

**GENESEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY d/b/a GENESEE COUNTY
ECONOMIC DEVELOPMENT CENTER (GCEDC)
UNIFORM TAX EXEMPTION POLICY (UTEP) AND GUIDELINES**

The general policy of the Genesee County Industrial Development Agency (“Agency”) is to grant applicants (Projects) real property tax abatements and exemptions from sales, use and mortgage recording taxes as described below (collectively referred to herein as “Incentives”). The Agency may grant enhanced benefits on a case by case basis for a project expected to have a significant economic impact on Genesee County as determined in the sole discretion of the Agency’s Board.

A. Eligible/qualified Projects and Applicants

A Project that is eligible to receive assistance under General Municipal Law (Article 18A) will be referred to the Board for consideration if it meets one or more of the following criteria to be considered for incentives:

1. The Project pledges to create and/or retain quality, good paying jobs in Genesee County.
2. Completion of the Project will enhance the long term tax base and/or make a significant capital investment.
3. The Project will contribute towards creating a “liveable community” by providing a valuable product or service that is underserved in Genesee County.
4. The Board will review the Agency’s Fiscal and Economic Impact analysis of the Project to determine if the Project will have a meaningful and positive impact on Genesee County. This calculation will include the estimated value of any tax exemptions to be provided along with the estimated additional sources of revenue for municipalities and school districts that the proposed project may provide.
5. The Project is included in one of the Agency’s strategic industries: Agri-Business and Food Processing, Manufacturing, Advanced Manufacturing and Nano-Enabled Manufacturing, Life Sciences and Medical Device.
6. The Project will give a reasonable estimated timeline for the completion of their proposed project.

B. Real Property Taxes

The Agency provides a provision for real property tax abatements for qualified Projects. The period of the abatement will not exceed the period of the respective financing or lease and exceed twenty (20) years. The Agency’s basic policy provides for a graduated schedule of abatement applicable to County, Local and School taxes. The Agency may elect in their sole discretion to provide a one hundred percent (100%) abatement over the life of the project.

Any deviations from the basic policy will be made only with the specific approval of the Agency’s Board and those described in the New York State General Municipal Law Section 874(4)(a). Additionally, the Agency shall notify the affected local taxing jurisdictions of the proposed deviation from such policy and the reasons therefore.

Appraisals will not normally be required.

C. Payment in Lieu of Taxes

Each Project receiving an abatement will be subject to a Payment In Lieu Of Tax Agreement (“PILOT Agreement”) in a form acceptable to the Agency. The Agency will consider Project factors when determining the amounts to be paid under the PILOT Agreement. A copy of the PILOT Agreement will be forwarded to each of the affected taxing jurisdictions within fifteen (15) days of execution.

D. PILOT Mortgage

The Agency may require the establishment of a PILOT Mortgage as a condition where a traditional financing mortgage is involved, in order to secure the position of the PILOT payments versus other secured and unsecured claims.

The purpose of a PILOT Mortgage is to secure unpaid PILOT payments with a lien against the real estate. The lender agrees that the PILOT Mortgage will have priority in payment over any mortgage given to secure the rights of bondholders or to secure any conventional financing. This would make the PILOT a secured obligation. The Agency may negotiate alternative forms of collateral to insure payments under the PILOT.

E. Sales and Use Tax Exemption

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

2) All Project applicants must agree in writing to file with the New York State Department of Taxation and Finance 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 General Municipal Law.

3) The Agency will recapture sales tax benefits by an agent/project operator whenever the benefits are (a) not entitled or authorized to be taken, or (b) in excess of the amounts authorized, or (c) for unauthorized property or services, or (d) for property or services not used according to the terms of the agreement with the Agency, or (e) whenever required under applicable law.

F. Mortgage Recording Tax Exemption

1) 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, whether or not the Agency has issued its bonds to finance the Project.

2) The Agency may, in its sole discretion, permit mortgage recording tax exemptions on non-Project related financings, (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.

G. 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. Any deviations from the guidelines set forth above requires the written notification by the Agency to the Chief Executive Officer of each affected taxing jurisdictions.

H. Recapture of Benefits

The Agency, in its sole discretion, may determine that a Project has failed to meet its intended goals and will subject the Project applicant to recapture of the value of any or all, Incentives granted with respect to the Project by virtue of the Agency's involvement. Events that the Agency may determine will trigger recapture may include:

- 1) Sale or closure of facility;
- 2) Submission of a false application by the Company;
- 3) Significant change in use in facility;
- 4) Significant change in business activities or 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 or federal, state or local environmental laws or regulations; or
- 6) Significant employment reductions not reflective of the company'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. Prior to determination, the company will be asked to come before the Governance Committee to be given their due process.

If the Agency determines to recapture benefits 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 or termination of benefits.

I. Amendments

The Agency, by resolution of its Board, 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.

J. Effective Date

This Uniform Tax Exemption Policy shall apply to all Projects for which the Agency has adopted or adopts a Inducement Resolution after _July 2016_ and all refinancings of any Project induced or closed before said date.