

ALLEGANY COUNTY INDUSTRIAL DEVELOPMENT AGENCY

UNIFORM TAX EXEMPTION POLICY

ADOPTED March 2 . ____, 1994

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

The Agency generally does not, as a matter of policy, provide financial assistance to retail projects (meaning locations for the retail sale of goods). However, the Agency does reserve the right to deviate from such policy on the same basis for deviation with respect to its tax exemption policy as set forth in Paragraph D below.

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's general policy is to grant applicants real property tax abatements as follows:

<u>Years</u>	<u>Percentage Abatement</u>
Years 1-5	100%
Year 6	50%
Year 7	40%
Year 8	30%
Year 9	20%
Year 10	10%
Year 11 and after	no abatement

The Agency's general policy also is to consider freezing or fixing the assessed value of a project at a certain amount as it, in its sole discretion, determines, considering the factors listed in Paragraph D, hereof, no one of which is determinative, provided, however, that a determination to freeze or fix the assessed value shall not be considered a deviation from policy. In addition, it is the general policy of the Agency that it may grant full tax exemption for a period up to ten years, with stepped down percentages as determined by the Agency on a case-by-case basis for a period of up to an additional ten years for manufacturing facilities and with respect to vacant facilities or with respect to facilities which the Agency, in its sole

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discretion, determines to be in areas of economic distress or having higher than average unemployment or similar circumstances, and a determination by the Agency to grant such exemptions shall not be considered a deviation from policy. 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. Sales and Use Tax Exemptions.

1. The Agency's policy is to permit project applicants, as agent of the Agency, to claim exemption from sales and use taxes on the construction and equipping of a project to the full extent permitted by New York State Law.

2. 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 claimed in connection with the Facility in full compliance with Section 874(8) of the New York General Municipal Law, in the form and at the times required thereby.

C. Mortgage Recording Tax Exemptions.

1. The Agency's policy is to permit mortgage recording tax exemptions on all project-related financings to the full extent permitted by New York State Law.

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 financings, 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 employment, and the economic condition of the area in which the facility is located.

D. 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

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making such determination, no single one of which is determinative:

- The nature of the proposed project (e.g., manufacturing, commercial, civic).
- The nature of the property before the project begins (e.g., vacant land, vacant buildings).
- The economic condition of the area at the time of the application and the economic multiplying effect that the project will have on the area.
- The extent to which a project will create or retain permanent, private sector jobs and the number of jobs to be created or retained and the salary ranges of such jobs.
- The estimated value of tax exemptions to be provided.
- The economic impact of the project and the proposed tax exemptions on affected tax jurisdictions.
- The impact of the proposed project on existing and proposed businesses and economic development projects in the vicinity.
- The amount of private sector investment generated or likely to be generated by the proposed project.
- The likelihood of accomplishing the proposed project in a timely fashion.
- The effect of the proposed project upon the environment.
- 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.
- The extent to which the proposed project will provide additional sources of revenue for municipalities and school districts in which the project is located.
- The extent to which the proposed project will provide a benefit (economic or otherwise) not

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otherwise available within the municipality in which the project is located.

- (Civic Facility Projects Only:) The extent to which the proposed project encourages charitable entities to locate within the municipality in which the project is located or expand the services such not-for-profit entity provides to the municipality.

E. Recapture of Benefits.

The Agency, in 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 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 shall not be limited to, the following:

- (1) sale or closure of facility;
- (2) significant employment reduction;
- (3) significant change in use of 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.

If the Agency determines to provide for 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.

F. Additional Recapture Provisions.

In addition to the provisions for recapture set forth in Paragraph E, the Agency may, in its sole discretion and on a case-by-case basis, require recapture of benefits with respect to any project or project applicant for:

- (1) failure to respond to Agency inquiries concerning payments of principal and interest;
- (2) failure to respond to Agency inquiries concerning insurance coverage or failure to provide insurance certificates when and as required by the Agency transaction documents;
- (3) failure to respond to Agency inquiries regarding payment of monies in lieu of taxes;
- (4) failure to respond to Agency inquiries or to provide facts requested by the Agency in connection with any proceedings or determinations

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- pursuant to Paragraph D or Paragraph E of this Policy;
- (5) failure to respond to inquiries of the Agency or failure to provide the Agency with any information or documents requested by the Agency in order to provide any federal, state or local agency with information or reports required under any applicable law, rule or regulation;
 - (6) failure to provide any other information concerning the project or the project applicant or any project operator requested by the Agency.

Upon the occurrence of any of the events listed in this Paragraph F, the Agency will, upon at least 10 calendar days written notice to the project applicant, hold a hearing at which the project applicant will have the opportunity to provide, or explain its failure to provide, the information requested by the Agency. Within 30 calendar days after the hearing, the Agency will issue a determination whether and to what extent it will require recapture of the value of tax exemptions granted with respect to the project by virtue of the Agency's involvement.

G. This Uniform Tax Exemption Policy shall apply to all projects for which the Agency has adopted or adopts an Inducement Resolution after July 21, 1993 and all refinancings of any project induced or closed before July 21, 1993.

H. 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.