



IDA Annual Compliance Report State Sales Tax Recapture

For IDA fiscal year ending _____
(mmdyy)

Due within 90 days of the end of each fiscal year.

IDA information

Name of IDA County of Rockland Industrial Development Agency		
Street address 254 S. Main St, Suite 410		Telephone number (845) 977-3900
City New City	State NY	ZIP code 10956

Terms and conditions for the recapture of state sales tax exemption benefits for projects established, amended, or extended on or after March 28, 2013

1 Did the IDA provide state sales tax exemption benefits to any project established, amended, or extended during the fiscal year entered above? 1 Yes No
 If Yes, continue below.
 If No, skip to question 3.

2 When an IDA establishes a project, appoints an agent/project operator, or amends or extends a project established in a prior year, the IDA must include terms and conditions for the recapture of state sales tax exemption benefits in its resolutions and project documents. This applies to all projects established, amended, or extended on or after March 28, 2013 (see instructions).

Did the IDA use the same terms and conditions regarding the recapture of state sales tax exemption benefits in the project documents for each of its projects (as described above)? 2 Yes No
 If Yes, attach a copy of the terms and conditions used.

If No, attach a copy of each version used. Be sure to identify the projects to which each version of the terms and conditions relate.

If the IDA did not include terms and conditions for the recapture of state sales tax exemption benefits in the project documents, attach a list of these projects (see instructions).

Activities and efforts to recapture state sales tax exemption benefits for projects established, amended, or extended on or after March 28, 2013

3 Did the IDA make efforts to recapture any state sales and use tax exemption benefits from an agent, project operator, or other person or entity (see instructions)? 3 Yes No
 If Yes, continue below.
 If No, skip question 4 and complete the Certification below.

4 Did the IDA file Form ST-65, IDA Report of Recaptured Sales and Use Tax Benefits, for each recapture, and remit the funds to the Tax Department? 4 Yes No
 If Yes, you must keep a copy of Form ST-65 and supporting documentation related to the recapture activities.
 If No, attach an explanation of the IDA's recapture efforts (see instructions).

Certification

I certify that the above statements are true, complete, and correct, and that no material information has been omitted. I make these statements with the knowledge that willfully providing false or fraudulent information with this document may constitute a felony or other crime under New York State Law, punishable by a substantial fine and possible jail sentence. I also understand that the Tax Department is authorized to investigate the validity of any information entered on this document.

Print name of person signing on behalf of the IDA <i>Heidi Vander</i>		Print title of person signing on behalf of the IDA <i>Director of Operations</i>	
Signature	Date <i>6/1/26</i>	Telephone number <i>(845) 9773900</i>	

Mailing instructions

Mail completed form and attachments to:

**NYS TAX DEPARTMENT
IDA UNIT
W A HARRIMAN CAMPUS
ALBANY NY 12227-0866**

Instructions

Filing requirements

Every IDA must file this compliance report every year. The report must include:

- the terms and conditions for the recapture of state sales tax exemption benefits (as described in General Municipal Law (GML) section 875(3)) within all of the IDA's resolutions and project documents. This applies to:
 - projects established and agents or project operators appointed, and any financial assistance or agreement for payments in lieu of taxes provided, on or after March 28, 2013; and
 - any amendment or revision for additional funds or benefits made on or after March 28, 2013, to projects established, agents or project operators appointed, financial assistance provided, or payments in lieu of taxes provided, prior to March 28, 2013.
- information about efforts the IDA has made to recover, recapture, receive, or obtain any state sales tax exemption benefits and payments in lieu of state sales taxes from an agent/project operator, or other person or entity.

Every IDA must file Form ST-62 within 90 days of the end of each fiscal year.

The term *state sales tax* as used in this form includes both state sales tax and the state use tax.

For more information, see TSB-M-14(1.1)S, *Sales Tax Reporting and Recordkeeping Requirements for Industrial Development Agencies and Authorities*.

Any IDA that fails to file or substantially complete this report may lose its authority to provide state sales tax exemption benefits.

Terms and conditions for the recapture of state sales tax exemption benefits

Line 2 – If the IDA:

- **used the same** standard terms and conditions for the recapture of state sales tax exemption benefits in the project documents for all projects covered by this report, attach a copy of the terms and conditions used. You are **not** required to attach the entire document. Attach only the sections describing the state sales tax recapture requirements described in GML section 875(3).
- **used different** terms and conditions for the recapture of state sales tax exemption benefits in the project documents for the projects covered by this report, attach a copy of the terms and conditions used and identify the project(s) to which they relate. Be sure to include the project name and address, and the legal name and EIN of the agent or project operator for each project identified.
- provided state sales tax exemption benefits **but did not include** terms and conditions for the recapture of those benefits, attach a list of these projects. Include the project name and address, the legal name and EIN of the agent or project operator, and the reason why terms and conditions regarding recapture were not included.

Activities and efforts to recapture state sales tax exemption benefits

The GML requires that each IDA recapture state sales tax exemption benefits that were claimed by a project operator or agent, or other person or entity, whenever the benefits were:

- not entitled or authorized to be taken,
- in excess of the amounts authorized,
- for unauthorized property or services, or
- for property or services not used according to the terms of the agreement with the IDA.

See Form ST-65, *IDA Report of Recaptured Sales and Use Tax Benefits*, for more information.

IDAs must remit recaptured state sales tax benefit amounts to the Tax Department within 30 calendar days, using Form ST-65.

Line 4: If the IDA made efforts to recapture sales tax exemption benefits during the fiscal year covered by this report and **has not filed** Form ST-65, attach an explanation.

The attachment must include:

- name and address of the project and project number;
- legal name, EIN, and address of the agent/project operator, or other person or entity;
- project beginning and end dates;
- the basis for recapture, as described above;
- date of recapture efforts;
- amounts identified as required to be recaptured; and
- amount recaptured, if different.

When identifying recapture amounts, be sure to break down the total dollar amount into the categories below:

- state tax,
- local tax,
- MCTD tax (if applicable),
- penalties, and
- interest.

If the amount recaptured was not paid in full, also include copies of correspondence exchanged between the IDA and the agent/project operator, or other entity or person regarding the recapture efforts.

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Rockland County Industrial Development Agency

Recapture Policy and Termination Procedures

Purpose:

Pursuant to Section 875 of Article 18A, of General Municipal Law, the Rockland County Industrial Development Agency adopts Recapture Policy and Termination Procedures that (a) establish the Agency's recapture policy and procedures to ensure compliance with the enabling legislation, (b) establish Material Factors which will be used to determine if a company receiving financial assistance is meeting the obligations required and stated in the approval and project agreements, and (c) if non-compliance occurs, establish a process to review and determine if a reduction, termination and/or recapture of financial assistance is required.

Material Factors:

The Agency, for each project seeking financial assistance, will establish Material Factor(s) which are to be defined and stated in the approving board resolution and project agreements. This includes the Agency's Policies and the required Material Factors which will be explicit and measurable and may include items such as investment, job creation, retention, or other factors as determined by the Board. Material Factors may vary by project type or specific application. Each project approved by the Board will have identified material factors, which will be reviewed, measured and evaluated to determine if a project receiving financial assistance has met and or continues to meet the required obligations, or has claimed tax abatements in excess of an amount authorized by Board approvals and project agreements.

For certain numerical Material Factors, such as job creation, investment amount, etc., the Board will consider acceptable achievement factors which would constitute compliance with the Material Factor requirement. For non-numeric factors, the Board may determine how the project will be evaluated to demonstrate that it has met the Material Factor requirement.

The Board may consider a number of Evaluative Criteria when determining whether to approve a project for financial assistance. Note, a Material Factor shall differ from Evaluative Criteria in that it should be directly measurable and will be utilized to determine whether a project has met its requirements under the condition of project approval and project agreement.

Material Factor Monitoring:

The Agency shall develop a reporting/monitoring system to determine whether the Material Factors have been met or are being met over the term of the financial assistance, (for example, the duration of the PILOT agreement). Some Material Factors may be required and complied with over the term of the financial assistance (i.e. jobs), while others may be a onetime check (i.e. project investment). For Material Factors that are multi-year, the Agency will monitor for compliance on at least an annual basis,

and for the full term of the financial assistance period. Upon project approval, the Board should be explicit in its project approvals those Material Factors which the project will be evaluated for, the measurable criteria, and the term for which each factor will be monitored.

Monitoring reports may be provided directly by the project applicant or through various other methods determined by the Board.

A project compliance report should be presented to the Board of Directors on an annual basis. If it is determined that a project receiving financial assistance has not met or maintained compliance with a Material Factor, term or condition of the project agreement, or any other condition as set by the Board, a procedure to resolve non-compliance issues should be established and reflect possible actions, including termination, reduction or recapture of benefits.

Non-Compliance Process:

If a company is found to be in violation or non-compliant with a Material Factor during the course of the compliance period, Project Agreements will have a procedure to determine board action (if any).

If during the annual monitoring/reporting period, or other event that indicates non-compliance (in the Project Agreement), the Board will undertake the following:

1. The Agency shall notify the company in writing that the Agency's determination a Material Factor or other Project Agreement requirement has been violated.
2. The company shall be given an opportunity to remedy the violation as provided in the Project Agreement.
3. The Agency shall consider information as to why a Material Factor or other condition was violated or not achieved. This may include economic or natural factors that led to the default. These factors should be discussed and predetermined to the extent possible by the Board and may include items such as, natural disaster, industry dynamics, unfair competition or economic events that were outside the control of the company.

Board Actions:

Following the above, the board may take no action or take steps up to and including recapture, reduction of incentives, project termination. The following options are recommended as considerations for actions when considering Material Factor compliance or violations of terms and conditions of project agreements.

1. Upon a review of the facts regarding a non-compliance determination, the Board may determine that the cause of the non-compliance was a valid reason for not meeting the Material Factor and may consider the matter closed without further action, or set a specific time period to give the opportunity for the company to achieve compliance, this may also be accompanied by a period of increased reporting (for example, quarterly reporting until remedied).
2. If a company is ultimately unable to meet a Material Factor or is in continued violation of the terms and conditions as set forth in the project agreement, the Board shall develop procedures

and policies which will define when it will take actions regarding reduction, termination or recapture of financial assistance. Below are listed several best practice options that may be undertaken:

- Reduction of Financial Assistance: At the discretion of the Board, it may consider a reduction in assistance as an appropriate action to take in the event of a Material Factor or project agreement non-compliance. The reduction may be set at the sole discretion of the Board
- Termination of Financial Assistance: In addition to typical reasons why the Board may act to terminate a project (i.e. business closure, change of use, etc.), the Board may elect to terminate ongoing financial assistance to a company due to reasons such as (but not limited to) continued non-compliance with a Material Factor, continued violation of the terms and conditions of the Project Agreement, or failure to comply with ongoing reporting or compliance requirements of the Agency.
- Recapture of Financial Assistance: The Board may take action to recapture a portion or all of the Financial Assistance provided to a company. Actions to recapture shall be made by the Board and shall be reserved for continued and/or severe violations of Material Factors or the terms and conditions of the Project Agreement. An event leading to recapture may include, for example (but not limited to), an applicant/company knowingly providing false information on an application or compliance/monitoring report, the company did not make a good faith effort or have any intention of meeting a Material Factor or a term and condition of the Project Agreement, the company ceases operations and/or relocates prior to fulfilling the length of term for a Material Factor, the company demonstrates a wanton disregard for state and or local laws or regulations.
- In the event the Agency is successful in receiving Recaptured Financial Assistance, such funds shall be returned to the appropriate affected taxing jurisdictions unless otherwise agreed upon by the local taxing jurisdiction.

Adopted and amended: March 28, 2019