

COUNTY OF ROCKLAND INDUSTRIAL DEVELOPMENT AGENCY UNIFORM TAX EXEMPTION POLICY*

SECTION I

PURPOSE

New York General Municipal Law 874 requires an Industrial Development Agency to establish a uniform tax exemption policy applicable to grants of financial assistance and providing guidelines for the claiming of real property, mortgage recording, and sales tax exemptions. Industrial Development Agencies are also required to establish a procedure for deviation from the uniform tax exemption policy.

SECTION II

REAL PROPERTY TAX ABATEMENTS

A. Abatements

The County of Rockland Industrial Development Agency does not have the power to negotiate or determine payments in lieu of taxes at rates lower than full real property tax rates. Instead, the decision to provide, and the extent of payments in lieu of taxes at rates lower than full real property tax rates is to be negotiated between the applicant and the affected taxing jurisdictions. This policy provides guidelines for consideration in the negotiation process.

The County of Rockland Industrial Development Agency encourages affected taxing jurisdictions to utilize their authority to request Agency assistance to enter into payments in lieu of taxes arrangements for Agency projects at less than full real property tax rates where such arrangements are, in the judgment of such taxing jurisdictions, reasonable or necessary to promote the purposes of the New York State Industrial Development Agency Act (the "Act"). In exercising this authority, it is recommended affected taxing jurisdictions grant applicants real property tax abatements equal to that provided under New York Real Property Tax Law 485-b so that Agency projects will be treated at least as favorably as non-Agency projects. In addition, taxing jurisdictions are encouraged to provide enhanced or diminished benefits from this suggested tax exemption policy based upon a consideration of the following:

1. The extent to which the project will create or retain permanent, private sector jobs;
2. The estimated value of any tax exemptions to be provided;
3. Whether affected taxing jurisdictions shall be reimbursed by the project occupant if a project does not fulfill the purpose for which an exemption was provided;
4. The impact of the proposed project on existing and proposed businesses and economic development projects in the vicinity;
5. The amount of private sector investment generated or likely to be generated by the proposed project;
6. The likelihood of completing the proposed project in a timely fashion;
7. The effect of the proposed project on the environment;
8. 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; and

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

The above list is not all-inclusive and no one factor is dispositive. Additionally, it is not necessary to consider all the factors in the list for all projects.

B. Recapture of Benefits

It is recommended that a request from affected taxing jurisdictions contain a reservation of rights and the methodology for the taxing jurisdiction to recapture all or a portion of benefits conferred upon the occurrence of certain events including, but not limited to:

1. Sale or closure of a facility;
2. Significant employment reductions;
3. Significant change in business activities; and
4. A default in any material obligations under any PILOT agreement or breach of any material obligations by the project occupant to the United States, New York State, any of its political subdivisions and the affected taxing jurisdictions in which obligations were imposed in connection with the project.

C. Agency Uniform Policy

It is the policy of the Agency to encourage, where appropriate, payments in lieu of taxes at rates lower than full real property tax rates at the rates and for the periods of time required by each affected taxing jurisdiction with such recapture requirements as may be required by each affected taxing jurisdiction. It is the policy of the Agency to encourage uniformity among affected taxing jurisdictions in connection with requests for a particular project for ease of implementation and administration.

The foregoing policy does not apply to not-for-profit corporation projects, which shall retain the same real property tax-exemptions enjoyed by virtue of their 501(c)(3) status.

SECTION III

MORTGAGE RECORDING TAX

It is the uniform policy of the Agency to provide waivers of mortgage recording tax on all Agency projects, including bond-financed projects and straight lease projects.

The Agency may require recapture of all or a portion of the benefits under this Section based on the considerations set forth in Section IIB.

SECTION IV

SALES TAX

It is the uniform policy of the Agency to provide sales tax exemptions for all Agency projects as follows:

1. Sales tax exemptions will be for a period of time expiring on the earliest to occur of the last day of the construction period, or three years following commencement of the project, or to such additional time as the Agency may deem appropriate.
2. Sales tax exemptions for construction projects and equipment acquisitions will apply only to capital costs.
3. Sales tax exemptions apply to hard costs only.

4. For projects constituting equipment, software or other leases or maintenance or management contracts which may be subject to sales tax, the tax exemption will apply (i) in the case of contracts constituting the "sale" of the asset, for the full term of the lease or contract and (ii) in the case of leases not resulting in a "sale" of the asset, for a term approved by Agency.
5. Except as set forth in paragraph 4, sales tax exemptions will not apply to ordinary operating expenses.

Sales tax exemptions will apply to 100% of the eligible project costs subject to sales tax.

Project applicants shall be required to estimate the total cost of items for which the sales tax will apply prior to receipt of a sales tax exemption letter from the Agency.

Sales tax letters will generally be issued by the Agency at the closing with the Agency.

In certain instances where the Agency determines that deferral of issuance of a sales tax letter to the closing will cause an applicant to irrevocably lose a material portion of the intended benefits of Agency financial assistance, the Agency may issue a sales tax exemption letter at any time following inducement of the project.

The Agency may require recapture of all or a portion of the benefits under this Section based on the considerations set forth in Section IIB.

SECTION V BOND ISSUES

Agency financial assistance through the issuance of Agency bonds shall be available to all projects induced by the Agency, provided that all Agency bonds shall be secured solely by amounts payable by the project applicant under a lease or installment sale arrangement with the Agency and such other security as may be provided by the project applicant, and the holders of the bonds shall have no recourse to assets of the Agency for payment thereof, except as described above.

SECTION VI PROCEDURES FOR DEVIATION FROM POLICIES

The Agency reserves the right to deviate from the foregoing uniform tax exemption policies if the Agency determines, in its sole judgment, that following such policy (i) would be inconsistent with the purposes of the Act, (ii) would unfairly disadvantage competing businesses within a reasonable market area or (iii) would adversely affect the Agency. Such deviations shall be done by separate vote of the IDA regarding approval of the policy deviation and the minutes of the meeting at which such approval was made shall include a summary of the reasons for such deviation.

SECTION VII EFFECT OF POLICY AND AMENDMENTS TO POLICY

Nothing in this policy is intended to create an obligation on the part of the County of Rockland Industrial Development Agency or affected taxing jurisdictions. This policy may be amended from time to time in accordance with applicable law.

*As required by law, the County of Rockland Industrial Development Agency adopted its Uniform Tax Exemption Policy on July 16, 1997. Amended May 22, 2013.