" map on page 4 of the proposal. However, either way there are challenges to administration that I will address below:
 - a. "HTRZ parcel" sales tax increment: Calculating sales tax increment on a parcel by parcel basis cannot be administered using available resources. When a sales taxable transaction occurs, the seller must determine the location of the sale and use maps and tables provided by the Tax Commission report the sale using the correct rate/distribution code. Not only does this code tell the seller the correct sales tax rate to charge, it determines all of the sourcing and distribution information that the Tax Commission uses to distribute the revenue to the correct jurisdictions. If the intent is for only the increment from each HTRZ parcel to be diverted to the HTRZ, this will create substantial reporting complexity for sellers and will create development costs and ongoing administration costs for the Tax Commission to administer manually.
 - b. "HTRZ boundary" sales tax increment: This can be administered with some clarification of the boundary. The provided "proposed HTRZ location" map on page 4 of the proposal, indicates an "HTRZ boundary." This being a large contiguous area would allow the Tax Commission to assign a single rate/distribution code that sellers could use to source all of their sales within the HTRZ. We would only require clarification regarding the inclusion/exclusion of specific parcels that are both inside and outside of the boundary.
2. The proposal indicates TY 2022 as the sales and use tax base year. Under Section 63N-3-610 the base year for sale and use tax purposes shall take effect the first day of a calendar quarter after 90 days notice to the Tax Commission. The 90 day period cannot commence until the Tax Commission has received the notice described in Section 63N-3-606. In light of this, it is already too late for the sales and use tax base year to be TY 2022. However, if the Tax Commission receives notice satisfying the requirements of Section 63N-3-610 by December 31, 2023, the sales tax base year may begin on April 1, 2024 and increment distribution would begin April 1,

2025. If notice is received after this date then the base year and increment distribution will be further delayed accordingly.

3. We were unable to determine the sales tax increment collection period. In the "Executive Summary" on page 3 of the proposal it suggests that the "term" will be "15-year phases over 30 years," we are not sure what this means. The collection period for the entire HTRZ must run for a specified period of consecutive years beginning one year following the beginning of the base year. If this HTRZ is created, we ask for clarification regarding the collection period during which the sales tax increment diversion will apply.

I am available to answer any questions you may have or to discuss how to address each of the issues raised.

Sincerely,

Jason Gardner
Director of Policy, Planning, and Public Affairs
Utah State Tax Commission