

CITY OF NEWBURGH INDUSTRIAL DEVELOPMENT AGENCY

UNIFORM TAX EXEMPTION POLICY

Pursuant to the authority vested in it by Article 18-A of the General Municipal Law of the State of New York, the City of Newburgh Industrial Development 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 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.

1. The Agency does not enter into Payment-in-Lieu-of-Tax ("PILOT") Agreements.

2. The project applicant must negotiate with each affected tax jurisdiction (which includes each municipality\* and school district in which the project is located which will fail to receive real property tax payments because of the Agency's involvement in the project) regarding:

- (a) the assessment of the property;
- (b) the rights to protest the assessment;
- (c) the percentage and term of abatement (provided, however, that the term of any PILOT Agreement may in no event extend beyond the time the Agency has possession, ownership or control of the property);
- (d) the procedures regarding billing for and non-payment of taxes; and
- (e) all other terms relating to such payments-in-lieu-of taxes.

3. An executed PILOT Agreement between the project applicant and each affected tax jurisdiction must be provided to the Agency before the issuance of any bonds or, in the case of straight lease transactions, before the Agency takes title, possession or control to the property.

4. After the Agency adopts the Inducement Resolution for a project, the Agency will provide the project applicant with a model PILOT Agreement to be used as a basis for negotiation with affected tax jurisdictions.

\*"municipality" is defined in the General Municipal Law as including Orange County and the affected city, village or town in which the prospective project is to be located.

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 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 exemption on non-profit related financings. In determining whether to permit such exemptions on non-profit 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 considers the following factors in 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.
- The extent to which a project will create or retain permanent, private sector jobs.

- The estimated value of tax exemptions to be provided.
- The 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 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.

E. Recapture of Benefits.

The Agency, in its sole discretion and on a case-by-case basis, may determine 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 the percentage of recapture.

F. Additional Recapture Provisions.

In addition to the provisions for recapture set forth in Paragraph D, 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, insurance premiums;
4. Failure to respond to Agency inquiries or to provide facts requested by the Agency in connection with any proceedings or determinations 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 December , 1993 and all refinancings of any project induced or closed before December , 1993.