

ALLEGANY COUNTY INDUSTRIAL DEVELOPMENT AGENCY UNIFORM TAX EXEMPTION POLICY AND GUIDELINES

The purpose of the Allegany County Industrial Development Agency (The “Agency”) is to promote economic development, prevent economic deterioration, and advance job opportunities and the general prosperity and economic welfare of the people of Allegany County through the creation or retention of jobs and the expansion and diversification of the County’s tax base.

It is the policy of the Agency to grant exemptions from sales taxes, mortgage recording taxes and provide real property tax abatement for ~~qualified projects~~ Qualified Projects which create or retain private sector jobs and provide economic benefits. The Agency may also consider other factors as appropriate in fulfilling its purposes under the New York State Industrial Development Agency Act, constituting Title 1 of Article 18-A of the New York General Municipal Law, as the same may be amended from time to time (the “Act”).

For projects reviewed and approved by the Agency’s Board of Directors the following tax exemptions will apply.

1. Sales and Use Tax Exemptions.

- a.) The Agency’s policy is to permit project applicants, as agents of the Agency, full exemption from sales and use taxes on the construction and equipping of a project to the full extent permitted by New York State Law.
- b.) All project applicants must agree in writing to file with the NYS Department of Taxation an annual statement of the value of all sales and use tax exemptions claimed in connection with the project in full compliance with Section 874 (8) of the New York General Municipal Law, in the form and at the times required, and to comply with such other reporting requirements as may be imposed under the Act or by policies of the Agency adopted from time to time.
- c.) Sales and use tax exemptions are not available for Small Alternate Energy Facility Projects.

2. Mortgage Recording Tax Exemptions.

- a.) The Agency’s policy is to permit full exemption from mortgage recording tax on all project related financings to the full extent permitted by New York State Law.
- b.) 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.

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

3. Real Property Tax Abatements.

a.) The Agency maintains a policy for the provision of real property tax abatements for ~~qualified projects~~Qualified Projects. The abatement provided applies to value added by construction, renovations or other improvements which constitute a part of the project, 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 with respect to the tax parcel which is subject to the abatement in the tax year preceding involvement by the Agency.

b.) The standard period of abatement will be ten (10) years for ~~qualified Qualified projects Projects, and~~fifteen (15) years for qualified projects Qualified Projects that are also Adaptive Re-Use Projects, Tourism Destination Projects, Small Alternate Energy Facility Projects and Commercial Wind Energy or Energy Storage Projects, ~~and twenty (20) years for Solar Energy Projects~~.

c.) The abatement will be applicable to County, Municipal and School taxes for the period of abatement. Special district taxes and user fees are not abated. Unless a deviation is approved in accordance with Section 5 of this Policy, a payment in-lieu of tax (PILOT) agreement entered into with respect to a ~~qualified project~~Qualified Project shall provide for payments in accordance with the standard schedules set forth below.

Payment-In-Lieu-Of-Tax (PILOT) Policy

In an effort to be competitive with other areas for business investments that create/retain jobs and provide tax revenues, the Agency has adopted the following PILOT schedules.

The Schedule of Abatement for Qualified Projects not included in any category set forth below:

<u>Year</u>	<u>Real Property Tax Exemption</u>
1-5	100 %
6	50 %
7	40 %
8	30 %
9	20 %
10	10 %
11 and thereafter	0 % (Full Taxes Paid)

The Schedule of Abatement for Adaptive Reuse Projects:

<u>Year</u>	<u>Real Property Tax Exemption</u>
1 - 5	100%
6 - 10	50%
11 - 15	25%
16 and thereafter	0% (Full Taxes Paid)

The Schedule of Abatement for Qualified Tourism Destination Projects:

<u>Year</u>	<u>Real Property Tax Exemption</u>
1 - 5	100%
6 - 10	75%
11 - 15	50%
16 and thereafter	0% (Full Taxes Paid)

The Schedule of Abatement for Small Alternate Energy Facility Projects ([other than solar projects](#)):

<u>Year</u>	<u>Real Property Tax Exemption</u>
1 - 15	100%
16 and thereafter	0% (Full Taxes Paid)

The Schedule for Commercial Wind Energy or Energy Storage Projects:

The Agency has determined that its regular PILOT schedule is unsuitable for wind energy projects through research of other wind projects in New York State. Therefore, the Agency has added the following provisions to its Uniform Tax Exemption Policy. a.) The payment-in-lieu-of-tax amount will be negotiated on a project-by-project basis. The payment will be based on the production capacity of the wind turbines as measured in megawatts and then be calculated as dollars per megawatt. b.) When determining the PILOT amount per megawatt, the Agency will consider any payments made through host community agreements or any other methods in which payments are made to taxing jurisdictions. However, the PILOT payment should be at least 20% of any monies paid to local governments in order assure an equitable distribution to all affected taxing jurisdictions. c.) The Agency will not become involved in a wind power project if a Town Board chooses to exercise its right to negotiate a PILOT agreement under Section 487 of NYS Real Property Tax Law or any other means provided by NYS Law.

[The Schedule for Solar Energy Projects:](#)

a.) The payment-in-lieu-of-tax amount for solar energy generating projects will be \$2,500 per megawatt (AC), based on the maximum nameplate production capacity of the generating equipment, with a 2% annual escalator.

b.) When determining the PILOT amount per megawatt, the Agency will consider any payments made through host community agreements or any other methods in which payments are made to taxing jurisdictions. In considering whether to grant a project a real project tax exemption, the Agency will consider any Host Agreement negotiated with the town, including any required bill crediting arrangements, with the expectation that the total PILOT and Host Agreement shall be in the range of \$5,000 megawatt (AC) for PILOT and Host Agreement together for projects up to 5 megawatt AC maximum nameplate capacity and \$3500 megawatt (AC) maximum nameplate capacity for larger projects.

c.) The Agency will not take any action to promote or discourage any wind or solar energy project. The IDA believes that developers of such projects must obtain the support of residents and the local governing body prior to PILOT approval.

The Land portion of the Assessed Valuation for all projects will remain on the tax rolls with full payment of property taxes.

4. Definitions

“Qualified Projects” include projects which are eligible for financial assistance (as defined in Section 854 (14) of the New York General Municipal) in accordance with the Act, and shall 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, housing, etc.)

“Adaptive Re-Use Projects” are qualified projects Qualified Projects that involve adapting old sites or structures for new purposes, including potentially a mix of business, commercial and qualified retail uses, or market-rate housing. Adaptive Re-Use Projects are those that will benefit Allegany 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 neighborhood blight. In contemplating whether a qualified project 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, including brownfield sites 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 Allegany County that are likely to attract a significant number of visitors from outside the economic development region, as established by Section 230 of the New York Economic Development

Law, in which the project is located. In addition, for the purposes of this Policy, qualified projects which do not constitute Tourism Destination Projects but which are significantly linked to, or provide support for, a Tourism Destination Project, shall be eligible for the Tourism Destination abatement schedule.

“Small Alternate Energy Facility Projects” are ~~qualified project~~Qualified Projects in Allegany 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 (~~other than including solar, wind, or energy storage projects separately defined in this Policy~~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 Allegany County.

“Commercial Wind Energy or Energy Storage Projects” are ~~qualified projects~~Qualified Projects in Allegany County that involve the construction and operation of a facility that is determined by the Agency to be a facility described in Section 487(1) of the Real Property Tax Law (including commercial wind energy equipment, commercial wind energy systems or commercial wind energy storage systems) and is installed within Allegany 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~~Qualified Project and, if so, whether it is also a Tourism Destination Project, an Adaptive ReUse Project, a Small Alternate Energy Facility Project or a Commercial Wind Energy or Energy Storage Project

“Solar Energy Projects” are Qualified Projects to be installed within Allegany County that involve the construction and operation of a facility that is determined by the Agency to be a facility described in Section 487(1) of the Real Property Tax Law, including solar plus storage systems.

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 section 5, 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.

5. Deviations.

a.) 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, in the Agency’s judgment, 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 and their input will be sought in advance of adoption of any

deviation, and any sales tax exemption policy deviation will be noted in a required Public Hearing.

b.) In determining whether a project is expected to have a significant impact in the locality where the project is located, 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, etc.).
- 2) The nature of the property before the project begins (e.g. vacant land, vacant building, Brownfield site, 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 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.

6. Recapture of Benefits.

a.) 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 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, or to modify the terms of the Project Agreement or "PILOT". Events that the Agency may determine will trigger recapture may include, but are not limited to:

- 1) Significant employment reductions not reflective of the company's (normal) business cycle and/or local and national economic conditions or inconsistent with employment levels presented to the Agency at the time the PILOT was agreed to by the Agency. Prior to determination, the company will be asked to come before the ACIDA Board to be given their due process.
- 2) Sale or closure of facility;
- 3) Submission of a false application by the Company;
- 4) Significant change in use in facility;
- 5) Significant change in business activities or project applicant or operator;
- 6) 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.

b.) If the Agency determines to recapture benefits 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 or termination of benefits.

c) Any recapture pursuant to this Section 6 shall be in addition to any recapture required pursuant to the Act or other statutory provisions, including Section 875 of the General Municipal Law.

7. Additional Recapture Provisions. In addition to the provisions for recapture set forth in Section 6, 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 pursuant to Section 5 or Section 6 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 Section 7, 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.

8. 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 June 1~~July 15, 2017~~2021 and all re-financings of any project induced or closed before June 1, 2017~~July 15, 2021~~.

9. Amendments. The Agency, by resolution of its Board, 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.