

Uniform Tax Exemption Policy and Guidelines

COUNTY OF CHAUTAUQUA
INDUSTRIAL DEVELOPMENT AGENCY

UNIFORM TAX EXEMPTION POLICY AND GUIDELINES

The policy of the County of Chautauqua Industrial Development Agency (the “Agency”) is to grant applicants real property tax abatements and exemptions from sales, use and mortgage recording taxes as described below. The Agency may, as part of its standard policy, grant enhanced benefits for Adaptive Re-Use Projects, Tourism Destination Projects, or Small Alternate Energy Facility Projects, as provided in paragraph A. The Agency may also grant enhanced benefits on a case-by-case basis, after following the process for deviation, for projects expected to have a significant economic impact on Chautauqua County, as determined by the Agency’s members.

A. Real Property Taxes.

The Agency maintains a policy for the provision of real property tax abatements for qualified projects. The abatement provided applies to value added by construction, renovation or other improvement, and the existing parcel involved; provided, however, in no event will the involvement by the Agency result in revenue to the affected tax jurisdictions in any tax year, to be less than the revenues received in the tax year preceding involvement by the Agency. The standard period of abatement will be ten (10) years for qualified projects and fifteen (15) years for qualified projects that are also Adaptive Re-Use Projects, Tourism Destination Projects or Small Alternate Energy Facility Projects. The abatement will be applicable to County, Municipal and School taxes for the period of abatement.

The schedule of abatement for qualified projects is as follows:

Tax Year Percentage of Abatement

- 1 and 2 90%
- 3 and 4 80%
- 5 and 6 70%
- 7 and 8 60%
- 9 and 10 50%

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The schedule of abatement for qualified projects that are also Adaptive Re-Use Projects is as follows:

Tax Year Percentage of Abatement

1 through 5 90%

6 through 10 70%

11 through 15 50%

The schedule of abatement for qualified projects that are also Tourism Destination Projects is as follows:

Tax Year Percentage of Abatement

1 through 5 100%

6 through 10 75%

11 through 15 50%

The schedule of abatement for qualified projects that are also Small Alternate Energy Facility Projects is as follows:

Tax Year Percentage of Abatement

1 through 15 100%

Qualified projects include industrial projects (i.e. manufacturing, re-manufacturing, assembly, processing, product research and development, etc.) and non-industrial projects (i.e. warehouse, wholesale/distribution, qualified retail, office, hotel, etc.).

“Adaptive Re-Use Projects” are qualified projects that involve adapting old sites or structures for new purposes, including potentially a mix of business and commercial uses, or market-rate housing. Adaptive Re-Use Projects are those that will benefit Chautauqua County by redeveloping a blighted site or structure, promoting development using existing infrastructure, and creating new economic activity at troubled sites or structures to assist in eliminating

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neighborhood blight. In contemplating whether a qualified project is an Adaptive Re-Use Project, the Agency may consider such things as: (i) the age of the building or structure and the challenges involved with its redevelopment, (ii) the time period during which the structure has been vacant, (iii) whether the site or structure presents a public safety hazard in its existing state, (iv) whether redevelopment of the site or structure would involve significant environmental remediation costs, and (v) the proximity of the site or structure to a distressed census tract or an area of extensive redevelopment.

“Tourism Destination Projects” are qualified projects in Chautauqua County that will attract, entice or service a significant number of Tourists, or that are significantly linked to other Tourism Destination Projects. A “Tourist” is a customer of the project or facility who resides outside of Chautauqua County.

“Small Alternate Energy Facility Projects” are qualified projects in Chautauqua County that involve the construction and operation of a facility (1) that is determined by the Agency to be a facility described in Section 487(1) of the Real Property Tax Law (including solar wind energy equipment, a solar or wind energy system, farm waste electric generating equipment, and a farm waste energy system), and (2) that is installed or to be installed in a residence, a farm or small business located within Chautauqua County.

The Agency will have the right, in its sole discretion and in accordance with applicable provisions of the New York State General Municipal Law, to determine whether a project is a qualified project and, if so, whether it is also a Tourism Destination Project, an Adaptive Re-Use Project or a Small Alternate Energy Facility Project.

Any deviations from the Agency’s standard policy will be made only with the specific approval of the Agency’s members based on the factors listed in paragraph E and those, if any, described in the New York State General Municipal Law Section 874. Additionally, the Agency will notify the affected tax jurisdictions of the proposed deviation from such policy and the reasons therefor.

The Agency will use existing tax data, or building values as established by the assessor of the municipal jurisdiction within which the project is located, or by the Agency, as the basis to negotiate the payment in lieu of tax agreement. Therefore, appraisals will not normally be required.

B. Payment in Lieu of Taxes.

Each project receiving an abatement, other than Small Alternate Energy Facility Projects, will be subject to a Payment in Lieu of Tax Agreement or similar agreement (“PILOT Agreement”) in a form acceptable to the Agency. The Agency will consider project factors, similar to those

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described in paragraph E herein, when determining the amounts to be paid under the PILOT Agreement. A copy of the PILOT Agreement will be forwarded to each of the affected tax jurisdictions within fifteen (15) days of execution. Unless otherwise agreed by the Agency, with input from the affected tax jurisdictions, such payments shall be allocated among the affected tax jurisdictions in proportion to the amount of real property tax and other taxes which would have been received by each affected tax jurisdiction had the project not been tax exempt due to the status of the Agency involved in the project.

The PILOT payment payable in the first tax year following the Completion Date of the project, and in each tax year during the Term of the PILOT shall be an amount equal to (i) the assessed value, times (ii) the tax equalization rate of the applicable taxing jurisdiction, times (iii) the current tax rate for the applicable taxing jurisdiction, times (iv) the applicable abatement percentage.

For purposes of computing the PILOT payment, the “Term of the PILOT” shall be ten (10) (or in the case of Adoptive Re-Use Projects, Tourism Destination Projects or Small Alternate Energy Facility Projects, fifteen (15)) full tax fiscal years for each taxing jurisdiction following the Completion Date of the project.

Payment under the PILOT program must be made by the applicant to the Agency or its designee at the time or times real property taxes must be paid. Neither the PILOT Agreement nor the Agency’s involvement with a project will abate special assessments, special district taxes or other special levies.

C. Sales and Use Tax Exemptions.

1) Purchases of construction materials and equipment rentals and purchases of project related equipment, furnishings and services are made as agent for the Agency, and are therefore afforded full exemption from local and New York State Sales and Use Taxes until the project is completed (i.e. certificate of occupancy) or until the date certain established by the Agency on a project-by-project basis. Operating and maintenance expenses of projects are not incurred as agent of the Agency, and no sales tax exemption is provided thereof.

2) All project applicants must agree in writing to file with the New York State Department of Taxation, in form and at times required, an annual statement of the value of all sales and use taxes exemption claimed in connection with the facility in full compliance with Section 874(8) of the General Municipal Law, and any other statutory or regulatory requirements.

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3) In all cases, the sales and use tax exemption letter will only be issued for a period not to exceed one (1) year from the date of action by the Agency. In the event the project has not been completed within the one (1) year term, the applicant will be required to petition the Board for an extension of the sales and use tax exemption.

4) Sales and Use Tax exemptions are not available for Small Alternate Energy Facility Projects.

D. Mortgage Recording Tax Exemptions.

1) The Agency's policy is to permit mortgage recording tax exemptions on all project related financing to the full extent permitted by New York State Law, whether or not the Agency has issued its bonds to finance the project.

2) The Agency may, in its sole discretion, permit mortgage recording tax exemptions on non-project related financing, (e.g. second mortgages on the project to secure subordinated indebtedness of the project applicant). In determining whether to permit such exemptions on non-project related financing, the Agency shall consider such factors as it deems appropriate, including but not limited to the use of the property, the degree of investment, the degree and nature of the employment and the economic condition of the areas in which the facility is located.

3) Mortgage recording tax exemptions are not available for Small Alternate Energy Facility Projects.

E. Deviations.

In addition to or in lieu of the foregoing the Agency may determine, on a case-by-case basis, to deviate from the guidelines described above or provide enhanced benefits for a project expected to have significant impact in the locality where the project will be located. Any deviations from the guidelines set forth above requires the written notification by the Agency to the chief executive officer of each affected tax jurisdiction. The Agency may consider any or all of the following factors in making such determination, no single one of which is determinative:

1) The nature of the proposed project (e.g. manufacturing, commercial, civic, etc.).

2) The nature of the property before the project begins (e.g. vacant land, vacant building, brownfield site, etc.).

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- 3) The economic condition of the area at the time of the application and the economic multiplying effect the project will have on the area.
- 4) The extent to which the project will create or retain permanent, private sector jobs, the number of jobs to be created/retained and/or the salary ranges of such jobs.
- 5) The estimated value of tax exemptions to be provided.
- 6) The economic impact of the project and the proposed tax exemptions on affected tax jurisdictions.
- 7) The impact of the proposed project on existing and proposed businesses and economic development projects in the vicinity.
- 8) The amount of private sector investment generated or likely to be generated by the proposed project.
- 9) The likelihood of accomplishing the proposed project in a timely fashion.
- 10) The effect of the proposed project upon the environment and surrounding property.
- 11) The extent to which the proposed project will require the provision of additional services including, but not limited, educational, transportation, emergency medical or police and fire services.
- 12) The extent to which the proposed project will provide additional sources of revenue for municipalities and school districts in which the project is located.
- 13) The extent to which the proposed project will provide a benefit (economic or otherwise) not otherwise available within the municipality in which the project is located.

F. Recapture of Benefits.

The Agency, at its sole discretion and on a case-by-case basis, may determine, (but shall not be required to do so) with respect to a particular project, that a project has failed to meet its intended goals and to require the project applicant to agree to the recapture by the Agency of the value of any or all exemptions from taxation granted with respect to the project by virtue of

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the Agency's involvement. Events that the Agency may determine will trigger recapture may include, but not be limited to:

- 1) Sale or closure of facility within the time period the applicant receives Agency benefits;
- 2) Significant employment reduction or failure to meet stated employment goals;
- 3) Significant change in use in facility;
- 4) Significant change in business activities of project applicant or operator; or
- 5) Material noncompliance with or breach of terms of Agency transaction documents, or of zoning or land use laws or regulations, or federal, state or local environmental laws or regulations.

If the Agency determines to provide for the recapture with respect to a particular project, the Agency also shall, in its sole discretion and on a case-by-case basis, determine the timing and percentage of recapture.

G. Effective Date.

This Uniform Tax Exemption Policy shall apply to all projects for which the Agency has adopted or adopts an Inducement Resolution on or after October 30, 2012, and all re-financing of any project induced or closed before said date.

H. Amendments.

The Agency, by resolution of its members, and upon notice to all affected tax jurisdictions as may be required by law, may amend or modify the foregoing policy as it may, from time to time, in its sole discretion determine.