

TOWN OF HEMPSTEAD  
INDUSTRIAL DEVELOPMENT AGENCY

**UNIFORM TAX EXEMPTION POLICY AND GUIDELINES**

Pursuant to the authority vested in it by Section 874(4)(a) of Title One of Article 18-A of the General Municipal Law of the State of New York, the Town of Hempstead Industrial Development Agency (HIDA) may provide financial assistance to qualified applicants for qualified projects in the form of issuance of its tax-exempt or taxable bonds or by participating in straight lease transactions.

HIDA has adopted this Uniform Tax Exemption Policy to provide guidelines for the claiming of real property, sales and use tax and mortgage recording tax abatements.

**I. A. Real Property Taxes:**

HIDA general policy is to grant applicants real property tax abatements for projects involving the purchase and renovation of existing buildings and the construction of new facilities. This program provides for a ten-year period phase-in on the real property taxes. The purchase price in an arms-length transaction can be used to determine the fair market value and assessed value of the property. The phase in will apply to the increased assessment/taxes resulting from the renovation of existing buildings or new construction. HIDA's general policy is to consider freezing the first three years of the taxes at an amount usually based on the current taxes as it, in its sole discretion determines considering the factors listed in Paragraph B, hereof, not one of which is determinative, provided, however that a determination to freeze or fix the assessed value/taxes shall not be considered a deviation from HIDA's uniform tax exemption policy. In addition; it is the general policy of HIDA, that it may grant full or partial tax exemptions for a period up to fifteen years, on a case- by-case basis for (I) manufacturing facilities; (II) senior housing, affordable housing, health care/assisted living facilities; (III) vacant facilities or facilities which HIDA, in its discretion, determines to be in an area of economic distress or having higher than average unemployment or similar circumstances; or (IV) facilities that will create or retain a significant number of full time jobs; or (v) qualifying retail facilities.\* A determination by HIDA to grant such exemptions shall not be considered a deviation from policy.

\*Retail facilities may be permitted if less than one-third of the total project cost is used for retail sales or services, or meets one of the exceptions, i.e.; a tourism destination, located in a highly distressed area or provide goods or services not otherwise readily available to the residents of the Town.

In determining payments under a payment in lieu of tax ("PILOT") agreement, HIDA will, in consultation with the Nassau County Assessor's Office, through the use of tax roll rates, the Town of Hempstead Office of Receiver of Taxes, and any Village within which the project is located, determine appropriate fixed dollar amounts for PILOT payments under the PILOT Agreement for each tax year that the PILOT Agreement is in effect, as well as the proportionate allocation of such payments amount the taxing jurisdiction.

For Urban Renewal Plans and/or Overlay Zones, the PILOT Agreement may set flat PILOT payments per unit, per year for a term of up to 10 to 15 years, or in the case of such facilities financed with tax-exempt bonds, for the term of the tax-exempt bonds.

Assisted living facilities may be granted a PILOT Agreement for a term of up to 10 to 15 years with fixed PILOT Payments to be determined by the Agency in its sole discretion. However, in the event the Assisted Living Facility is financed by tax exempt bonds, the PILOT Agreement may run concurrently with the term of the bond financing.

Senior living facilities may be granted a PILOT Agreement for a term of up to 10 to 15 years with fixed PILOT Payments to be determined by the Agency in its sole discretion. However, in the event the Senior Living Facility is financed by tax exempt bonds, the PILOT Agreement may run concurrently with the term of the bond financing.

Affordable housing projects may be granted a PILOT for a term of up to 10 to 15 years, which is calculated using a "10% Shelter Rent calculation", whereby the Applicant provides HIDA with figures equal to 10% of the annual total revenues minus the total utilities of the affordable housing project in the application, and thereafter on an annual basis.

In the event an affordable housing project is financed by tax-exempt bonds or 9% Low Income Housing Tax Credits or the project is subject to a recorded Regulatory Agreement recorded by a Municipality or a governmental entity restricting the income levels of the residents of the housing project and the amount of rent payable by the residents, the PILOT Agreement may, at the sole discretion of the Agency, run concurrently with the term of the bond financing or the term of the Regulatory Agreement or such period as may be required by a

state or federal housing agency or authority that is also providing financing or benefits to such project or such lesser period as the Agency shall determine.

Market Rate Housing Projects may be granted a PILOT for a term of 10 to 15 years, and be required to include a minimum of 10% affordable units and 10% workforce units to be maintained as such for the life of the Lease and Project Agreement. Each of the "affordable" units shall rent at a reduced rate to tenants with an annual income at or below 80% of the median income for the Nassau-Suffolk primary metropolitan statistical area as defined by the Federal Department of Housing and Urban Development. Each of the "workforce" units shall rent at a reduced rent to tenants with an annual income at or below 120% of the median income for the Nassau-Suffolk primary metropolitan statistical area as defined by the Federal Department of Housing and Urban Development.

Market Rate Housing Projects project shall provide the Agency with the number of affordable units and workforce units on a yearly basis as part of the Agency's Annual Compliance, attested to under penalty of perjury by signed affidavit.

Market Rate Housing Projects may receive additional years in a PILOT Agreement if they are located in a highly distressed or blighted area, a block grant area, a local development zone, an opportunity zone, or a transit-oriented zone.

Approval of all housing projects will be at the sole discretion of the Agency's Board Members. All project applicants for Market Rate Housing Projects, Senior Housing Living Facilities, Assisted Living Facilities and Affordable Housing Projects must submit a feasibility study to the Agency demonstrating the need for the project, other existing or planned housing projects, the impact on the local taxing jurisdictions, the impact on the local school district and the expected number of children, if any, who are likely to attend the local school district, and demonstrating that the housing project complies with the Act.

**B. Deviations:**

In addition to, or in lieu of, the aforesaid abatement policy HIDA can determine, on a case-by-case basis, to deviate from the guidelines described above or provide enhanced benefits for a project whose scope, size or potential is expected to have a major impact for the Town of Hempstead. Enhanced benefits may exceed fifteen years, as HIDA deems appropriate. The decision of HIDA to grant or deny any such deviation shall be within the sole discretion of HIDA.

HIDA may consider any or all of the following factors in making such determination, no single one of which is determinative:

- The nature of the proposed project (i.e. manufacturing, commercial, civic, retail).
- The nature of the property before the project begins (i.e. vacant land, vacant buildings, brownfield sites, etc.).
- The economic condition of the area at the time of the application and positive economic effect that the project will have on the area.
- The extent to which a project will create or retain permanent, private sector jobs and the number of jobs to be created or retained and the salary ranges of such jobs.
- The estimated value of tax exemptions to be provided.
- The economic impact of the project and the proposed tax exemptions on affected tax jurisdictions.
- The impact of the proposed project on existing and proposed businesses and economic development projects in the vicinity.
- The amount of private sector investment generated or likely to be generated by the proposed project.
- The likelihood of accomplishing the proposed project in a timely fashion.
- The effect of the proposed project upon the environment and the surrounding area.
- The extent to which the project will utilize to the fullest extent practicable and economically feasible, resource conservation, energy efficiency, green technologies, and alternative and renewable energy measures.
- The extent to which the proposed project will require the provision of additional services, including, but not limited to, educational, transportation, police, emergency medical or fire services.
- The extent to which the proposed project will provide additional sources of revenue or taxes for the State, County, Town, municipalities and school districts in which the project is located.
- 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.
- The number of construction jobs to be created during the construction or renovation of the project and whether the project applicant will pay prevailing wages on such construction jobs.

## II. **Sales Taxes:**

Purchase of construction related equipment (by applicant) or rental or lease of construction related equipment (by applicants or contractors and subcontractors), purchases of construction and building material and purchase, rental or lease of project related equipment, furnishings and other items of personal property are made as agent for HIDA, and are, therefore, afforded full exemption from New York State sales and use tax. Operating expenses of the projects are not to be incurred as agent of HIDA and no sales tax exemption is provided therefore. Sales and use tax exemption will not be granted for the purchase, rental or lease of motor vehicles and trailers registered for over the road use.

All project applicants must agree in writing to timely filing with the New York State Department of Taxation, and HIDA of an annual statement, (and all other forms and reports as maybe required by NYS Department of Taxation including ST-60's, ST-123 and ST-340), of the value of all sales and use tax exemptions claimed in connection with facility in full compliance with the New York State General Municipal Law, in the form and at the time required thereby. The agreement will also include a total exemption amount.

Sales and use tax exemption agreements will have an expiration date based upon the estimated project completion date plus a window (i.e. six months, one year, etc.) to allow for possible delays. The duration will also be determined by the maximum total exemption dollar amount. The window period will be set on the basis of the project and any extensions of the expiration dates or increases in the dollar amount of the exemption must be approved by the HIDA board prior to the expiration date of the exemptions or the date on which the dollar amount of exemptions has been expended.

### **III. Mortgage Recording Tax:**

Mortgages executed by HIDA in connection with project related financing are provided an exemption from New York State mortgage recording taxes. Mortgages executed by HIDA in connection with non-project related financing may be exempt from New York State mortgage recording taxes, at the discretion of HIDA. In determining whether to permit such exemptions on non-project related financing, HIDA 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 employment and the economic condition of the area in which the facility is located.

### **IV. A. Recapture of Benefits:**

HIDA, with respect to a particular project that receives real property tax abatements, sales and use tax exemptions or mortgage recording tax

exemptions shall require the project applicant to agree to the recapture of such benefits by HIDA pursuant to the following schedule:

Within first 4 years	100%
Within first 6 years	75%
Within first 8 years	50%
Within first 9 years	25%
After first 9 years	0%

Events that HIDA may determine will trigger recapture may include, but shall not be limited to, the following:

- Sale or closure of facility;
- Significant employment reduction or failure to meet employment goals;
- Significant change in use of facility;
- Significant change in business activities of project applicant or operator;
- Material noncompliance with or breach of terms of Agency transaction documents; or
- Failure to create or retain the number of private sector full time (or full time equivalent) or part time jobs that the company represented it would in the Company's application to HIDA.
- Failure to pay PILOT payment.
- Event of Default under the Bond or Lease Documents.

If HIDA determine to provide for recapture with respect to a particular project, HIDA also may, in its sole discretion and on a case-by-case basis, determine the timing and percentage of recapture, either prospectively or retroactively.

#### **B. Additional Recapture Provisions**

In addition to the provision for recapture set forth in Paragraph IV.A, HIDA may, in its sole discretion, and on a case-by-case basis, require recapture of benefits (either retroactively or prospectively as it determines to be appropriate in its best judgment) with respect to any project or project applicant for:

- failure to respond to HIDA inquiries concerning payments of principal and interest;

- failure to respond to HIDA inquiries concerning insurance coverage or failure to provide insurance certificates when and as required by HIDA transaction documents;
- failure to respond to HIDA inquiries regarding payment in lieu of taxes or sales and use tax exemptions;
- failure to respond to HIDA inquiries or to provide facts requested by HIDA in connection with any proceedings or determinations pursuant to Paragraph C or Paragraph D of this policy;
- failure to respond to inquiries of HIDA or failure to provide HIDA with any information or documents requested by HIDA in order to provide any federal, state or local agency with information or reports required under any applicable law, rule or regulation including without limitation information required under PAAA and PARA, number of jobs, total payroll etc.; or
- failure to provide any other information concerning the project or the project applicant or any project operator requested by HIDA.

Upon the occurrence of any of the events listed in this Paragraph IV.B, HIDA will, upon at least ten calendar days written notice to the project applicant, hold a hearing before the IDA Board, at which the project applicant will have the opportunity to provide, or explain its failure to provide, the information requested by HIDA. Within 30 calendar days after the hearing, HIDA will determine whether and to what extent it will require recapture of the value of tax exemptions granted with respect to the project by virtue of HIDA involvement.

## **V: VIDEO RECORDINGS OF MEETINGS**

The Agency shall, to the extent practicable, stream all open meetings and public hearings on its website in real-time. The agency shall post video recordings of all open meetings and public hearings on its website within five business days of the meeting or hearing and shall maintain such recordings for a period of no less than five years.

## **VI: EFFECTIVE DATE**

This Uniform Tax Exemption Policy shall apply to all projects for which HIDA has adopted or adopts an Inducement Resolution including refinancings after January 1, 2023, and all refinancing of any project induced or closed before January 1, 2024.

HIDA, by resolution of its Members, and upon notice to all affected tax 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.

Resolution: 040-2022

Adopted: 12/20/22

Ayes: 6

Nays: 0



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Chairman Flo Girardi

11/21/19 – adopted by the Governance Committee

1/2/20 - Public Hearing

2/27/20 – adopted by Board of Directors

10/22/20 – Re-adopted (unchanged) by Board of Directors

9/22/21 – adopted by the Governance Committee – Resolution #045-2021 but public hearing postponed and not adopted by Board in 2021

9/20/22 – adopted by the Governance Committee

12/7/22 – Public Hearing