

Countywide Industrial Development Agency Uniform Tax Exemption Policy

Town of Amherst Industrial Development Agency, the Town of Clarence Industrial Development Agency, the Town of Hamburg Industrial Development Agency, the Town of Lancaster Industrial Development Agency and the Erie County Industrial Development Agency

Amended and Restated as of April 1, 2022

The declared policy of New York State is to promote the economic welfare, recreation opportunities and prosperity of its inhabitants, and to promote, attract, encourage and develop recreation, and economically sound commerce and industry through governmental action for the purpose of preventing unemployment and economic deterioration by the creation of industrial development agencies (“IDA”). IDAs are empowered to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, and commercial facilities and thereby advance the job opportunities, health, and the general prosperity and economic welfare of the people of New York State and to improve their recreational opportunities, prosperity and standard of living.

IDAs are empowered to carry out these statutory purposes by providing for the claiming of real property tax abatements and exemptions from sales, use, and mortgage recording tax, and the issuance of tax exempt bonds (collectively, “Financial Assistance”). The IDAs in Erie County have adopted this Uniform Tax Exemption Policy (the “Policy”) to provide for uniform policies for the claiming of IDA Financial Assistance.

Pursuant to the authority vested in it by Article 18-A of the General Municipal Law of the State of New York, an IDA is authorized to establish guidelines and policies for the evaluation and selection of projects for which Financial Assistance will be provided, the suspension, discontinuance, or modification of real property tax abatements, and the recapture of all or part of the Financial Assistance as a consequence of job creation/retention shortfalls or other material violations of the terms and conditions established for the provision of Financial Assistance. Each applicant for Financial Assistance should consult with the appropriate individual IDA to confirm such an IDA’s relevant guidelines and policies.

I. Eligible Applicants/Projects

A. By way of example only, Applicants involved in the following business activities may be eligible to apply for Financial Assistance:

1. Commercial activities
2. Manufacturing/Advanced Manufacturing
3. Warehousing/Distributive Services
4. Back office (headquarters, data and call centers)
5. Renewable energy and/or electric energy storage¹

¹ Renewable energy and/or electric energy storage projects will be evaluated based upon consideration of evaluative criteria which are appropriate for such projects particularly where the goals of the project may be broader than typical job retention and creations goals.

B. Retail Business. Only certain Retail Business projects may be eligible to receive Financial Assistance in compliance with Section 862 of the New York General Municipal Law (“GML”). Applicants are strongly encouraged to consult Section 862 of the GML and the appropriate individual IDA if a proposed project involves the sale of goods or services to customers who personally visit the project site.

C. Special Projects. Applications which contain a mix of retail uses and other non-retail uses (a mixed use project) must comply with Section 862 of the GML and meet additional requirements, if any, as established by each such IDA.

1. Adaptive Reuse Project/Neighborhood Enhancement Area Project. Adaptive Reuse Projects/Neighborhood Enhancement Area Projects will be evaluated based upon consideration of evaluative criteria which are appropriate for such projects particularly where the goals of the project may be broader than typical job retention and creation goals. IDA Financial Assistance may be provided to an Adaptive Reuse Project that involves adapting old structures or sites for new purposes, including but not limited to, potentially a mix of retail uses (in compliance with Section 862 of the GML) and commercial uses, and/or market rate or below market rate housing, and/or as otherwise permitted under any exception or amendment to this Policy for each individual IDA. An Adaptive Reuse Project is one that will benefit the host municipality and Erie County by redeveloping a blighted site or structure, promoting infill development utilizing existing infrastructure, creating new economic activity at difficult sites and buildings thus helping to eliminate neighborhood slum and blight, promoting re-use of existing buildings and sites, and helping to maintain a neighborhood’s fabric. Adaptive Reuse Projects prevent economic deterioration and promote employment opportunities. IDAs may also provide Financial Assistance, as determined by each such IDA, to projects that are retail or have retail components, in compliance with Section 862 of the GML, if the project is located in or contemplating relocating to areas within Erie County that are designated, by the respective municipal legislatures, as Neighborhood Enhancement Areas.

2. Additional Commercial Special Projects. Continuing Care Retirement Community Project as permitted under Sections 854(19) and 859-b of the GML.

II. Exemption from Real Property Taxes: Payments in Lieu of Taxes

The IDAs maintain a policy for the provision of real property tax exemptions with a corresponding Payment In Lieu Of Tax Agreement (“PILOT Agreement”) to provide a real property tax abatement for qualified projects. Each project receiving an abatement from real property tax will be subject to a PILOT Agreement in a form proscribed by the IDA. Such PILOT Agreement will also require payment of any and all special district assessments.

The calculation of the amount of the PILOT payments, and the amount of such payments, is not set forth in statute. The PILOT Agreement payment schedules contained within this Policy establish a varied real property tax abatement schedule to incentivize certain investments over others. In this manner, projects that meet all or some of the region’s planning and economic development goal criteria will be rewarded with a more beneficial real property tax abatement schedule in comparison to those projects that meet less of the region’s planning and economic development goal criteria. To meet this goal, a four-tiered PILOT incentives schedule will be utilized. Consideration of the following “PILOT Tier Criteria” will be utilized in analyzing and selecting the appropriate tiered PILOT schedule to be utilized for each particular project: (i) capital investment, (ii) employment creation and employment retention, (iii) consistency with regional and community based planning, and (iv) overall community benefit.

Below is a listing of the current tiered PILOT schedules:

A. Tier 1: Five Year PILOT Schedule

A five year PILOT Schedule will be applied to projects that score at the Tier 1 level based upon application of the PILOT Determination Scoring Worksheet.

Year	1	2	3	4	5
% Abatement	75%	65%	55%	45%	35%

B. Tier 2: Seven Year PILOT Schedule

A seven year PILOT Schedule will be applied to projects that score at the Tier 2 level based upon application of the PILOT Determination Scoring Worksheet.

Year	1	2	3	4	5	6	7
% Abatement	95%	90%	85%	80%	75%	70%	65%

C. Tier 3: Ten Year PILOT Schedule

A ten year PILOT Schedule will be applied to projects that score at the Tier 3 level based upon application of the PILOT Determination Scoring Worksheet.

Year	1	2	3	4	5	6	7	8	9	10
% Abatement	95%	90%	85%	85%	80%	80%	75%	75%	70%	65%

D. Tier 4: Renewable Energy PILOT Schedule

A PILOT Schedule unique to renewable energy projects that may or may not also have an electric energy storage component is available to support statewide renewable energy production goals, currently established at achieving 70% renewable electricity production by 2030. With respect to a renewable energy project, an IDA, in its sole discretion, may authorize a payment in lieu of taxes agreement for up to a twenty-five (25) year benefit period, and shall calculate such payments based upon a formula expressed as a dollar value per Mega Watt (MW) multiplied by the total MW(s) to be generated by such a project. A determination to grant a Renewable Energy PILOT containing terms consistent with the provisions described within this section shall not be considered a deviation from this Policy.

III. Exemption from Sales and Use Taxes

The IDAs maintain a policy for the provision of sales and use tax exemptions, being a 100% exemption from the New York State and local sales and use taxes related to the acquisition, construction, re-construction and equipping of any approved project, inclusive of rentals and all other elements of the Project qualifying for exemption. In coordination with an IDA, an Applicant must confirm the amount of sales and use tax exemption in connection with a qualified project. Operating and maintenance expenses are not eligible for a New York State and local sales and use tax exemption benefit.

IV. Exemption from Mortgage Recording Taxes

The IDAs maintain a policy for the provision of a mortgage recording tax exemption that permits a mortgage recording tax exemption on a portion of the New York State Mortgage Recording Tax in Erie County, statutorily limited to .0075% on any commercial mortgage or security instrument arising out of or related to the financing or refinancing of an approved project.

V. Deviation from the Uniform Tax Exemption Policy

The following constitutes the procedure for deviation from this Policy, as required pursuant to Section 874(4)(b) of the GML. An IDA may authorize a deviation from the Policy after it: (i) provides prior written notification to the affected taxing jurisdiction(s) of the proposed deviation from the Policy and the reasons for the deviation from this Policy including articulated consideration of the issues identified in Section 874(4)(a) of the GML, and (ii) sets forth in writing the reasons for deviating from the Policy.

VI. Intermunicipal Movement of Facility or Plant

If a project involves the removal or abandonment of a facility or plant within the state, adherence to Section 862 of the GML is required prior to making a Financial Assistance determination.

If a project involves the relocation from one municipality within Erie County (the "Current Municipality") to a different municipality also within Erie County (the "Proposed Municipality"), the IDAs in Erie County set forth the following additional procedures:

A. Upon receipt of a draft application or sufficient materials from a prospective applicant, the relevant IDA with jurisdiction over the Proposed Municipality shall notify the designated economic development representative from the Current Municipality of the pending project unless there is reason the project remain confidential. Upon receipt of a completed Application for Financial Assistance, the IDA will forward a written notice to the chief elected officer of the Current Municipality and the Proposed Municipality (along with their respective economic development designees), which notice shall include (i) said Application, (ii) sites located in the Current Municipality that were considered by the applicant, along with the reasons for rejecting those sites, and (iii) such other information or documentation with regard to the proposed relocation as the IDA may be in possession of.

B. If the applicant declines to respond to such questions regarding its proposed move or indicates that it has not met with representatives of the Current Municipality or reviewed/considered alternative sites within the Current Municipality, the applicant will be strongly urged by IDA representatives to do so prior to final submission of the application, and a determination of said application being considered complete, for consideration of Financial Assistance.

C. A written response or acknowledgement from the chief elected officer of the Current Municipality will be sought with regard to the application for Financial Assistance, and any such response or acknowledgement will be included in the record to be considered by the IDA which has jurisdiction over the Proposed Municipality. This need not be a "sign-off" or an approval of the intermunicipal move. The chief elected officer of the Current Municipality and the Proposed Municipality (and their respective economic development designees) will be invited to address the IDA Board when it considers any such application for Financial Assistance.

VII. IDA Leadership Council

On an as needed basis, a leadership council meeting of the IDAs may be convened to encourage further collaborative efforts, to facilitate the uniform implementation of this Policy, and to provide a forum to address other common concerns with regard to economic development in Erie County. Each IDA signatory to this Policy may permit a representative to attend such a meeting, when such a meeting is convened, provided that such individual represents an IDA, a municipality for whose benefit an IDA was created, and/or any other economic development/community organization. The leadership council will, through the consensus of its members, consider and resolve any concerns raised by an IDA with regard to the interpretation of the Policy, and will coordinate other joint activities of the IDAs to promote a countywide program of economic development.

VIII. Effective Date

This Uniform Tax Exemption Policy shall be effective as of April 1, 2022, and shall apply to all projects for which an IDA has adopted or adopts an Inducement Resolution after April 1, 2022, however, it shall not apply to projects for which an IDA, through issuance of its bonds, execution of leases, or the passage of an Inducement Resolution, has authorized any assistance prior to April 1, 2022, whether or not such projects are thereafter refinanced or modified.

IX. Amendments

An IDA, by resolution of its members, and upon notice to all affected taxing jurisdictions as may be required by law, may amend or modify this Policy as it may, from time to time, in its sole discretion determine.

X. Policy Addendums

A. An IDA, by resolution of its members, and upon notice to all affected taxing jurisdictions as may be required by law, may approve a policy or policies unique to each such IDA as Policy Addendums that may be attached hereto and made a part hereof.

B. For Profit Market Rate Rental Senior Citizen Housing Policy enclosed within this Policy as Addendum A.

XI. Changes in Law

This Policy has been developed consistent with the applicable provisions of Article 18-A of the GML existing as of the Effective Date. In the event of a change in law, rule or regulation affecting any provision of this Policy, this Policy shall be interpreted consistent with such law, rule or regulation, without giving effect to any provision in the Policy to the contrary.

Addendum A

Uniform Tax Exemption Policy Erie County Industrial Development Agency

For-Profit Market Rate Rental Senior Citizen Housing Policy

Notwithstanding anything contained within the Countywide Industrial Development Agency Uniform Tax Exemption Policy to the contrary, for purposes of eligibility, "Senior Rental Housing" is defined as a multi-family housing structure where at least 90% of the units are rented to and occupied by a person who is 60 years of age or older. No benefits will be provided for units that are not available for rent as a Senior Rental Housing.

Market rate senior housing projects approved by ECIDA are eligible for a PILOT the equivalent of the 485(b) property tax incentive that includes all taxing jurisdictions, a sales tax exemption on equipment and construction materials, and a mortgage recording tax exemption. An enhanced or custom PILOT may be considered for certain small scale projects where a particular need is being filled in a small village or town that does not contain alternative senior citizen housing and where the local taxing jurisdiction has requested the enhanced or custom PILOT and there is a showing of unmet demand for senior housing within the taxing jurisdictions and no prospect of this demand being satisfied through normal market forces.

Projects will be evaluated under the following criteria:

1. If the project has received written support from the city, town or village government in which it is located;
2. The location of the project with particular emphasis on if the project is located within the town, village or city center or within a recognized hamlet.
3. If the project is consistent with the applicable municipal master plan
4. If the project advances efforts to create walkable neighborhoods and communities for seniors in proximity to important local amenities and services.
5. If an independent market study shows a significant unmet need in the local community or specific neighborhood where seniors are unable to find appropriate housing opportunities.
6. If the project is located in areas of the Community where there are significant local resident populations that are at or below the median income level as defined by a 1-5 mile radius of the project site.
7. If the project provides amenities that are attractive to seniors and differentiates the project from standard market rate housing apartments including but not limited to:
 - Community rooms, including social/recreational activities
 - In facility senior specific services and amenities
 - Senior oriented fixtures and safety amenities (hand-rails, ramps, elevators, safety devices etc.)
 - Security, call systems
 - On site medical services.
8. Impediments to the ability to conventionally finance the project and the project's rate of return.
9. The project is targeted at and will be at least 50% occupied by senior citizens whose income is at or below 60 to 80% of the median income for Erie County.

Addendum B

Uniform Tax Exemption Policy Erie County Industrial Development Agency

Economic Inclusion PILOT Policy

I. Introduction

The Erie County Industrial Development Agency (the “Agency”) recognizes that economic development and inclusion activities associated with Agency financial assistance can create substantial direct and indirect benefits for minorities and women. To enhance the beneficial impact of projects and investments receiving Agency financial assistance, and to further the Agency’s goal of advancing opportunities for a Minority Business Enterprise (MBE)¹ and/or a Women Business Enterprise (WBE)² and for purposes herein, the abbreviation “MWBE” shall mean a Minority or Women Owned Business Enterprise), and to also advance employment opportunities for minorities and women in general, the Agency has established the Economic Inclusion PILOT Policy (the “EIP Policy”).

II. Goals and Objectives

The goal of the EIP Policy is to promote, encourage, and maximize opportunities for minorities and woman to experience economic progress by establishing a minimum 30% MWBE (25% MBE and 5% WBE) utilization rate for construction activities, and a 30% minorities and women (minimum 20% minority and at least 30% minorities or women) job creation and/or retention rate.

To obtain this goal, the EIP Policy is designed to encourage and incentivize recipients of Agency financial assistance, consisting of a real property tax abatement via an Agency payment-in-lie-of-tax agreement (a “PILOT Agreement”), to: (i) commit to utilizing and employing MWBE construction and professional service companies and firms during a project’s construction period, and, (ii) during the post construction period, to commit to certain minority and women hiring goals and/or job retention goals, while also implementing certain

¹ Under Article 15-A of the New York Executive Law, an MBE is a business enterprise in which at least fifty-one percent (51%) is owned, operated and controlled by citizens or permanent resident aliens who are meeting the ethnic definitions listed below:

- Black: Persons having origins from any of the Black African racial groups.
- Hispanic: Persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American descent of either Native American or Latin American origin, regardless of race.
- Asian-Pacific: Persons having origins from the Far East, Southeast Asia or the Pacific Islands.
- Asian-Indian Subcontinent: Persons having origins from the Indian subcontinent.
- Native American or Alaskan Native: Persons having origins in any of the original peoples of North America.

² Under Article 15-A of the New York Executive Law, a WBE is a business enterprise in which at least fifty-one percent (51%) is owned, operated and controlled by citizens or permanent resident aliens who are women.

procurement, equity and inclusion, training, and mentorship goals. In return for committing to the foregoing, the Agency would then utilize the new EIP PILOT Agreement providing for enhanced real property tax abatement benefits, above and beyond those provided by the standard Agency PILOT Agreements.

III. EIP Policy PILOT Schedules

Pursuant to the Agency’s Uniform Tax Exemption Policy (the “UTEPP”), real property tax abatement benefits are available with varying abatement percentages for either a standard 5-year, 7-year, or 10-year benefit period term (collectively, the “Agency PILOT Programs”) determined via Agency staff application of the PILOT Determination Scoring Worksheet for each particular project. In effect, upon receipt of an application for financial assistance, Agency staff identifies the standard PILOT Agreement benefit period term based upon each applicant’s individual application and related project information. Under the EIP Policy, the abatement percentages and benefit period term of the standard Agency PILOT Programs can now be enhanced, as depicted below, to encourage utilization of MWBE firms, employment and retention of women and minority employees, as well as procurement, equity and inclusion, training and mentorship goals.

A) Standard Five Year PILOT Schedule and EIP Enhancement

	1	2	3	4	5	6	7
Standard % Abatement	75%	65%	55%	45%	35%	0%	0%
EIP Tier 1	80%	75%	70%	65%	60%	55%	0%
EIP Tier 2	80%	75%	70%	65%	60%	55%	50%

B) Standard Seven Year PILOT Schedule and EIP Enhancement

	1	2	3	4	5	6	7	8	9
Standard % Abatement	95%	90%	85%	80%	75%	70%	65%	0%	0%
EIP Tier 1	95%	95%	90%	90%	80%	75%	70%	65%	0%
EIP Tier 2	95%	95%	90%	90%	80%	75%	70%	65%	50%

C) Standard Ten Year PILOT Schedule and EIP Enhancement

	1	2	3	4	5	6	7	8	9	10	11	12
Standard % Abatement	95%	90%	85%	85%	80%	80%	75%	75%	70%	65%	0%	0%
EIP Tier 1	95%	95%	90%	90%	85%	85%	80%	80%	75%	75%	70%	0%
EIP Tier 2	95%	95%	90%	90%	85%	85%	80%	80%	75%	75%	70%	50%

IV. EIP Policy Implementation

Consistent with standard practices, Agency staff will initially evaluate a project, utilizing the PILOT Determination Scoring Worksheet, to determine the standard/initial five, seven or ten year PILOT Agreement term.

An applicant may then opt to work towards qualifying for the EIP Enhancement PILOT by meeting meet *both* Construction Period Obligations and Post-Construction Period Obligations.

A) Construction Period Obligations.

Construction Period Obligations require the applicant to meet a 30% MWBE (25% MBE and 5% WBE) utilization rate, based upon total construction contract value, for construction activities.³ If an applicant is unable to meet the Construction Period Obligations, but has demonstrated good faith efforts to do so, as defined and described within the instructions to the Agency's Application for Financial Assistance, the applicant will be deemed to have met the Construction Period Obligations.

If the Construction Period obligations have been met, the applicant will then need to meet the Post-Construction Period Obligations.

B) Post-Construction Period Obligations

(1) EIP Tier 1 Enhancement Post-Construction Obligations

To meet the EIP Tier 1 Enhancement (at either the 5, 7, or 10 year standard PILOT Agreement term) the applicant will need to: (i) meet the approved job retention and creation goals, (ii) demonstrate that it has met a 30% minority and women (minimum 20% minority and at least 30% minorities or women) job creation requirement as approved per item (i), within two years after project completion, (iii) maintain those hires/percentages during the term of the applicable PILOT Agreement, and (iv) complete at least two (2) of the EIP Policy Best Practices, as described below.

(2) EIP Tier 2 Enhancement Post-Construction Obligations

To meet the EIP Tier 2 Enhancement (at either the 5, 7, or 10 year standard PILOT Agreement term) the applicant will need to: (i) meet the approved job retention goals, (ii) demonstrate that it has total workforce (jobs retained) consisting of 30% minorities and women (minimum 20% minority and at least 30% minorities or women), based upon total workforce commitments as approved per item (i), within two years after project completion, (iii) maintain those percentages during the term of the applicable PILOT Agreement, and (iv) complete at least one (1) of the EIP Policy Best Practices, as described below.

(3) EIP Policy Best Practices

(i) Procurement Practice. Applicant establishment of MWBE procurement goals for operations including supplies, equipment and/or professional services of

³ The Agency will utilize and rely upon Erie County, City of Buffalo, and New York State databases to confirm MBE/WBE certification.

10% of applicant's operational contract purchases which are within its local control for the term of the PILOT Agreement, and annual reporting to the Agency during the term of the PILOT Agreement with respect to same.

(ii) Diversity & Inclusion Practice. Applicant creation of a Diversity & Inclusion policy, in alignment with requirements to be developed and amended by the Agency from time to time, for its organization with identified goals and objectives metrics for the term of the PILOT Agreement, and annual reporting to the Agency during the term of the PILOT Agreement with respect to same.

(iii) Annual Training Practice. Applicant's management and/or key staff participation in annual training or specified Diversity & Inclusion activities, in alignment with requirements to be developed and amended by the Agency from time to time for the term of the PILOT Agreement, and annual reporting to the Agency during the term of the PILOT Agreement with respect to same.

(iv) Mentorship Practice. Applicant development of and/or participation in mentorship program(s) designed to support MWBE businesses and/or minority and women candidates for leadership positions within its organization or in its occupational field for the term of the PILOT Agreement, and annual reporting to the Agency during the term of the PILOT Agreement with respect to same.

(C) Enforcement

Failure to meet and/or maintain Construction Period Obligations and Post-Construction Period Obligations will result in the applicant being unable to claim or to continue to claim the EIP Enhancement for the remaining term of the PILOT Agreement, and the administrative/procedural amendment of the PILOT Agreement to default to the terms of the otherwise applicable standard Agency PILOT Program.

V. Effective Date

This EIP Policy shall be effective as of July 1, 2023 and shall be applicable and made available to Agency applicants for Financial Assistance for which the Agency adopts an Inducement Resolution after July 1, 2023.