

# **ONONDAGA COUNTY INDUSTRIAL DEVELOPMENT AGENCY**

## **UNIFORM TAX EXEMPTION POLICY**

Drafted February 1994  
Readopted March 1999  
Amended November 13, 2008

### **Section I. Purpose**

The New York IDA Reform Act of 1993 (Chapters 356 and 357 of the Laws of 1993) created a new General Municipal Law Section 874 (4) that requires an Agency to establish a uniform tax exemption policy. This written policy shall provide guidelines for the claiming of real property, mortgage recording, and sales tax exemptions.

### **Section II. Real Property Tax Abatements**

A. General Policy. The Onondaga County Industrial Development Agency (the "Agency") maintains a policy for the provision of real property tax abatements for qualified projects. This policy requires the Agency and the project owner or occupant to enter into a payment in lieu of taxes or PILOT agreement which provides for payments in lieu of taxes to the taxing jurisdictions generally in an amount less than what the real property taxes would be if the Agency did not cause the project to be exempt.

B. Term. The term of the PILOT agreement shall be ten (10) years. Such term may be extended or modified as project circumstances may require, but any such modification or extension must comply with the provisions of Section 412-a of the Real Property Tax Law, i.e., filing an application for exemption with the assessor, and a copy with the chief elected official of each taxing jurisdiction in which the project is located.

C. Exemptions. The Agency may grant benefits and enter into an agreement for benefits on a case-by-case basis for projects expected to have a significant importance to the local economy. The following exemptions shall be applicable to the Agency PILOT agreements

1. All Projects. For all projects, the Agency will require PILOT payments equivalent to the taxes that would be owed by the applicant if the applicant owned the project and not the Agency, i.e., the percentage of the tax exemption would be zero, unless the applicant makes other written arrangements with the separate taxing jurisdictions as described in Section C-3 or unless the project receives a PILOT agreement as a net-wealth generating project as described in Section C-2.

2. Net-wealth Generating Project PILOT Agreements. A net-wealth generating project means primarily manufacturing or manufacturing support, or service

industries that primarily serve a customer base outside the County of Onondaga. The PILOT agreement for a net-wealth generating project is based upon the tax exemption afforded under Section 485-b of the Tax Law (“Exemption for New Construction”) without regard to whether the taxing jurisdiction has opted out of providing the tax exemption under Section 485-b. The PILOT payments generally are fixed payments based upon the Agency determined value of the project, an increase in the tax rate of three percent (3%) per year and the application of the Section 485-b exemption schedule. The following exemption percentages, as provided for in Section 485-b of the Real Property Tax Law, shall apply:

Year	% Exemption
1	50%
2	45%
3	40%
4	35%
5	30%
6	25%
7	20%
8	15%
9	10%
10	5%

3. Tax Jurisdiction Consent PILOT Agreements. A tax jurisdiction consent PILOT agreement applies to a project where the majority of the affected tax jurisdictions, as determined by the amount of real property taxes collected, consent to a proposed abatement.

D. Credits. In addition to the exemptions that the Agency may provide on a case-by-case basis for projects expected to have a significant importance to the local economy, the Agency may also provide the following credits to qualifying projects:

1. Green Building PILOT Credit. The Green Building PILOT Credit is an extension of the PILOT policy of the Agency. The purpose is to encourage the construction of “green” sustainable buildings in the County of Onondaga.

i. Eligibility. The Green Building PILOT Credit is available to any new construction that meets the basic qualifications of the Agency Uniform Tax Exemption Policy and is LEED Certified.

ii. LEED Certification. The Agency will use the United States Green Building Council (USGBC) LEED certification standard as a basis for the incentive offered. The USGBC LEED certification process has four levels: LEED Certified, LEED Silver, LEED Gold, and LEED Platinum.

iii. Green PILOT Credit. The Green PILOT Credit is a credit that will be applied against the PILOT payment schedule of a project. The Credit is based upon one of the exemptions in subsection C.

iv. Basic Green PILOT Credit Incentive Schedule. The Basic Green PILOT Credit is calculated as a percentage of the hard construction costs of the project as determined by the Agency. The percentage of the hard construction cost used to determine the Basic Green PILOT Credit for each level of LEED Certification is as follows:

<b>Level Of LEED Certification</b>	<b>Percentage of Construction Costs</b>
LEED Certified	4.8%
LEED Silver	8.4%
LEED Gold	12.0%
LEED Platinum	15.6%

v. Zero-Tax Period. The Green PILOT Credit will be applied against the PILOT payments of the project and shall be applied to each PILOT payment until completely exhausted. A qualifying project may have a “zero-tax period”. The “zero-tax period” shall not exceed five (5) years.

vi. PILOT Payment Schedule. The Agency shall adjust the PILOT payment schedule to ensure that the project receives the full financial benefit of the credit. For those projects whose Green PILOT Credit would result in “zero-tax periods” of greater than five (5) years, the PILOT payment schedule may be extended up to an additional five (5) years and the remaining credit may be applied in equal amounts to the balance of the scheduled PILOT payments.

vii. Local Contractor’s Incentive. Projects will receive a twenty percent (20%) increase in the applicable Basic Green PILOT Credit percentage if seventy-five percent (75%) or more of the total cost of contracted work is performed by prime and sub-contractors located within 200 miles of the County of Onondaga.

viii. Local Contractor’s Incentive Schedule. The Green Building PILOT incentive schedule for those projects qualifying under subsection seven herein consists of a twenty percent (20%) increase in the applicable Basic Green PILOT Credit percentage of the hard construction costs. The Local Contractor’s incentive schedule is as follows:

<b>Level Of LEED Certification</b>	<b>Incentive Percentage of Construction Costs</b>
LEED Certified	5.6%
LEED Silver	9.8%
LEED Gold	14.0%
LEED Platinum	18.2%

E. Technical Assistance Group. For projects in which the Agency will make a determination regarding the payment in lieu of tax agreement for tax jurisdiction consents and PILOT deviations, the Agency shall receive advice from the Technical Assistance Group.

1. Membership. The Technical Assistance Group members shall include the Chief Fiscal Officer of Onondaga County, the Director of Real Property Tax Services, the Director of Economic Development, the Deputy County Executive, the Chair of the Onondaga County Legislative Planning and Economic Development Committee, the Executive Director of the Onondaga County Industrial Development Agency and two members of the Agency.

2. Function. The Technical Assistance Group will review the terms of a proposed PILOT agreement, meet with the applicant if required, and ensure that the proposed agreement has been sent to involved tax jurisdictions for comment.

3. Financial Guidelines. The terms of a PILOT agreement considered by the Technical Assistance Group will recognize the following guidelines:

a. No PILOT agreement shall provide for payments less than the taxes that would normally be due on the assessed value of the land.

b. PILOT payments shall not diminish from year to year.

F. Property Appraisals. A need for real property appraisals to be performed as part of an application for tax exemption will be considered for those projects with an abatement determined on a case-by-case basis where the Technical Assistance Group recommends an appraisal be considered. Any appraisal undertaken for this purpose will be in the form of a limited format.

G. Factors to be Considered. The Agency will consider the following factors when considering the recommendations of the Technical Assistance Group:

1. The nature of the property prior to the start of the project.
2. The extent to which the project will retain or create permanent, private sector jobs.
3. The estimated tax exemptions to be provided.
4. The impact of the proposed project on existing and proposed businesses.
5. The amount of private sector development generated or likely to be generated by the project.

6. The likelihood of timely completion of the project.
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.
9. The extent to which the proposed project will provide additional sources of revenue for municipalities and school district in which the project is located.
10. The extent to which the project will provide a benefit not otherwise available with the municipality in which the project is located.

H. Recapture. In the event the facility is sold or closed, or the number of jobs is reduced below 75% of the number employed at the time of application or below 75% of the employment projections provided by the Company, and no substantial future economic benefit is likely to accrue to the community, then the benefits received as a result of the PILOT agreement, as determined by the difference between the PILOT payments and the taxes that would be paid if the property were not in the ownership or control of the Agency will be subject to recapture according to the following schedule, with any funds recaptured to be distributed proportionally to the affected tax jurisdictions:

Within two (2) years of effective date of PILOT	75%
Within three (3) years:	60%
Within four (4) years:	40%
Within five (5) years:	20%
Six years or more:	0%

### **Section III. PILOT 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 to provide enhanced benefits for a project expected to have significant impact on the locality where the project will be located or projects unusual in type or nature requiring special considerations related to its successful operation as demonstrated by appropriate evidence presented to the Agency.

Any deviations from the guidelines set forth above requires the written notification by the Agency to the chief executive officer of each affected tax jurisdiction at least thirty (30) days prior to the meeting of the Agency at which the proposed deviation will be considered. In determining, on a case-by-case basis, to deviate from the

established guidelines above, the Agency shall seek the advice of the Technical Assistance Group and consider the factors enumerated in Section II-G.

#### **Section IV. Sales Tax Exemptions**

A. Construction, Renovation and Equipping. When these activities are undertaken by an agent of the Agency for a project of the Agency, they are exempt from New York State sales and use tax.

B. Operating Expenses. Operating expenses incurred by an Agent of the Agency for a project of the Agency are not exempt from New York State sales and use tax.

C. Exempt Certificate. The Agency will issue a certificate of exemption valid for three (3) months to its agent. Such certificate shall be renewable upon the agent providing the Agency with a Contract Status Report. Each renewal term shall be for a period of three (3) months.

D. Reporting Requirements. Agents of the Agency shall file an annual statement with the Commissioner of Taxation and Finance of the value of all sales tax exemptions claimed by the agent

E. Recapture. The recapture conditions for benefits resulting from the sales tax exemption shall be the same as those contained in Section II-H, with the benefits subject to recapture being the value of the sales tax exemptions.

#### **Section V. Mortgage Recording Tax Exemptions**

A. Mortgage Granted by Agency. A mortgage granted by the Agency for an Agency project is exempt from the mortgage recording tax.

B. Recapture. The recapture conditions for benefits resulting from the mortgage recording tax exemption shall be the same as those contained in Section II-H, with the benefit subject to recapture being the value of the mortgage recording tax.

#### **Section VI. Amendment or Modification**

The Agency, by resolution of its members, and upon at least ten (10) days notice to the taxing jurisdictions, may amend or modify the foregoing policy, as it may, from time to time, in its sole discretion, determine.