

UNIFORM TAX EXEMPT POLICY OF
THE TOWN OF WALLKILL INDUSTRIAL DEVELOPMENT AGENCY

ARTICLE 100 – DEFINITIONS

Unless the context requires a different meaning, the following terms shall have these definitions:

101. “Agency” shall mean the Town of Wallkill Industrial Development Agency.
102. “County” shall mean the County of Orange.
103. “State” shall mean the State of New York.
104. “Affected taxing jurisdiction” shall mean any municipality or school district, in which a project is located, which will fail to receive full real property tax payments or other tax payments which would otherwise be due, except for the tax exempt status of the Agency involved in the project.
105. “Financial Assistance” shall mean straight leases, or exemption from taxation claimed by a project occupant as result of the Agency taking title, possession or control (by lease, license or otherwise) to the property or equipment of such project occupant acting as agent of the Agency.
106. “Tax Exemption” shall mean the financial assistance granted to a project which is based upon all or a portion of the taxes which would be levied and assessed against the project but for the involvement of the Agency.
107. “PILOT” shall mean any payment made to the Agency, or an affected tax jurisdiction equal to the amount, or a portion of, the real property taxes, or other taxes, which would have been levied by or on behalf of an affected tax jurisdiction if the project was not exempt because of Agency involvement. A PILOT payment shall not include payments on account of the “Buy-back fee.”
108. “Straight Lease” shall mean a transaction in which the Agency takes title, possession or control (by lease, license, or otherwise) to the property or the equipment of a project occupant, entitling such property or equipment to be exempt from taxation according to the provisions of GML§874, and no financial assistance in the form of proceeds of bonds issued by the Agency is provided to the project occupant.

109. “GML” shall mean the General Municipal Law of the State of New York.

110. “Project Occupant” shall mean a person under contract with the Agency who is receiving financial assistance as provided by law. The term project occupant shall include project developer, project tenant or any other similarly situated person.

ARTICLE 200 – TAX POLICIES AND PROCEDURES

201. Chapters 356 and 357 of the New York State laws of 1993, and Section 874 of the New York State General Municipal Law amended in 1997, require that the Agency adopt Uniform Tax Exemption Policies. This policy shall apply to the granting of a tax exemption for real estate, sales and mortgage taxes, the requirements for the payment in lieu of taxes and policies which may be carried out to modify such policies.

202. The general policy of the Town of Wallkill Industrial Development Agency is to grant applicants real property tax abatements and exemptions from sales, use and mortgage recording taxes as described below. The Agency may grant enhanced benefits on a case by case basis for a project expected to have a significant economic impact on the Town of Wallkill as determined by the Agency’s Board.

203. Considered factors: In approving a project and granting tax exemption, the Agency shall consider:

a. Permanent private sector job creation and retention, and business retention. The Agency will consider the number of permanent jobs created or retained in the private sector and also business retention when it considers approval of a project.

b. Estimated value of the tax exemption. The Agency will consider the value of all the tax exemptions when it considers approval of a project.

c. Whether the affected tax jurisdiction shall be reimbursed by project occupant if the project does not fulfill the purposes for which exemption was granted. The Agency will consider the recapture of tax exemptions granted in appropriate cases. The Agency will require reduction or revocation of any tax exemption granted or increase in or cancellation of any PILOT payment where the use of a project is substantially changed or abandoned or agreed upon goals are not satisfied because of the fault of the project occupant.

d. Impact of project on existing and proposed business or economic development projects. The Agency will consider the needs of the community and the impact on existing and proposed businesses or economic development projects when it considers approval of a project for the particular area where the project is located.

e. The amount of private sector investment generated or likely to be generated by the proposed project. The Agency will consider and favor projects which are likely to generate substantial private investment in the project and in related businesses in the area where the project is located.

f. Demonstrated public support for the proposed project. The Agency will consider the needs of the community and the demonstrated support for the proposed project by the public, government agencies and private organizations when it considers approval of a project. The Agency will accommodate in its consideration of an application for financial assistance those industries that apply for financial assistance and desire to locate in areas which are evidenced by high unemployment, high commercial real estate vacancies or other adverse economic conditions, or are industries which fulfill a need of such community or location.

g. Likelihood of accomplishing the proposed project in timely fashion. The Agency will consider the capital available to a project occupant and the ability of the project occupant to complete the project in a timely fashion.

h. Environmental impact. The Agency shall comply with all applicable laws related to determining the impact of a proposed project on the environment.

i. Extent to which the proposed project will require additional services including but not limited to educational, police, transportation, EMS, and fire. The Agency will consider the impact of the project on community services and may require payment of other taxes, fees and charges where a project will require such additional services arising from such project.

j. Extent to which proposed project will provide additional revenues. The Agency shall consider the size of the project and the revenues otherwise paid to the Agency or any other agency or organization.

k. A Cost Benefit Analysis. To be submitted by the applicant, the Agency shall consider an overall analysis of the costs and benefits of the proposed project as it affects the effected taxing jurisdictions.

204. Application for financial assistance from the Agency shall be made on applications supplied by the Agency and shall contain such information as may be requested. The applicant shall describe the proposed project and type of assistance sought. Agency assistance can take the form of real property tax abatement through a Straight Lease Agreement, Sales and Use Tax Exemption, and/or Mortgage Tax Exemption. Most of the policies herein stated are deemed to be guidelines and not rules of law. The intent of any Agency assistance is to promote economic development and growth of the Town of Wallkill economy.

ARTICLE 300 – REAL PROPERTY TAX EXEMPTION POLICY AND PAYMENT IN LIEU OF TAXES

301. The Agency maintains this policy for the provision of real property tax abatements for qualified projects. Only facilities that qualify as a “project,” as defined in the New York State Industrial Development Agency Act, may be approved by the Agency. These include both industrial and non-industrial projects. Applicants can qualify for Real Property Tax Exemption through Straight Lease Agreements with the Agency. The project must be shown to serve a public purpose by creating or retaining employment. Additionally, State restrictions on applicants include prohibitions to projects that are extraterritorial (GML Section 854(4)), governmental projects (GML Section 854(B)), projects raided from outside the Town of Wallkill except as allowed under GML Section 862(1), and the limitations on the Agency’s ability to provide assistance to retail projects (GML Section 862(2)).

The following are the Abatement Programs adopted by the Town of Wallkill Industrial Development Agency.

a. General Abatement Program

The General Abatement Policy used by the Town of Wallkill IDA is that real estate taxes on the increased value resulting from improvements are abated at fifty (50%) percent for year one (1) with the abatement decreasing two and one-half (2½%) percent per year for years two (2) through twenty (20). This type of abatement program provides benefits similar to benefits that are available under New York Real Property Tax Law (RPTL) Section 485-b, but over a twenty (20) year period versus the ten (10) or less period provided for in the RPTL. Sales tax abatements are provided in connection with all taxable items purchased under this program. Mortgage tax on loans financing projects under this program is abated. Minimum employment goals are established for projects receiving benefits under this program. Employment goals are determined on a project by project basis. Real property tax abatements are reduced in future years if the project’s employment goals are not met.

b. Retail Sales Program

Requirements for assistance to retail projects are set forth in Section 862 of the New York General Municipal Law.

Real estate taxes on the increased value resulting from improvements are abated at fifty (50%) percent for year one (1) with the abatement decreasing by five (5%) percent per year for years two (2) through ten (10). This abatement mirrors Section 485-b of the New York Real Property Tax Law. For years eleven (11) through fourteen (14), PILOT payments are equal to “full taxes”; although the value of the project for PILOT purposes remains fixed. Sales tax abatements are provided in connection with all taxable items purchased in connection with the targeted manufacturing projects. All mortgage tax on loans necessary for those manufacturing projects is abated. There are no minimum employment goals associated with this program.

302. Each project receiving a real property tax exemption will be subject to a Payment in Lieu of Tax Agreement (“PILOT Agreement”) in a form acceptable to the Agency. The Agency may consider project factors, similar to those described in Paragraph 203 herein, when determining the amounts to be paid under the PILOT Agreement.

The abatement shall generally apply to value added by construction or renovation and the existing parcel involved. In most situations the involvement by the Agency will not result in revenue to the affected taxing jurisdictions in any tax year being less than the revenues received in the tax year preceding involvement by the Agency. The period of the exemption will not exceed the period of the respective financing or lease, and under no circumstances will the period of the exemption exceed twenty (20) years. The Agency’s Policy results in a tax schedule for an approved project starting at a base amount and increasing over the full period of the exemption up to 100% payment of the assessed value of the project. The PILOT is applicable to County, Municipal, and School Taxes.

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.

ARTICLE 400 – SALES AND USE TAX EXEMPTION POLICY

401. Purchases. All purchases of construction materials and equipment rentals and purchases of project related equipment and furnishings are made as agent for the Agency, and are therefore

afforded full exemption from local and New York State Sales and Use Taxes, as limited by Article 300 above. Operating and maintenance expenses of projects are not incurred as agent of the Agency, and no sales tax exemption is provided for those expenses. Letters of Sales Tax Exemption will be issued by the Agency for a predetermined length of time, or until the project certificate of occupancy is issued, whichever is a shorter period.

402. Filing. All project applicants must agree to file with the New York State Department of Taxation, in form and at times required, an annual statement of the value of all sales and use taxes exemption claimed in connection with the facility in full compliance with Section 874(8) of the NYS General Municipal Law.

ARTICLE 500 – MORTGAGE TAX EXEMPTION POLICY

501. The Agency's Policy is to permit mortgage recording tax exemptions on all project related financing to the full extent permitted by New York State Law.

502. The Agency may, in its sole discretion, permit mortgage recording tax exemptions on non-project related financing (i.e. 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.

ARTICLE 600 – PROCEDURE FOR DEVIATION FROM TAX POLICIES

601. In addition to 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 a significant impact in the locality where the project will be located. Any deviation from the guidelines set forth above requires the written notification by the Agency to the chief executive officer of each affected taxing jurisdiction as required by law. The Agency may consider any or all of the factors stated in Paragraph 203 herein in making such determinations.

ARTICLE 700 – RECAPTURE OF BENEFITS

701. The Agency, at its sole discretion and on a case-by-case basis, may determine, (but shall not be required to do so) with respect to a particular project, that the project has failed to meet its intended goals and 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 is 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 or project applicant or operator; or
- 5) Material noncompliance with or breach of terms of Agency transaction documents or of zoning or land use laws or regulations or federal, state, or local environmental laws or regulations.

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.

ARTICLE 800 – AMENDMENTS

The Agency, by resolution of its members, and upon notice to all affected taxing jurisdictions as may be required by law, may amend or modify the foregoing policy as it may, from time to time, in its sole discretion determine.

ARTICLE 900 – EFFECTIVE DATE

This Uniform Tax Exemption Policy shall apply to all projects for which the Agency adopts an Inducement Resolution since its inception, and as amended in 2019.