Adopted12/17/93
As Amended

Adopted03/11/99
As Amended

Adopted 06/21/04
As Amended

Adopted 05/14/12
As Amended

Adopted 10/14/14
As Amended

Adopted 01/13/26
As Amended

UNIFORM TAX EXEMPTION POLICY

INTRODUCTION

The County of Saratoga Industrial Development Agency is a public benefit corporation established in 1971 pursuant to Article 18-A of the General Municipal Law and Chapter 855 of the 1971 Laws of New York State.

The Agency possesses a broad range of powers to enable it to fulfill its purpose to promote, develop, encourage and assist in the construction, expansion and equipping of economically sound industrial and commercial facilities in order to advance the job opportunities, general prosperity, and economic welfare of the citizens of Saratoga County.

The Agency utilizes its financial and tax incentives to increase employment opportunities by attracting new development and to maintain the present employment base by stimulating reinvestment by existing Saratoga County businesses.

The issuance of industrial revenue bonds or a straight lease transaction generally results in the Agency. acquiring a leasehold interest in the property which it then leases back to the applicant under a lease agreement. Property owned by an Industrial Development Agency is exempt from local and school real estate taxes under the provisions of Section 412-a of the Real Property Tax Law and Section 874 of the General Municipal Law. This exemption does not apply to special district taxes and/or special ad valorem levies. Real property owned by the Agency is listed on Roll Section 8 (wholly exempt).

The Agency and each recipient of its financial assistance enter into a payment in lieu of tax agreement (PILOT agreement), which provides for annual payments in lieu of taxes (PILOT), in amounts which are based on formulas contained in the Agency's uniform tax exemption policy and a project agreement which sets forth the conditions for the continuance of any abatements granted to a project.

Legislation enacted in July 1993 required Industrial Development Agency's to adopt a uniform tax exemption policy after considering issues including among others the number of private sector jobs created or retained by a project; the value of tax exemptions to be provided; the project's impact on existing businesses; the amount of private sector investment generated by a project; the additional public services which may be required to serve the project; and the additional revenues a project will provide for municipalities and school districts. The Agency was also required to seek and consider input on its uniform tax exemption policy from affected taxing jurisdictions prior to its formal adoption. The Agency shall provide a notice of public hearing for any proposed project to all local tax jurisdictions in which the proposed project is located.

1993 State legislation additionally required Industrial Development Agency's to provide each affected tax jurisdiction with a copy of the PILOT agreement within 15 days of signing. Under that legislation, PILOT payments must also be allocated to affected taxing jurisdictions in the same proportion to the amount of real property tax which would have been received by the taxing jurisdiction had the project not been tax exempt. All PILOT payments received by the Agency must be remitted to the affected taxing jurisdictions within 30 days of receipt.

Pursuant to State legislation, (Chapter 444 of the Laws of 1999), the Agency was required to review and readopt its UTEP on or before April 1, 1999 following a Public Hearing for which a sixty (60) day written notice was provided to each affected local taxing jurisdiction and follows the same procedure for any amendments to the UTEP.

Uniform Tax Exemption Policy: General Provisions

The Agency's Uniform Tax Exemption Policy is segmented by classes of uses, but the following provisions are applicable to all PILOT agreements.

1. Closure; relocation of an applicant's operations; failure of an applicant to make PILOT payments; or failure of an applicant to reasonably meet its employment projections in its application may result in a cessation of real property tax abatements, transfer of title from the Agency to the applicant, or such other penalties as may be determined by the Agency, including the **clawback or repayment of property taxes abated pursuant to the PILOT Agreement**. (See Attachment A: Uniform Modification of Real Property Tax Abatement).

2. PILOT payments which become delinquent will be subject to a late penalty charge of 5% of the amount due and interest charges of 1% per month. Penalty and interest shall accrue to and be paid to the affected tax jurisdiction(s). Any increase in late charges and interest which may be authorized by the legislature shall be applicable to this policy.

3. Maintenance of tax base: Agency financial assistance shall not result in a reduction of existing tax revenues generated prior to Agency involvement.

4. Additions: Project sponsors who add to existing facilities originally financed by the Agency may apply for sales, mortgage and real property tax abatements for said additions.

5. Refinancing of existing facilities: No tax abatement shall be allowed unless refinancing results in significant physical improvements to the facility and a measurable increase in employment.

6. The Agency will consider special requests on a case by case basis consistent with the general purposes of the IDA enabling legislation as amended.

7. In areas of overlapping jurisdictions between the Agency and another Saratoga County-based Industrial Development Agency it is the general policy of the Agency not to undertake a project unless requested to do so by said other Industrial Development Agency.

8. The Agency reserves the right in its sole discretion to require that the Applicant pay for the cost of a third-party cost benefit analysis to be obtained by the Agency for certain projects.

9. Assessment challenges by an applicant during the term of the PILOT Agreement must be made within specified time period. (See Attachment B).

10. Project Benefit Criteria

    All applications for sales, mortgage and real property tax abatements will be reviewed by the Board utilizing the following project benefit criteria to determine the percentage and length of abatements to be provided:

    a. Jobs created: salaries, benefits, payroll and importance to local economy.
    b. Jobs retained: salaries, benefits, payroll and importance to local economy
    c. Capital Investment.
    d. Impact of project on existing business or segment of local economy.
    e. Impact of project on public infrastructure and services.
    f. Project involves redevelopment of distressed or underutilized property.

11. This policy may be amended by the Agency following certified notice of the required public hearing to all affected taxing jurisdictions within the Agency's jurisdiction. The notice period shall be in accordance with applicable statute.

Uniform Tax Exemption Policy: Manufacturing

New Facilities

Any new assessment resulting from improvements financed with Agency assistance shall be exempt from local, county and school property taxes at a rate of 50-100% for a 5 year period. The percentage of abatement from years 6 through 10 will be from 0 to 100% as determined by the Agency based on its review of the public benefits demonstrated by the project.

All projects shall make annual pilot payments based on the assessed land value (assessment to be determined by the local assessor), in addition to the percentage of assessed value of the improvements not subject to an abatement.

In cases where a full 10-year abatement is granted, beginning in Year 11 and continuing for the term of the PILOT Agreement the applicant shall pay annual local, county and school taxes as if the property were on the taxable roll. This will not apply when real property tax abatements are granted for a term exceeding ten years.

Existing Facilities

Existing buildings shall continue to be subject to local, county and school taxes based on the current assessment. Any increase in assessment resulting from improvements financed with Agency assistance may be exempted from local, county and school taxes at the annual rate determined by the Agency using the formula for new facilities above and its review of the project benefit criteria above.

Beginning in Year 11 continuing for the term of the PILOT agreement the applicant shall pay annual local, county and school taxes as if the property were on the taxable roll.

New Nanotech Manufacturing Facilities Located with
Luther Forest Technology Campus Development Area 1 (See Attachment C)

Uniform Tax Exemption Policy: Commercial Service

Eligible commercial service sector projects include those in which the principal user of the facility seeking Agency financial assistance serves a market area broader than Saratoga County or provides services within Saratoga County that are not adequately provided for by existing local facilities.

Eligibility Determination

A favorable determination of the eligibility of commercial service projects for a tax incentive is made upon evidence of the following factors:

1. Demonstration that Agency assistance will induce the location or expansion of the project in Saratoga County.

2. Demonstration of the need for the project and the economic benefits it represents.

3. Demonstration that the project will not cause substantial disruption of existing employment at similar facilities in Saratoga County.

4. Demonstration that the project will provide employment for Saratoga County residents or provide a service which is demonstrated to be in the best interest of the public and the taxpayer.

5. Demonstration that the project involves the development of new facilities.

Any new assessment resulting from improvements financed with Agency assistance shall be exempt from local, county and school property taxes at a rate of 0% – 100 % for Years 1 through 10 of such assessments as determined by the Agency based on its review of the project benefit criteria above.

All projects shall make annual pilot payments based on the assessed land value (assessment to be determined by the local assessor), in addition to the percentage of the assessed value of the improvements not subject to an abatement.

Upon completion of the abatement period and continuing for the term of the PILOT agreement the applicant shall pay annual local, county and school taxes as if the property were on the taxable roll.

Uniform Tax Exemption Policy: Commercial Retail

For projects which involve more than 1/3 of the total project costs supporting retail activities (as described in Section 862 of the NYS General Municipal Law), only those commercial retail facilities eligible for financial assistance under Section 862 of the NYS General Municipal Law will be considered eligible for financial assistance.

Eligible facilities may be granted a partial abatement on any assessment attributed to improvements financed with Agency assistance. The abatement for local, county and school tax purposes will be limited to 50% of assessment in Year #1, 40% in Year #2, 30% in Year #3, 20% in Year #4, and 10% in Year #5. Thereafter, all real property taxes will be calculated on 100% of the property's assessment.

Uniform Tax Exemption Policy: Residential/Mixed Use Residential and Commercial/Retail Rental

Projects involving a residential component will generally not be eligible for financial assistance unless the Agency in its sole discretion should determine that special circumstances exist which would warrant the providing of financial assistance for a given project.

Any residential projects which include retail use are subject to the provisions of Section 862 of the NYS General Municipal Law.

Uniform Tax Exemption Policy: Sales Tax

The Agency, as a public benefit corporation of the State of New York, is exempt from the imposition of sales tax on the purchase or rental of materials, supplies, tools, equipment, or services to be incorporated into the project facility or to be used exclusively in connection with the constructing or equipping of such facility. It is the intent of this policy to permit agents of the Agency to obtain the full sales tax exemption permitted by law during the construction period of the project.

An applicant's failure to close on Agency financial assistance within six months of the appointment by the Agency of an applicant as agent may require the repayment of all sales tax previously exempted. Should there be a failure to make restitution, the Agency may notify the NYS Department of Taxation and Finance of sales taxes due.

As agent of the Agency, each applicant must file an annual statement (ST-340) of the value of all sales tax exemptions claimed with the NYS Department of Taxation and Finance by the last day of February following the close of the calendar year in which the sales tax abatement occurred. Failure to file such statement with the NYS Department of Taxation and Finance (in the form and time period required), may result in the removal of the company's authority to act as agent of the Agency. A detailed report on sales tax savings (see Agency application), must be filed with the Agency concurrent with the annual report to the NYS Department of Taxation and Finance.

In accordance with NYS General Municipal Law Section 875, any sales tax benefits gained in excess of the amount authorized by the Agency are subject to repayment to the Agency.

Uniform Tax Exemption Policy: NYS Mortgage Recording Tax

Mortgages executed by an Industrial Development Agency in furtherance of its lawful purposes are partially exempted by section 874 of the General Municipal Law from the NYS Mortgage Recording Tax.

It is the policy of the Agency that all of its projects should receive the full exemption from the N.Y.S. Mortgage Recording Tax allowed by law. Refinancing of existing projects are not eligible for an exemption unless the Agency makes a finding of the project's unique public benefit.

Uniform Tax Exemption Policy: Deviation Procedures

1. All affected tax jurisdictions shall be notified by certified mail of any proposed deviation of the Uniform Tax Exemption Policy and the reasons for such deviation. Affected tax jurisdictions shall have ten (10) calendar days (or whatever other minimum period may be required by statute in effect at the time of the notice), to provide written input regarding the proposed deviation prior to final action by the Agency. This comment period may be extended at the Agency's discretion.

2. Decrease in Abatement: The Agency may at any time and for any class of use determine that its uniform tax exemption policy should be deviated from to provide for an increase in the amount of payment in lieu of tax. These increases would be remitted to affected taxing jurisdictions in the same proportion as the real property tax levy.

3. Notwithstanding any of the foregoing provisions, the Agency, at its discretion, reserves the right to deviate from its Uniform Tax Exemption Policy.

Adopted 02/28/97
Resolution #587

Adopted 03/11/99
As Amended

Adopted 10/14/14
As Amended

Adopted 01/13/26
As Amended

ATTACHMENT A

COUNTY OF SARATOGA INDUSTRIAL DEVELOPMENT AGENCY

UNIFORM MODIFICATION OF REAL PROPERTY TAX ABATEMENT

For applicants receiving real property tax abatements the modification of benefits schedule (applicable to the real property tax abatements) is as follows:

REDUCTION IN TAX ABATEMENT BENEFITS

Year(s)	1 - 5	50% to 100%
Year	6	50%
Year	7	40%
Year	8	30%
Year	9	20%
Year	10	10%

The time period utilized above begins with the effective date of the PILOT Agreement. Imposition of any modification is at the sole discretion of the Agency and is reviewed/considered on a case by case basis. Prior to making a determination on the modification of property tax abatements the Agency shall offer the applicant the opportunity to present its position. Reasons for the modification of benefits include the following:

1. Sale or closure of the facility and departure of the applicant from Saratoga County.

2. Significant change in the use of the facility and/or the business activities of the applicant.

3. Significant employment reductions not reflective of the applicant's (normal) business cycle and/or local and national economic conditions or inconsistent with employment levels presented to the Agency at the time the PILOT was agreed to by the Agency.

Reporting requirements: The applicant shall, by January 31st following the calendar year for each year this Agreement is in effect, submit an employment report to the Agency detailing the number of full and part time-employees. Any projected increases or reductions in the work force for the upcoming year should also be reported. Failure to report may be considered an event of default.

CLAWBACK PENALTY FOR FAILURE TO MEET EMPLOYMENT LEVELS

DEFINITIONS:

"Company"	is the entity that applied for and received a benefit from the Agency.
"Agency"	is the County of Saratoga Industrial Development Agency.
"AER"	is the Company's annual report of employment required to be provided to the Agency.
"Employment Obligation Term"	shall mean the period during which the Company is receiving a benefit in the form of lower payment in lieu of taxes than their real estate taxes would be.
"Employment Obligation"	shall mean the number of FTEs selected by the Agency based on what the Company represents is the FTEs it will hire and the number of FTEs retained, as set forth in its application for financial assistance.
"FTE"	shall mean a full time employee that has a minimum of thirty-five (35) scheduled hours per week, or such other number of hours per week (but not less than twenty-five (25) hours) as established by existing written policies of the Company, and whose workplace location is the project facility.
"Benefit"	shall mean the amount the Company saved by making payments in lieu of real property taxes in a particular year. For example, if a Company's PILOT payment is equal to 75% of normal real property taxes, then the Company's Benefit for that year would be an amount equal to 25% of normal real property taxes.
"Per Employee Amount"	shall mean an amount equal to the Benefit for the year after the year of the Shortfall divided by the "Employment Obligation".
"Shortfall"	shall mean the difference between the Employment Obligation and the actual number of FTEs per the AER for the applicable year.
"Major Shortfall"	shall mean any number of FTEs that is less than 50% of the Employment Obligation.
"Cure Period"	shall mean the period ending June 30^{th} of the year following the Shortfall.

Job Creation and Retention Obligations.

After the expiration of the Employment Obligation Term, the Company shall have no further obligation with respect to the Employment Obligation and shall not be liable for any of the payments described below.

The failure of the Company to satisfy the Employment Obligation shall subject the Company to payments to the Agency. The Company shall be deemed to have failed to satisfy its Employment Obligation as of the beginning of the year subsequent to the year for which the Company files an AER; if the total number of FTEs shown on such report for the applicable year is less than 80% of the applicable Employment Obligation (payments are only required if the Shortfall is more than 20% of the Employment Obligation).

Shortfall Payments

1. If the number of actual FTEs for any calendar year shall be a Shortfall then the Company shall pay to the Agency an amount equal to the Per Employee Amount multiplied by the number of FTE's less than the employment obligation.

2. Notwithstanding any of the foregoing, a Shortfall shall not apply where the Shortfall is a result of a major casualty to or condemnation of the facility. In the event of such major casualty or condemnation, the Company shall have no obligation to pay the Shortfall Payment.

The Agency shall have the right to reduce any payments required, under this policy, in extraordinary circumstances, in its sole discretion.

Adopted 08/05/97

Adopted 03/11/99
As Amended

ATTACHMENT B

SARATOGA COUNTY INDUSTRIAL DEVELOPMENT AGENCY

ASSESSMENT CHALLENGES BY COMPANY

Resolution #612

RESOLVED, that if a company operating under a 10-year PILOT Agreement is dissatisfied with the amount of assessed value of its project facility as initially established, (1) the company may pursue a review to dispute that assessed value for a period of up to seven (7) years from the date, such assessed value is established within the Agreement. The company waives any right to contest or dispute such assessed value during the seven (7) years following the end of the 10-year PILOT term, and be it further

RESOLVED, that if a company operating under a 5-year PILOT Agreement is dissatisfied with the amount of assessed value of its project facility as initially established, the company may pursue a review to dispute that assessed value for a period of up to three (3) years from the date such assessed value is established within the Agreement. The company waives any right to contest or dispute such assessed value during the three (3) years following the end of the 5-year PILOT term.

Ayes: 6
Noes: 0
Adopted: 6-0

(1) "initially established," shall include any subsequent change in assessment.

<u>**Attachment C**</u>
Resolution #144

Adopted 6/21/04

New Nanotech Manufacturing Facilities located within
Luther Forest Technology Campus Development Area 1

- All buildings and other improvements shall be subject to PILOT payments equal to 100% of the town, county and school taxes based on the current assessment as of the time of calculation, however, for the purposes of calculating the PILOT payments to the taxing jurisdictions, the following formula shall be used during the term of the PILOT:

  <u>Step 1</u>, determine Total Tax Amount, Pod 1:

  Malta Tax Amount (Malta Pod 1 Parcel(s)), <u>i.e.</u> Malta Assessed Valuation * Malta Taxing Jurisdiction Tax Rates

  +

  Stillwater Tax Amount (Stillwater Pod 1 Parcel(s), i.e. Stillwater Assessed Valuation * Stillwater Taxing Jurisdiction Tax Rates

  =

  Total Tax Amount, Both Towns, Pod 1

  <u>Step 2</u>, allocate Total Tax Amount between Towns:

  Payment to Malta taxing jurisdictions = Total Tax Amount Pod 1 * (0.75) with the payment to be allocated between the Town of Malta and the Ballston Spa Central School District proportionately based upon their respective tax rates.

  Payment to Stillwater taxing jurisdictions = Total Tax Amount Pod 1 * (0.25) with the payment to be allocated between the Town of Stillwater and the Stillwater Central School District proportionately based upon their respective tax rates.

  "Malta Taxing Jurisdiction" shall refer to the Town of Malta, New York and the Ballston Spa Central School District.

  "Stillwater Taxing Jurisdiction" shall refer to the Town of Stillwater, New York and the Stillwater Central School District.

  Payments to Saratoga County shall be in the same proportion as if the subject parcel was not owned by the Agency.

- All taxing jurisdictions involved must consent to the terms of this policy in order to effectuate this policy.

- The term of any PILOT agreement adopted under this uniform policy shall be for 49 years, provided, however, that as of the first tax status date following the issuance of a certificate of occupancy with respect to at least one nanotech manufacturing facility located entirely within the jurisdictional boundaries of each of the Towns of Malta and Stillwater, the use of the above formula will terminate and the PILOT payments regarding Development Area 1 will be allocated in the same proportion to the amount of real property tax which would have been received by the taxing jurisdiction had the property not been tax exempt.

- Real Property owned by the Agency is not exempt from the payment of special district taxes and thus the provisions of this Policy shall be inapplicable to any special district taxes imposed upon the subject property.

- This policy may not be amended or deviated from without the consent of the County of Saratoga, New York, the Town of Malta, New York, the Town of Stillwater, New York, the Ballston Spa Central School District and the Stillwater Central School District.

- Notwithstanding anything else to the contrary in this Attachment C, the Agency may execute a PILOT modification agreement or an amended PILOT, the terms of which include a schedule of annual assessment amounts and valuation methodology for future development, which assessment amounts and valuation methodology have been approved by County of Saratoga, New York, the Town of Malta, New York, the Town of Stillwater, New York, the Ballston Spa Central School District and the Stillwater Central School District as a part of a stipulation and order which permits and orders the discontinuance of an RPTL Article 7 proceeding or proceedings commenced with regard to the assessment of improvements constructed within Luther Forest Technology Campus Development Area 1. Adopted 05/14/12 : Resolution # 1145