



Board Approval
11/5/2020

Subject:
Uniform Tax Exemption Policy

COUNTY OF LEWIS IDA
UNIFORM TAX EXEMPTION POLICY AND GUIDELINES (UTEP)

Statement of Purpose

The general policy of the Lewis County Industrial Development Agency (LCIDA) in accordance with Article 18-A of the New York State General Municipal Law (the "Act"), is to grant financial assistance in the forms of real property tax abatements and exemptions from sales, use and mortgage recording taxes as described below. The provision of tax exemptions by the LCIDA in this manner shall be governed by the content of this policy statement, pursuant to Section 874(4) of the Act.

Policy & Process

1. General Considerations

The Agency shall assess and determine the economic impact of a project by use of market information, employment generation, taxation and assessment generation, economic generation, ancillary economic impact, and/or community support, and shall approve projects for "financial assistance based upon this economic assessment. The assessment will include some or all the following factors:

- a. Whether the IDA financial assistance critical/essential to the applicant's pursuit of the contemplated project;
- b. The extent to which a project will create or retain permanent, private sector jobs;
- c. The estimated value of any tax exemptions to be provided;
- d. Whether affected tax jurisdictions will be reimbursed by the project occupant if a project does not fulfill the purposes for which an exemption is provided;
- e. The impact of a proposed project on existing and proposed business and economic development projects in the vicinity;
- f. The amount of private sector investment generated or likely to be generated by the proposed project;
- g. The extent of demonstrated public support for the proposed project;
- h. The likelihood of accomplishing the proposed project in a timely fashion;
- i. The effect of the proposed project upon the environment;
- j. 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;
- k. 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;

- l. The extent to which the proposed project will provide additional sources of revenue for municipalities and school districts;
- m. Whether the proposed project generate new/additional tax, or payment in lieu of tax, or other revenues for taxing jurisdictions in Lewis County;
- n. If the project relates to the expansion, improvement or upgrade of an existing business within Lewis County, assess whether the lost potential tax revenue to taxing jurisdictions within Lewis County in consequence of IDA financial assistance is justified by other tangible and/or intangible benefits to Lewis County and its residents, economic and otherwise, which would be realized as a result of the project
- o. The Nature of the proposed project;
- p. The condition of the real property where the project is to be located prior to commencement of the project;
- q. The economic condition of the vicinity in which the project will be located at the time of the submission of the application.

2. **Additional Financial Assistance**

In instances where additional financial assistance is requested by a developer, company or organization for a location or project that has previously received a financial assistance, the LCIDA may consider a renewal if sufficient economic impact exists, in addition to the factors outlined in Section 1.

3. **Exemptions**

a. **Real Property Taxes**

The Agency maintains a policy for the provision of real property tax abatements for qualified projects. The abatement provided applies to value added by construction or renovation and the existing parcel involved. The period of the real property abatement may be for a period of up to fifteen (15) years. The Agency's policy results in a graduated schedule of abatement (as further detailed in Section 3(c) below) applicable to county, municipal and school taxes. Eligible projects include any project that qualifies for financial assistance under the Act.

Any deviations from the standard policy will be made only with the specific approval of the Agency's members based on the factors listed in Section 1 and those described in Section 874(4)(a) of the Act. Additionally, the Agency shall notify the affected tax jurisdictions of the proposed deviation from such policy and the reasons therefore.

The Agency will use existing tax data when evaluating proposed real property tax abatements and, therefore, appraisals will not normally be required.

Exemption Schedules

The following two schedules will be the standard utilized for real property tax abatements. Targeted industries, manufacturing companies and other high priority projects will follow Schedule A. Commercial/Retail/Office/Community Facilities/Not-for-Profits will follow Schedule B.

Schedule A. Targeted Industries/Manufacturing
Year 1 – 5: 75%
Year 6 – 10: 50%
Year 11-15: 25%

This would result in a fifty (50%) percent total exemption during the 15 year period.

Schedule B. Commercial/Retail/Office/Community Facilities/Not-for-Profits
Year 1 – 50%
Year 2 – 45%
Year 3 – 40%
Year 4 – 35%
Year 5 – 30%
Year 6 – 20%
Year 7 – 10%
Year 8 & after – 0%

Commercial Solar Projects

The following will be the standard utilized for Property Tax Abatements for Commercial Solar Projects (Hereinafter “Solar Projects”). In compliance with the policy of the County of Lewis Industrial Development Agency (LCIDA) favoring the preservation of Actively Farmed, Prime Farmland for agricultural purposes, the LCIDA, in determining the amount of a Solar Project PILOT Payment, shall consider whether the land is being Actively Farmed and whether the soil on which a Solar Project is located constitutes Prime Farmland. All Solar Projects shall be eligible for a Real Property Tax Abatement. However, Solar Projects located on land that is not Actively Farmed and/or not designated as “Prime Farmland” shall be eligible for a greater Real Property Tax Abatement as reflected in a reduced PILOT Payment. The terms of the Property Tax Abatement shall be described as follows:

- a. The amount of the PILOT payment shall be determined by the Agency as follows: (i) the actual installed capacity of the Commercial Solar Project, calculated on the third (3rd) business day prior to the date on which the related payment is due pursuant to the PILOT Agreement, times (ii) the Base Megawatt Amount [or, \$ **5,500.00 per megawatt**].
- b. In the event that the Solar Project is located on land that is not Actively Farmed, then the PILOT payment shall be reduced by ten percent (10%).
- c. In the event that the Solar Project is located on land other than Prime Farmland, the Solar Project shall be eligible for a reduced PILOT payment. The amount of the reduction shall be 5% if the land is categorized as “Prime – If Drained”. The amount of the reduction shall be 10% if the land is categorized as “Land of Statewide Importance”. The amount of the reduction shall be 15% if the land is not categorized as “Prime”, “Prime – If Drained”, nor “Land of Statewide Importance.” The amount of the reduction shall be determined by the LCIDA after considering input from the Affected Jurisdictions and the Solar Project applicant. In no event shall the reduction exceed fifteen percent (15%) of the Base Megawatt Amount.
- d. The Agency may take into account the amount of any host community benefit payments payable by the project applicant to any Effected Jurisdictions , or in connection with the funding of the Community Economic Development Fund, in determining the amount of PILOT payments payable by the project applicant.
- e. The term of the PILOT Agreement shall be 25 years.
- f. The PILOT payment determined above shall be increased annually by 2% percent during the term of the PILOT Agreement.
- g. The PILOT Agreement will provide that if the existing assessment of the underlying parcel and existing improvements relating to the Commercial Solar Project does not remain fully taxable on the relevant assessment rolls, the PILOT Agreement shall require that PILOT payments be made with respect to such underlying parcel and existing improvements in an amount equal to 100% of the normal tax with respect thereto.
- h. Note the following defined terms:

“Base Megawatt Amount” means the megawatt amount used by the Agency in calculating the PILOT payments. The Base Megawatt Amount as provided in this UTEP shall initially be equal to

\$ 5,500.00, and such amount shall be fixed for the term of each PILOT Agreement; provided, however, that the Base Megawatt Amount as provided in this UTEP shall be subject to review by the Agency at least annually.

“Commercial Solar Facility” means a group of solar panels and related facilities in the same location intended to be used for the production of electric power to be sold to third parties, but shall not include a Small Alternate Energy Facility. In the event of a question whether a solar facility is a Small Alternate Energy Facility or a Commercial Solar Facility, the determination of the Agency on that subject shall be final. A Commercial Solar Facility includes all related equipment determined by the Agency to be necessary or desirable for collecting such electric energy and delivering same to the electric grid, but shall not include the land and improvements that were included on the tax rolls of the Affected Tax Jurisdictions prior to the commencement of the project of which such Commercial Solar Facility is a part. A Commercial Solar Facility is a facility providing electric energy on a commercial scale and shall include Community Solar projects.

“Small Alternate Energy Facility” means a facility (1) that is determined by the Agency to be a facility described in Section 487(1) of the Real Property Tax Law (including solar or wind energy equipment, a solar or wind energy system, farm waste electric generating equipment, and a farm waste energy system), (2) that is installed or to be installed in a residence, a farm or a small business located within Lewis County and (3) that is not a Commercial Solar Facility.

“Prime Farmland” means land that has been designated as Prime Farmland by the United States Department of Agriculture soil survey.

“Actively Farmed” means that land is currently supporting commercial agriculture enterprises or has been supporting commercial enterprises within the prior eighteen (18) months.

“Affected Jurisdictions” means the municipalities and school district within which a project is located, including the appropriate town, Lewis County, and, if relevant, the appropriate village.

b. Sales and Use Tax Exemptions

1. This exemption will apply only to the construction/renovation and equipping period when the original project is completed and will be for the full amount of the sales tax to include both New York State and Local portions.
2. Sales Tax Exemptions may be approved separate from a real property tax exemption.
3. Eligible and Ineligible Items:
 - i. Items Exempted. The sales and use tax exemption granted by the Agency with respect to project shall normally extend only to the following items: items incorporated into the real property, tangible personal property, including furniture, furnishings and equipment used to initially equip the project or otherwise forming part of the project, if purchased by the Applicant as agent of the Agency; the rental of tools and other items necessary for the construction and/or equipping of the project, if rented by the Applicant as agent of the Agency; and fuel and similar items consumed in the process of acquiring, constructing and/or equipping the project, if purchased by the Applicant as agent of the Agency.
 - ii. Items Not Exempted. A sales and use tax exemption with respect to a project shall not be granted by the Agency for the following: repairs, replacements or renovations of the project, unless such repairs, replacements or renovations constitute major capital-type expenses approved by the Agency as a separate project in the manner contemplated by the Act; or operating expenses.
4. **Period of Exemption:** The period of time for which a sales and use tax exemption shall be effective (the “Tax Exemption Period”) shall be determined as follows:
 - i. Normal Termination: The Tax Exemption Period for an Applicant Project will normally end

upon the completion of such project. On construction projects, the Agency and the Applicant shall agree on the estimated date of completion of the project, and the sales and use tax exemption shall cease on the earlier of (a) the actual date of completion of the project or (b) the date which is six (6) months after the estimated date of completion of such project. On non-construction projects, the Agency and the Applicant shall agree on the estimated date of completion of the project, and the sales and use tax exemption shall cease on the earlier of (a) the actual date of completion of the project or (b) the date which is three (3) months after the estimated completion of the project. If the Agency and the Applicant shall fail to agree on a date for completion of the project, the Agency shall on notice to the Applicant make the determination on the basis of available evidence.

ii. Later Termination: The Agency, for good cause shown, may adopt a resolution extending the period for completion of the project and/or extending the Tax Exemption Period.

c. Mortgage Recording Tax Exemptions

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.
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.

4. Deviations

The Agency may deviate from this Uniform Tax Exemption Policy in special circumstances, on a case by case basis, to grant financial assistance to projects that have unique significance based upon recommendations or agreement of the affected tax jurisdictions or findings by Agency. In determining whether special circumstances exist to justify such a deviation the Agency may consider the magnitude of the deviation sought and the factors that might make it unusual, which factors might include but not to be limited to the factors set forth in paragraph 1 and the following factors: (1) the magnitude and/or the importance of any permanent private sector job creation and/or retention related to the proposed project in question; (2) the impact of such project on existing and proposed businesses and/or economic development projects; (3) the amount of private sector investment generated or likely to be generated by such project; (4) generated public support for the project; (5) the estimated value of the Tax Exemption requested; (6) the extent to which such project will provide needed services and/or revenues to the Affected Tax Jurisdictions. In addition, the Agency may consider the other factors outlined in Section 874 (4)(a) of the Act. If the taxing entities in a particular area of Lewis County request that the LCIDA to provide financial assistance for a proposed project that would fall outside of this Uniform Tax Exemption Policy, then this request would be considered, so long as such proposed project falls within the Act.

Any deviations from the guidelines set forth above require the written notification by the Agency to each affected tax jurisdiction and the reasons therefor.

5. Forfeiture/Recapture

- a. The LCIDA shall periodically review the economic impact of each of the projects which is actively receiving financial assistance. This will be done sooner where it is obvious that significant deviation from the original intent of the project is realized.
- b. All PILOT agreements will contain provisions that allow for the recapture of past, and cancellation of future tax abatements. In determining the extent of recapture of cancellation, the LCIDA shall consider the extent to which the company has met its proposed economic impacts.
- c. The following policy concerning recapture of the abated taxes shall apply:

1. Sale or Closure of the Facility: The real property tax abatements are terminated immediately, and the property deeded back to the owner and/or the straight-lease transaction is terminated.
2. Significant Employment Reductions: The LCIDA may carefully examine employment reductions and in the event that the LCIDA finds that such reductions are temporary situation, the LCIDA may determine not to take any action. Should the LCIDA determine that such reductions are or may be permanent, then the real property tax abatement will be reduced by up to 100%, and/or recapture of financial assistance can be pursued, at the discretion of the LCIDA and in consultations with the affected taxing jurisdictions.
3. Significant Change in the Use of Facility: If the change still is consistent with acceptable LCIDA policy and there is insignificant job loss, the LCIDA may determine not to take any action. If this change falls outside acceptable LCIDA policy, then the withdrawal of entire real property tax abatement and/or recapture of financial can be pursued at the discretion of the LCIDA and in consultation with the affected tax jurisdictions.

6. **Effective Date**

This Uniform Tax Exemption Policy shall apply to all projects for which the Agency has adopted or adopts an Resolution authorizing the grant of financial assistance after **October 1, 2020** and all refinancing of any project induced or closed before said date.

7. **Amendments**

The Agency, 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.