

# Uniform Tax Exemption Policy

## INTRODUCTION

The Town of Clifton Park Industrial Development Agency is a public benefit corporation established in 1980 pursuant to Article 18-A of the General Municipal Law.

The Agency possesses a broad range of powers to enable it to fulfill its purpose to promote, develop, encourage and assist in the construction, expansion and equipping of economically sound industrial and commercial facilities in order to advance the job opportunities, general prosperity, and economic welfare of the citizens of the Town of Clifton Park.

The IDA utilizes its financial and tax incentives to increase employment opportunities by attracting new development and to maintain the present employment base by stimulating reinvestment by existing Town businesses.

The issuance of industrial revenue bonds generally results in the IDA taking title to the property which it then leases back to the company under an installment sale agreement. Property owned by an IDA is exempt from local and school real estate taxes under the provisions of Section 412-a of the Real Property Tax Law and Section 874 of the General Municipal Law. This exemption does not apply to special district taxes and/or special ad valorem levies. Real property owned by the Agency is listed on Roll Section 8 (wholly exempt).

The Agency and each recipient of its financial assistance enter into a payment in lieu of tax agreement (PILOT agreement), which provides for annual payments in lieu of taxes (PILOT), in amounts which are based on formulas contained in the Agency's Uniform Tax Exemption Policy.

Legislation enacted in July 1993 requires IDA's to adopt a Uniform Tax Exemption Policy after considering issues involving the number of private sector jobs created or retained by a project, the value of tax exemptions to be provided, the projects' impact on existing businesses, the amount of private sector investment generated by a project, the additional public services which may be required to serve the project; and the additional revenues a project will provide for municipalities and school districts. The Agency is also required to seek and consider input on its Uniform Tax Exemption Policy from affected taxing jurisdictions prior to its formal adoption.

State legislation additionally requires IDA's to provide each affected tax jurisdiction with a copy of the PILOT agreement within fifteen (15) days of signing. Under the most recent legislation, PILOT payments must be allocated to affected taxing jurisdictions in the same proportion to the amount of real property tax which would have been received by the taxing jurisdiction had the project not been tax exempt. All PILOT payments received by the Agency must be remitted to the affected taxing jurisdictions within thirty (30) days of receipt.

### **Uniform Tax Exemption Policy: General Provisions**

The Agency's Uniform Tax Exemption Policy is segmented by classes of uses, but the following provisions are applicable to all PILOT agreements signed after the date of adoption of this policy. Projects which were induced prior to the date the IDA "Reform Bill" was signed into Law (July 21, 1993) are not subject to this policy.

1. The Agency shall attempt to secure its PILOT agreements as a first lien on the real property.
2. Closure; relocation of a company's operations; failure of a company to make PILOT payments; or failure of a company to reasonably meet its employment projections in its application may result in a cessation of real property tax abatements, transfer of title from the Agency to the company, or such other penalties as may be determined by the Agency.
3. PILOT payments which become delinquent will be subject to a late penalty charge of 5% of the amount due and interest charges of 1% per month. Penalty and interest shall accrue to and be paid to the affected tax jurisdiction(s). Any increase in late charges and interest which may be authorized by the legislature shall be applicable to this policy.
4. Maintenance of tax base: IDA financial assistance shall not result in a reduction of existing tax revenues generated prior to Agency involvement.
5. Additions: Project sponsors who add to existing facilities originally financed by the Agency may obtain full term abatement for additions which are financed or refinanced by the Agency.
6. Refinancing of existing facilities: No tax abatement shall be allowed unless refinancing results in physical improvements to the facility and a measurable increase in employment.
7. The Agency will consider special requests on a case by case basis.
8. In areas of overlapping jurisdictions between the County and a local IDA the Town of Clifton Park Industrial Development Agency reserves the option to utilize whichever Uniform Tax Exemption Policy or a combination of those policies which it deems most applicable.

**Uniform Tax Exemption Policy: Manufacturing**

**New Facilities**

- \* Any new assessment resulting from improvements financed by bonds shall be exempt from local, county and school property taxes at a rate of 100% for a ten (10) year period.
- X Local, county and school taxes for the first ten (10) years will be based on the equalized value of the land purchased, times the respective local tax rates. In no succeeding year shall the assessment be less than the previous year as a result of declining equalization rates.
- X Beginning in year 11 and continuing for the term of the PILOT agreement the company shall pay annual local, county and school taxes as if the property were on the taxable roll.

**Existing Facilities**

X

Existing buildings shall continue to be subject to local, county and school taxes based on the current assessment. Any increase in assessment resulting from improvements financed with Agency assistance shall be exempt from local, county and school taxes at a rate of 100% for a ten (10) year period.

- X Beginning in the year 11 and continuing for the term of the PILOT agreement the company shall pay annual local, county and school taxes as if the property were on the taxable roll.

## Uniform Tax Exemption Policy: Commercial Services

\* Eligible commercial service section projects include those in which the principle user of the facility being financed with industrial revenue bonds serves a market area broader than the Town of Clifton Park or provides services within the Town of Clifton Park that are not adequately provided for by existing local facilities.

### Eligible Determination

\_\_\_\_\_A favorable determination of the eligibility of commercial service projects for a tax incentive is made upon evidence of the following factors:

1. Demonstration that industrial revenue bond financing will induce the location or expansion of the project in the Town of Clifton Park.
2. Demonstration of the need for the project and economic benefits it represents.
3. Demonstration that the project will not cause substantial disruption of existing employment at similar facilities in the Town of Clifton Park.
4. Demonstration that the project will provide employment for the Town of Clifton Park residents or provide a service which is demonstrated to be in the best interest of the public and the taxpayer.
5. Demonstration that the project involves the development of new facilities.

Any new assessment resulting from improvements financed by bonds shall be exempt from local, county and school property taxes at a rate of 100% for a five (5) year period.

From years six through ten any new assessment resulting from improvements financed by bonds shall be exempt from local, county and school property taxes at a rate ranging from 50% to 100% of such assessments as determined by the Agency.

Local, county and school taxes for the first five (5) years will be based on the equalized value of the land purchased, times the respective local tax rates. In no succeeding year shall the assessment be less than the previous year as a result of declining equalization rates.

Beginning in year 11 and continuing for the term of the PILOT agreement the company shall pay annual local, county and school taxes as if the property were on the taxable roll.

### **Uniform Tax Exemption Policy: Commercial Retail**

Only those commercial retail facilities enumerated in Section 862 of the General Municipal Law will be considered eligible for financial assistance.

Eligible facilities will be granted a partial abatement on any assessment attributed to improvements financed with Agency assistance. The abatement for local, county and school tax purposes will be limited to 50% of assessment in year #1, 40% in year #2, 30% in year #3, 20% in year #4, and 10% in year #5. Thereafter all real property taxes will be calculated on 100% of the property's assessment.

**Uniform Tax Exemption Policy: Hydroelectric Facilities**

Annual payments will be based on an increasing percentage of the gross annual income for a ten (10) year period beginning with the first full year in which electric revenue is generated. Should the initial generation period be less than twelve (12) months during the first calendar year it shall be added to the first full year period for purposes of calculating the PILOT payment. The Agency shall require submission of independent audited statements or such other appropriate documentation of annual revenues and expenses as may be requested by the Agency. Project sponsors shall secure business interruption insurance and assign to the Agency the right to recover PILOT payments from the proceeds of such insurance policy so as to insure PILOT payment is at least equal to the prior year's full PILOT payment.

Base percentage is 2.5% with 50% of that exempt from the first year's computed tax, such exemption decreasing 5% each year thereafter.

Year

	1	Annual Electric Revenue x 2.5% x 50% = 2.250%
	-	or minimum amount
	2	“ 55% = 1.375% established by the
3		“ 60% = 1.500% Agency, whichever
4	“	65% = 1.625% is higher
5	“	70% = 1.750%
6	“	75% = 1.875%
7	“	80% = 2.000%
8	“	85% = 2.125%
9	“	90% = 2.250%
10	“	95% = 2.375%

In year 11 and thereafter the PILOT will be based on the assessed value of the property.

**Uniform Tax Exemption Policy: Cogeneration Facilities**

Annual payments will be based on an increasing percentage of net revenue (i.e., gross annual income minus the base fuel cost), for a ten-year period beginning with the first full year in which electric and steam revenue are generated. Should the initial generation period be less than twelve (12) months during the first calendar year it shall be added to the first full year period for purposes of calculating the PILOT payment. For years 12 through 15 annual payments will be based on a minimum 2.5% of the net annual revenue with the Agency reserving the right to increase the annual payment during years 12-15. Beginning in year 16, annual PILOTS will be equal to the real property taxes which would be due if the facility were not tax exempt.

The Agency shall require submission of independent audited statements or such other appropriate documentation of annual revenues and expenses as may be requested by the Agency. Project sponsors shall secure business interruption insurance and assign to the Agency the right to recover PILOT payments from the proceeds of such insurance policy so as to insure PILOT payment is at least equal to the prior years full PILOT payment.

Base percentage is 2.5% with 50% of that exempt from the first year's computed tax, such exemption decreasing 5% each year thereafter.

<u>Year</u>			1	Annual Electric
			Revenue	x 2.5% x
				50% = 2.250%
			-	or minimum
				amount
			2	"
				55% = 1.375%
				established by
				the
3			"	60% =
				1.500%
				Agency,
				whichever
4	"	65% = 1.625%	is higher	
5	"	70% = 1.750%		
6	"	75% = 1.875%		
7	"	80% = 2.000%		
8	"	85% = 2.125%		
9	"	90% = 2.250%		
10	"	95% = 2.375%		
11	"	100% = 2.500%		

12	“	2.5%}
13	“	2.5%} <i>Minimum</i>
14	“	2.5%}
15	“	2.5%}



### **Uniform Tax Exemption Policy: Sales Tax**

The Town of Clifton Park Industrial Development Agency as a public benefit corporation of the State of New York is exempt from the imposition of sales tax on the purchase or rental of materials, supplies, tools, equipment, or services to be incorporated into the facility or to be used exclusively in connection with the constructing or equipping of such facility. It is the intent of this policy to permit agents of the agency to obtain the full sales tax exemption permitted by law during the construction period of the project. Any exemption of sales tax beyond the construction period must involve the repair of buildings or replacement of tangible personal property that becomes obsolete. Exemptions beyond the construction period are subject to Board approval.

A company's failure to close on a bond issue within six (6) months of the adoption of an inducement resolution may require the repayment of all sales tax previously exempted. Should there be a failure to make restitution, the agency may notify the New York State Department of Taxation and Finance of sales taxes due.

Each company as agent of the Agency must file an annual statement of the value of all sales tax exemptions claimed. Failure to file such statement with the New York State Department of Taxation and Finance may result in the removal of the company's authority to act as agent of the Agency.

**Uniform Tax Exemption Policy: New York State Mortgage Recording Tax**

Mortgages executed by an Industrial Development Agency in furtherance of its lawful purposes are exempted by Section 874 of the General Municipal Law from the New York State Mortgage Recording Tax.

It is the policy of the agency that all of its projects should receive the full exemption from the New York State Mortgage Recording Tax allowed by law.

## **Uniform Tax Exemption Policy: Deviation Procedures**

### 1. \_\_\_\_\_

All affected tax jurisdictions shall be notified by certified mail of any proposed deviation of the Uniform Tax Exemption Policy and the reasons for such deviation. Affected tax jurisdictions shall have ten (10) calendar days to provide written input regarding the proposed deviation prior to final action by the Board.

2.     Decrease in Abatement: The Agency may at any time and for any class of use determine that its Uniform Tax Exemption Policy should be deviated from to provide for an increase in the amount of payment in lieu of tax. These increases would be remitted to affected taxing jurisdictions in the same proportion as the real property tax levy.
3.     Right of Reimbursement: The Agency reserves the right to use PILOT revenues to reimburse itself or any other governmental Agency or political subdivision of all or a portion of Agency and/or other public funds which were invested in the construction of infrastructure which was instrumental in the location decision of the company making the PILOT payments. Such reimbursement shall not result in a reduction of existing tax revenues generated prior to Agency involvement.
4.     Hydroelectric Facilities: The Agency may consider extending the abatement period from ten (10) to fifteen (15) years for hydroelectric facilities if the project sponsor can demonstrate an extension is critical to the economic viability of the project.
5.     Notwithstanding any of the foregoing provisions the Agency, at its discretion, reserves the right to deviate from its Uniform Tax Exemption Policy.

