

UNIFORM TAX EXEMPTION POLICY - Attachment One 5/18/2018

**WAYNE COUNTY INDUSTRIAL DEVELOPMENT AGENCY
UNIFORM TAX EXEMPTION POLICY AND GUIDELINES**
Adopted January 3, 1994, Re-Adopted 3/30/99; Amended July 28, 2017

Amended May 18, 2018

Pursuant to the authority vested in it by Article 18-A of the General Municipal Law of the State of New York, the Wayne County Industrial Development Agency (the "Agency") may provide financial assistance to qualified applicants for the taxable bonds or by participation in straight lease transactions.

The general policy of the Wayne County Industrial Development Agency ("Agency") is to grant applicants real property tax abatements and exemptions from sales, use and mortgage recording taxes as described below. The Agency may grant enhanced benefits on a case by case basis for a project expected to have a significant economic impact on the County of Wayne as determined by the Agency's members.

The Agency generally does not require real property appraisals to be performed as part of the application for financial assistance. However, the Agency does reserve the right to require a real property appraisal as part of an application for financial assistance. In making such determination, the Agency may consider any or all of the factors described in Paragraph D below, no one of which is determinative.

The Agency has adopted this Uniform tax Exemption Policy to provide guidelines for the claiming of real property, sales and use tax and mortgage recording tax abatements.

A. Real Property Taxes.

The Agency maintains a policy for the provision of real property tax abatements for qualified projects. The real property tax abatements to be provided by the Agency shall apply **only** to the value added by an applicant's construction or renovation activities to the existing parcel and improvements involved (the "Added Value").

New construction for the facility (as described in the IDA application) will be 100% exempt on the value added because of the IDA project (the "Added Value") for the 1st 5 years and 50% exempt on the value added because of the IDA project for the 2nd 5 years. This provision does not include assessments on land or any existing improvements (the "Base Value"), which will be frozen for the term of the PILOT Agreement.

An existing facility that is being renovated and/or enlarged will have its current Base Value frozen at that level for the 10 year exemption period (the "Base Value") and will be 100% exempt on the Added Value for the 1st 5 years and 50% exempt on the Added Value created by the IDA project for the 2nd 5 years.

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

An office building connected to or part-of a manufacturing project shall receive the same benefits as described above.

Any deviations from the 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 described in the New York State General Municipal Law Section 874(4)(a). Additionally, the Agency shall notify the affected local taxing jurisdictions of the proposed deviation from such policy and the reasons therefore.

The Agency will use existing tax data to negotiate the payment in lieu of tax agreement and, therefore, Appraisals will not normally be required.

In addition to eligible projects as described above, the Agency may also negotiate PILOT agreements and other benefits allowed under NYS RPTL § 487 to solar and other renewable energy facilities (collectively, "Renewable Energy Facilities") constructed within the County, including wind, hydro-electric, photo-voltaic and biomass energy production facilities. In recognition of the significant amount of capital investment associated with Renewable Energy Facilities, the Agency has developed a standard formulary to be incorporated into PILOT Agreements for Renewable Energy Facilities, as follows:

1. a maximum PILOT term of up to fifteen (15) years with a minimum annual base PILOT Payment reflecting the Base Value, as defined above, plus a fixed dollar amount per megawatt (MW) 'face plate' charge (the "Base Payment"), such Base Payment to escalate annually at no less than two percent (2.0%) per annum, compounded; and
2. an energy price incentive payment to be determined upon the area within which the proposed Renewable Energy Facility project is to be located (the "Incentive Payment"), such Incentive Payment to be negotiated on a project-by-project basis depending upon whether the project operator intends to sell energy to the open market or through one or more power purchase agreements ("PPA").

The Agency shall annually establish a minimum fixed dollar amount to establish the Base Payment, as defined above. Any participation by the Agency in sponsoring a Renewable Energy Facility project shall take into account whether a project sponsor is required to enter into one or more host municipality agreement(s).

In addition, the Agency may grant enhanced benefits on a case-by-case basis for a project expected to have significant impact on the locality in which the project will be located. In making a determination to provide enhanced benefits, the Agency considers the factors listed in Paragraph D below, no one of which is determinative.

B. Payment in Lieu of Taxes.

Each project receiving an abatement will be subject to a Payment In Lieu Of Tax Agreement (“PILOT Agreement”) in a form acceptable to the Agency. The Agency will consider project factors, similar to those 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 taxing jurisdictions within fifteen (15) days of execution. Unless otherwise agreed by the Agency, with input from the affected taxing jurisdictions, such payments shall be allocated among the affected taxing jurisdictions in proportion to the amount of real property tax and other taxes which would have been received by each affected taxing jurisdiction had the project not been tax exempt due to the status of the Agency involved in the project.

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). 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.

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 financings, (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.

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 taxing jurisdictions. 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, etc.)
- 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 taxing 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 to, 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 the Agency's involvement. Events that the Agency may determine will trigger recapture may include, but not limited to:

- 1) Sale or closure of facility;
- 2) Significant employment reduction;
- 3) Significant change in use in facility;
- 4) Significant change in business activities or project applicant or operator;
- 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 after **May 18, 2018** and all refinancing's of any project induced or closed before said date.

H. Amendments.

The Agency, by resolution of its members, and upon notice to all affected taxing 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.