

TOWN OF ERWIN 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 Town of Erwin Industrial Development Agency (“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 abatement.

The Agency reserves the right to deviate from such policies in compliance with all applicable law and Paragraph E below.

A. Real Property Taxes

The Agency maintains a policy for the provision of real property tax abatements for qualified projects. The abatement provided applies to value/value added by the acquisition, construction or renovation and the existing parcel involved. The period of the exemption will not exceed the period of the respective financing or lease and, unless otherwise approved by the Agency, the period of the exemption shall not exceed forty (40) years. The Agency’s policy generally results in a schedule of abatement applicable to County, Town, Municipal and School taxes. Each schedule shall have a maximum initial abatement of one hundred percent (100%). Examples of eligible projects include industrial projects (i.e. manufacturing, remanufacturing, assembly, processing, product research and development, etc.) and non-industrial projects (i.e. warehouse, wholesale/distribution, office, infrastructure, commercial/retail, hotel, etc. and any other project permitted under applicable law).

Any deviations from the standard policy will be made only with specific approval of the Agency’s Board of Directors based on all or any number of factors listed in Paragraph E below and those described in the NYS General Municipal Law Section 874(4)(a) (or applicable law). Additionally, the Agency shall notify the affected local taxing jurisdictions of the proposed deviation from such policy and the reasons therefore.

Since payments are based upon the assessed value of the project (or in the alternative, area fixed payment amount), there is no need for real property appraisals to be performed as part of an application for tax exemption. The project applicant has the right to challenge any applicable assessments.

B. Payment in Lieu of Taxes (PILOT)

Each project receiving an abatement will be subject to a Payment In Lieu of Tax Agreement (PILOT) in a form acceptable to the Agency. The Agency will consider project factors, similar to those described in Paragraph E, when determining the abatement under the PILOT. A copy of the agreement will be forwarded to each of the affected taxing jurisdictions within fifteen (15) days of execution (or within such period as required under applicable law). Unless otherwise agreed by the Agency, with approval from the affected taxing jurisdictions, such payments shall be allocated among the affected taxing jurisdictions in proportion to the amount of real property tax and other taxes which would have been received by each affected taxing jurisdiction had the project not been tax exempt due to the status of the Agency involved in the project.

C. Sales and Use Tax Exemptions

1. Purchases of construction materials and equipment rentals and purchases of project related equipment and furnishings are made as agent of the Agency, and are therefore afforded full exemption from local and New York State Sales and Use taxes until the project is completed (i.e. certificate of occupancy). Operating and maintenance expenses of projects are not incurred as agent of the Agency, and no sales tax exemption is provided thereof.

2. All project applicants must agree in writing to file with New York State Department of Taxation, inform and at times required, an annual statement of the full value of all sales and use taxes, exemption claimed in connection with the facility in full compliance with Section 874(8) of the General Municipal Law and any other filing requirements contained in Section 875(3) of the General Municipal Law. Sales tax exemptions may be subject to recapture in compliance with Section 875(3) of the General Municipal Law.

D. Mortgage Recording Tax Exemptions

1. The Agency's Policy is to permit mortgage recording tax exemptions all project related financing/refinancing to the full extent permitted by New York State Law, whether or not the Agency has issued its bonds to refinance the Project.

2. The Agency may, in its sole discretion, permit mortgage recording tax Exemptions on on-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.

E. 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. If required by current law, any deviations from the guidelines set forth above requires the written notification by the Agency to the chief executive officer of each affected taxing jurisdiction. 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 propose project (e.g. manufacturing, commercial, civic, etc.).
2. The nature of the property before the project begins (e.g. vacant land, vacant building, 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/abatement to be provided.
6. The economic impact of the project and the proposed tax exemptions on affected taxing 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 to, educational, transportation, emergency medical or police and fire services.
12. The extent to which the proposed project will provide additional sources of revenue to municipalities and school district 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.

F. Recapture of Benefits

The Agency, at its sole discretion and subject to all applicable law, and on a case-by-case basis, may determine (but shall not be required to do so unless required by applicable law) with respect to a particular project to require the project applicant to agree to recapture by the Agency of the value of any or all exemption 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 not limited to:

1. Sale or closure of facility;
2. Significant employment reduction;
3. Significant change in use in facility;
4. Significant change in business activities of project applicant or operator;
5. Material noncompliance with or breach of terms of Agency transaction documents or of zoning or land use laws or regulations federal, state or local environmental laws or regulations; or
6. Failure to comply with Section 875(3) of the General Municipal Law.

If the Agency determines to provide for the 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 percentage of recapture.