**UNIFORM TAX EXEMPTION POLICY**
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**Section I. Purpose**

A. Purpose. Pursuant to Section 874(4) of Article 18-A of the General Municipal Law (the "GML") of the State of New York (the "State"), the Onondaga County Industrial Development Agency (the "Agency") hereby establishes a uniform tax exemption policy ("UTEP") to provide guidelines for the claiming of real property, mortgage recording, and sales and use tax exemptions. The Agency may grant benefits on a case by case basis for a project expected to have significant economic impact on Onondaga County as determined in the sole discretion of the Agency members.

**Section II. Real Property Tax Abatements**

A. General Policy. The Agency may provide for the provision of real property tax abatements to qualified applicants. The granting of such abatements requires the Agency and the project owner or occupant (the "Company") to enter into a payment in lieu of taxes agreement ("PILOT"), which provides for payments in lieu of taxes to the taxing jurisdictions generally in an amount less than what the real property taxes would be if Agency involvement did not cause the project to be tax exempt. The Agency's standard policy is to provide for payments following a schedule of steadily increasing fixed payments calculated by applying a sliding scale to values determined using current tax rates and the current assessed value of the project. Such scheduled payments will normally reflect the terms of Section II-B and Section II-C of this policy. For projects providing significant and substantial economic and community benefit to the county, as determined by the Agency, the Agency, in its sole discretion, may elect to provide up to 100% abatement for a period of time solely determined by the Agency.

B. Special Assessments and Levies. No project shall be exempt from special assessments and special ad valorem levies lawfully levied and/or assessed against the project.

C. Basic PILOT Qualification. A project must be engaged in one of the following to be eligible for a Basic PILOT: manufacturing, processing, remanufacturing, assembly, warehousing, back office, wholesale, distribution, product research and development, professional/scientific/technical services, tourism, commercial housing or a corporate national or regional headquarters.

D. Basic PILOT Valuation. Payments in lieu of taxes shall be determined pursuant to a written PILOT Agreement between the Agency and the Company. The Company shall pay to the Agency, or its designee, the amount calculated pursuant to the applicable PILOT Agreement. Each PILOT payment shall be allocated among the affected taxing jurisdictions in proportions equal to the percent of real property taxes which would have been received by each affected taxing jurisdiction had the project not been tax exempt. Variations in the proportions shall be done only with the prior written consent of all the affected taxing jurisdictions. Each PILOT agreement shall take effect during the tax year immediately following the taxable status date after the Agency acquires an interest in the project unless otherwise agreed upon by the Agency.

1. PILOT payments shall be equal to the sum of the following:

   i. Fixed payments, calculated by the Agency, using an estimated current value and current tax rate of the land both as of the date of the application for Project benefits; plus

   ii. Fixed payments, calculated by the Agency, using an estimated value of the improvements and current tax rate both at the time of the application for Project benefits, which value is then multiplied by the applicable percentage in the Basic PILOT Exemption Scale.

E. Basic PILOT Exemption Scale The following exemption scale shall be applied to projects operating within Onondaga County that qualify for the Basic PILOT.

Basic PILOT Exemption Scale:

| Basic | |
|---|---|
| Year | Exemption % |
| 1 | 100% |
| 2 | 90% |
| 3 | 80% |
| 4 | 70% |
| 5 | 60% |
| 6 | 50% |
| 7 | 40% |
| 8 | 30% |
| 9 | 20% |
| 10 | 10% |

F. Community Benefit Incentive PILOT. The Community Benefit Incentive PILOT may offer a more generous PILOT schedule to a project that meets one of the following thresholds:

1. Brownfield. The project is a brownfield site as determined by the New York State Department of Environmental Conservation or United States Environmental Protection Agency. Sites located within Brownfield Opportunity Areas may also be considered.

2. Adaptive Reuse. The criteria for "adaptive reuse" is based on the following:

i. the age of the structure;

ii. the structure presents a significant structural challenge to redevelopment or presents a significant public safety hazard, as determined by the Agency;

iii. the structure has been vacant or underutilized for a minimum of 2 years prior to application to the Agency;

iv. the net increase in the facility's assessed value after project completion exceeds 30 percent;

v. the project demonstrates a financial obstacle to development without the Agency's assistance;

vi. the project is listed on the State or the National Register of Historic Places; and

vii. the site or structure is presently delinquent in property tax payments.

3. LEED Certified. The project has received a Gold or Platinum LEED Certification from the US Green Building Council. To accommodate the LEED Certification Commissioning Process without penalizing a project, a project seeking LEED Certification may receive a Basic PILOT schedule for up to 2 years after the project is completed and be transitioned for the remaining period to the Community Benefit PILOT Schedule upon receiving LEED Certification. If the project has not received LEED Certification within the 2-year period, the Basic PILOT structure will remain in effect for an additional 8 years.

4. Community Benefit Incentive PILOT Valuation.

a. PILOT payments shall be equal to the sum of the following:

i. Fixed payments, calculated by the Agency, using an estimated current value and current tax rate of the land both as of the date of the application for Project benefits; plus

ii. Fixed payments, calculated by the Agency, using an estimated value of the improvements and current tax rate both at the time of the application for Project benefits, which value is then multiplied by the applicable percentage in the Community Benefit Incentive PILOT Exemption Scale.

iii.

Community Benefit Incentive PILOT Exemption Scale:

| Community Benefit | |
|---|---|
| Year | Exemption % |
| 1 | 100% |
| 2 | 100% |
| 3 | 100% |
| 4 | 90% |
| 5 | 80% |
| 6 | 70% |
| 7 | 60% |
| 8 | 50% |
| 9 | 40% |
| 10 | 30% |
| 11 | 20% |
| 12 | 10% |

G. Energy Project PILOT. Because of interest in our community for renewable energy development the Agency may, in its sole discretion, choose to grant real property, mortgage recording and sales and use tax exemptions to renewable energy projects. The following selection criteria and PILOT structure may be applied by the Agency to renewable energy related projects.

1. Selection Criteria

i. Is the project in an underutilized or undesirable/ difficult to develop location? (e.g. landfill, brownfield, distressed land)
ii. Is there demand in the area?
iii. Is there support from local officials?
iv. Does existing infrastructure support the project?
v. Does the size of the project warrant a PILOT?

2. PILOT Structure:

i. Term: At the Agency's sole discretion, the term of the PILOT may be extended to accommodate the financing requirements of a project.

ii. PILOT Calculation: To estimate the annual PILOT payment, the Agency may use a formula expressed as a dollar value per AC Mega Watt (MW) multiplied by the MW generated to arrive at a PILOT payment to be paid by the Company each year. The Agency will be responsible for determining what the appropriate dollar value per MW is for each project. Mathematically, the formula can be expressed as: (AC MW Generated) X (Dollar Value per MW) = Total PILOT Payment for a given year.

H. Apartment Projects. Based on the need in our community for affordable housing for the workforce, the Agency may, in its sole discretion, choose to grant real property, mortgage recording and sales and use tax exemptions to apartment style housing projects. Apartment Projects real property tax benefits may be granted, in the Agency's sole discretion in accordance with the Basic PILOT valuation or the Community Benefit Incentive PILOT valuation. In addition to the requirements listed in the project evaluation and selection policy contained herein, the Agency may consider additional criteria when providing benefits to apartment style housing projects including, but is not limited to:

i. Is the project being built in a blighted area?

ii. Is the housing fulfilling an unmet need in the area?

iii. Is there a market study documenting demand for such housing?

iv. Is there support from local officials?

v. Is the project considered needed infill in an already populated area?

vi. Does the project provide walkability to municipality centers?

vii. Is any additional county providing infrastructure necessary to service the project?

viii. Is the project a part of a larger mixed-use development?

**Section III. PILOT Deviations**

A. PILOT Deviations. The Agency may deviate, on a case by case basis, from the Basic PILOT, the Community Benefit Incentive PILOT and the Energy PILOT Exemptions, as described above.

B. Notification of Taxing Jurisdictions. Any deviations from this UTEP shall require a written notification by the Agency to the chief executive officer of each affected taxing jurisdiction in advance of the meeting at which the proposed deviation will be considered.

C. Deviation Considerations. The Agency may consider the following factors in the determination of whether a project may deviate from the Basic PILOT, the Community Benefit Incentive PILOT or the Energy PILOT Exemptions, no single one of which is determinative:

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

2. The nature of the property before the project begins (e.g., vacant land, vacant buildings);

3. The economic condition of the area at the time of the application;

4. The extent to which a project will create or retain permanent, private sector jobs;

5. The estimated value of the tax exemptions to be provided;

6. The impact of the project and 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 demonstrated public support for the proposed project;

10. The likelihood of accomplishing the proposed project in a timely fashion;

11. The effect of the proposed project upon the environment

12. The extent to which the proposed project will require the provision of additional services including, but not limited to, additional educational, transportation, police, emergency medical or fire services;

13. The extent to which the proposed project will provide additional sources of revenue for municipalities and school districts in which the project is located; and

14. 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.

**Section IV. Sales and Use Tax Exemptions**

A. Sales and Use Tax Exemption. The Agency may grant an exemption from State and local sales and use taxes to a project to the full extent permitted by the State.

1. Construction Materials, Equipment and Furnishings. Purchases of construction materials and equipment and of project related equipment, furnishings and other items of tangible personal property may be fully exempt from State and local sales and use taxes until the project is completed.

2. Operating and Maintenance Expenses. Operating and maintenance expenses incurred in connection with a project are not exempt from State and local sales and use tax.

3. Exempt Certificate. All project applicants must agree in writing to timely file with the New York State Department of Taxation an annual statement of the value of all sales and use tax exemptions.

**Section V. Mortgage Recording Tax Exemptions**

A. Permitted Exemptions. The Agency may grant an exemption from the mortgage recording tax to a project to the full extent of the law. The Agency may not grant an exemption from the portion of the mortgage recording tax that is payable to the Central New York Regional Transportation Authority.

**Section VI. Recapture of Agency Benefits**

A. Information to be Provided by Companies. Each Company agrees that to receive benefits from the Agency it must, whenever requested by the Agency or required under applicable statutes or project documents, provide and certify or cause to be provided and certified such information concerning the Company, its finances, its employees and other topics which shall, from time to time, be necessary or appropriate, including but not limited to, such information as to enable the Agency to make any reports required by law or governmental regulation.

B. Recapture of Benefits. It is the policy of the Agency to recapture the value of a PILOT, any sales and use tax exemption, and mortgage recording tax exemption in accordance with the Laws of the State and the provisions contained herein. Before receiving benefits, the Company must attest in writing to its understanding of, and agreement to, the recapture provisions contained in State Law and herein. To the extent permitted by State law, the recapture provisions contained herein may be modified from time to time by the Agency at its sole discretion.

C. Recapture of PILOT, Sales and Use Tax and Mortgage Recording Tax Exemption Benefits

1. Jobs. If the number of full time equivalent jobs to be maintained or created in connection with a project falls below 75% of the number projected in the Company's application to the Agency, or if there are material violations of the project agreements, then the value of the property tax, sales and use tax and mortgage recording tax benefits extended to the project by the Agency may be subject to recapture. When deciding whether or not to recapture benefits and the amount of such recapture, the Agency may consider the potential future benefit of the business to the community.

2. Recapture Payment. The recapture payment paid by the Company to the Agency shall be determined (1) by the difference between any PILOT payments made by the Company and the property taxes that would have been paid by the Company if the property were not under the supervision, jurisdiction or control of the Agency, (2) the value of any mortgage recording tax exemption, if awarded to the Company and (3) the amount of sales and use tax that would have been paid if an exemption was not granted.

3. Recapture of the PILOT, Sales and Use Tax or Mortgage Recording Tax. The Recapture Schedule for a Payment in Lieu of Tax Agreement, Sales and Use Tax or the Mortgage Recording Tax is as follows:

| Time from Project Completion | Tax Savings Recaptured |
|---|---|
| 1 Year | 80% |
| 2 Years | 60% |
| 3 Years | 40% |
| 4 Years | 20% |
| 5 Years | 10% |

D. <u>Distribution of the Recapture Payment</u>. Any funds recaptured as a result of the recapture payment shall be distributed to the affected taxing jurisdictions in the same proportion as if the payments were paid or owed by the Company on the date of recapture.

E <u>A "Full Time Permanent Employee" shall mean</u>

1. A full time, permanent, private sector employee on the Company's payroll, who has worked at the project location for a minimum of thirty hours per week for not less than four consecutive weeks and who is entitled to receive the usual and customary fringe benefits extended by Company to other employees with comparable rank, duties and hours; or

2. Up to three part time, permanent, private-sector employees on Company's payroll, who have worked at the project location for a combined minimum of thirty hours per week for not less than four consecutive weeks and who are entitled to receive the usual and customary fringe benefits extended by Company to other employees with comparable rank, duties and hours.

F. <u>Additional Conditions Applicable to the Recapture of Sales and Use Tax Exemption Benefits</u>.

1. Recapture Events. As of April 1, 2013, State law requires industrial development agencies to recapture sales and use tax benefits where:

i. A project is not entitled to receive the benefits;

ii. Exemptions received exceed the amount authorized by the Agency;

iii. Exemptions are claimed by the project for unauthorized property or services; or

iv. A project fails to use the property in the manner required by its Agency agreements.

2. Distribution of Sales and Use Tax. Project operators must cooperate with the Agency in its effort to recapture all sales and use tax benefits received by the Company by promptly paying the recapture amount as determined by the Agency. The amount to be recaptured will be dictated by State Law or this UTEP Policy, which ever may be applicable. The Agency shall remit the recaptured sales and use tax benefits to the State within 30 days of receipt.

3. Compliance Report. Annually, the Agency will file an annual compliance report with the State detailing its recapture terms and its activities to recapture benefits, including the any attempt to recapture benefits from an Agency project.

**Section VII. Amendment or Modification**

A. <u>Amendment or Modification</u>. The Agency, by resolution of a majority of its members and upon notice to the affected taxing jurisdictions, may amend or modify the foregoing policy, from time to time in accordance with the laws of the State.

**Section VIII. Project Evaluation and Selection Policy**

A. <u>Evaluation and Selection</u>. Pursuant to Section 859-a(5) of the GML the Agency must adopt, by resolution of the Board, uniform project evaluation and selection criteria. This criteria will be used to determine whether the Agency should grant financial assistance to an applicant. As such, the Agency has adopted this Evaluation and Selection Policy in accordance with the applicable laws and regulations.

1. Prior to approval for financial assistance by the Agency the following actions must occur:

i. The applicant must provide a complete and signed application to the Agency.

ii. The Agency must assess all of the information received in connection with the application as necessary to afford a reasonable basis for the decision to provide assistance.

iii. The Agency must prepare a written cost benefit analysis identifying the following:

a. The potential creation or retention of permanent private sector jobs, their salaries and benefit packages;

b. The estimated value of tax exemptions;

c. The amount of private sector investment likely to be generated by the project;

d. The extent to which the project will provide additional sources of revenue for municipalities and school districts; and

e. Any other public benefit that might occur due to the project.

2. The Agency must receive a statement signed by the applicant that, as of the date of the application, the project is in substantial compliance with all provisions of the GML, included but not limited to Section 862.

3. If the project would involve the removal or abandonment of a facility or facilities within the State, the Agency must notify the chief executive officers of such affected municipality or municipalities.