

## **Broome County Industrial Development Agency Uniform Tax Exemption Policy**

### **Section 1. Purpose**

The Mission of the Broome County Industrial Development Agency (“BCIDA”) is to serve as a partner, catalyst, and investor that delivers clear benefits including job opportunities, development sites, and enhanced quality of life. The Agency promotes and leverages all available resources and Broome County’s strengths to foster economic growth and create prosperity in an ethically transparent manner.

The following Uniform Tax Exemption Policy (“UTEP”) will apply to all installment sales and lease agreements in which the BCIDA holds nominal title to real and personal property on behalf of its clients.

### **Section 2. Statutes Authorizing IDAs**

Industrial Development Agencies are formed under and governed by Article 18-A of the New York State General Municipal Law (the “IDA Act”) as public benefit corporations. IDAs, as local authorities, promote, encourage, attract, and develop sites and support investments in real property for the purposes of job creation, business retention and attraction and other economic priorities as identified by their respective community.

The New York Industrial Development Agency Reform Act of 1993 (Chapters 356 and 357) created a new General Municipal Law Section 874 (4) that requires IDAs to establish the Uniform Tax Exemption Policy (UTEP). This written policy shall provide guidelines for the granting of real property, mortgage recording, and sales and use tax exemptions. The Act also requires IDAs to establish a procedure for deviation to the UTEP. IDAs may grant enhanced or reduced benefits on a case-by-case basis and this approval is at the sole discretion of the IDA.

### **Section 3. Program Objectives**

The purpose of the BCIDA is to serve as an economic development resource, often in conjunction with other financing and economic development programs; to provide support to projects for industrial, commercial, housing, qualified retail, tourism, and other types of projects deemed to have a significant positive economic impact in Broome County. The BCIDA seeks to stimulate desirable and sound economic development to create and retain jobs; strengthen the local tax base; improve the quality of life; provide quality housing; and to align with recognized state, regional, or local development strategies.

### **Section 4. Types of Financial Assistance**

The BCIDA provides financial assistance (collectively, “Financial Assistance”) to qualified applicants to advance its mission and program objectives. The types of Financial Assistance are:

#### **A. Real Property Tax Abatements**

- B. Sales and Use Tax Exemption (as related to the construction of a project)
- C. Mortgage Recording Tax Exemptions
- D. Industrial Revenue Bonds (IRBs)

Section 5. Real Property Tax Exemptions

- a. The BCIDA maintains a policy for the provision of real property tax abatements for qualified projects. A project will be deemed qualified only after the receipt of; (1) a meeting with BCIDA staff to review project size and scope; (2) a completed Application for Benefits; (3) all required supporting financial documentation; and (4) a project review, including Cost-Benefit Analysis. Upon approval of the Board of Directors, qualified projects may enter a payment in lieu of tax (PILOT) agreement, mortgage recording and sales and use tax agreements. The BCIDA will not consider projects located on sites or facilities that are tax-delinquent or from project applicants that are in arrears on taxes on other sites or facilities.
- b. The BCIDA will not consider PILOT schedules developed by an outside entity (i.e., project owner) valid, unless expressly requested by the BCIDA.
- c. The base assessment for valuation purposes for all property for which a PILOT agreement is sought shall be no less than; (1) the assessed value at the time of the application or (2) the purchase price of the site or facility.
- d. For sites or facilities that were previously exempt from real property taxes; the valuation will be what would have been the assessed value at the time of the application or the purchase price of the facility. The base assessment shall be provided to the BCIDA from the lead assessing unit from the municipality in which the project is located.
- e. The BCIDA may, at the expense of the applicant, commission an independent appraisal or market study of the subject property if, for any reason, the proposed project value is in question.
- f. Payment in lieu of tax (PILOT) schedules have been outlined in Appendix A and shall be described in a written PILOT Agreement between the BCIDA and the Project Owner/Sponsor. Project occupants shall pay to the BCIDA or its designee (i.e., affected taxing jurisdictions), the amount calculated pursuant to the applicable PILOT schedule approved by the BCIDA. Payments received under all PILOT agreements shall be proportionally allocated among the affected taxing jurisdiction according to the amount of real property taxes the taxing jurisdiction would otherwise have received but for the BCIDA's involvement.
- g. Variations in the *proportions* shall only be done with the consent of the affected taxing jurisdictions. The approved PILOT Agreement shall take effect during the tax year immediately following the taxable status date of each year and after the BCIDA has acquired an interest in the project.

- h. If the project owner shall fail to make any payment required under the PILOT agreement, its obligation to make the payment so in default shall continue as an obligation of the project owner until such payment in default shall be made in full. The project shall pay the same, together with interest thereon, to the extent permitted by law, the greater of; (1) 18% annually, or (2) the annual rate which would be payable if such amounts were delinquent taxes, until so paid in full.
- i. Notwithstanding, the execution of any PILOT agreement, NO project shall be exempt from special assessments and special ad valorem levies lawfully levied and/or assessed against the subject property.
- j. In any lease transaction (new construction or existing facility), financial benefits received to the project owner shall be passed on to the tenant/occupant. Both the beneficial owner and the tenant/occupant must certify in writing that all tax advantages provided by the BCIDA are accruing to the benefit of the tenant/occupant.

#### Section 6. Real Property Exemption Deviations

- a. The BCIDA may deviate, on a case-by-case basis from the policies outlined above and any deviation shall require the written notification by the BCIDA to the Chief Executive Officer where the project is located, in advance of the meeting at which the proposed deviation shall be considered. All affected taxing jurisdictions shall receive a copy of the written notice. Per the Authorizing Legislation, the BCIDA does not require consent by municipal resolution to provide a deviation to the real property tax exemption.
- b. Any proposals to deviate from the “proportional” payments to the affected taxing jurisdiction will require consent by resolution of each of the affected taxing jurisdictions.
- c. A deviation shall be considered on a case-by-case basis and shall be considered an “exception” to the standard benefit. The BCIDA recognizes that in some circumstances, such as a project with significant community impact, a deviation to the UTEP may be required. The BCIDA can exercise flexibility in allowing for other incentives in the discounting of property taxes and can go beyond its standard term of years. The BCIDA may consider any or all of the following factors in making such determination and may provide enhanced benefit or diminished benefits from this UTEP, no single one of which is determinative. In doing so, the BCIDA will set forth in writing, the reasons for any deviation and notify the affected taxing jurisdiction.

Deviations for consideration based on the following types of development and conditions:

- a. Nature of Project
  - Expanding Existing Business
  - Relocation of Business to the Area
  - New Development
  - Complementary Development (supports a larger redevelopment plan or project)
  - Regionally Significant Industry (i.e., semiconductor, advanced manufacturing)
  - Expansion of Industry Supply Chain
- b. Type of Development
  - Residential Rental
  - Targeted Geographic Area:
    - iDistrict
    - Opportunity Zone
    - Low to Moderate Income Area
    - Commercial or Industrial Park
    - Rural Community
- c. Large Scale Retail/Mixed Use Redevelopment
- d. Recreational/Tourism/Cultural Destination
- e. Adaptive Re-Use/In-Fill/Revitalization of Underutilized Sites
- f. Affordable and/or Supportive Housing
- g. Transit-Oriented-Development
- h. Positively impacts health and community, the environment, and the economy.  
Provides access to transportation for employment and other services.
- i. Green Building and Energy-Related Investments
  - Projects that place less stress on municipal infrastructure
- j. Employment Impact
  - Number of Permanent Jobs
  - Percentage of Low-Moderate hires
  - Retention of Existing Jobs
  - Significant Local Partnerships and/or Matching Funds in the project
- k. Documentation by financing instrument of a specific term of PILOT benefit

\*\*The Agency reserves the right to extend the term of these schedules by five years with similar phase in scheduled for developments for the following reasons:

- located in special designated redevelopment areas, such as Qualified Census Tracts, Opportunity Zones, and Empire Zones
- that provide exceptional job growth
- that are designated as a Brownfield and involve remediation cost that impact financial feasibility

## Section 7. Sales and Use Tax Exemptions

- a. The BCIDA's policy is to grant exemption of state and local sales and use taxes for all qualified and approved projects to the full extent permitted by New York State. Such exemption would cover the purchase of construction materials and

equipment and of project related equipment and furnishings until the project is completed, i.e., Certificate of Occupancy.

- b. Operating and Maintenance expenses are incurred by an Agent of the BCIDA for a Project of are not exempt from local and New York State sales and use tax.
- c. The BCIDA will file an “Appointment of Project Operator for Sales Tax Purposes,” (Form ST-60), which shall be valid from a period of one-year from the project benefit approval date. Such appointment may be extended or renewed, subject to a showing of good cause and any restrictions and/or requirements imposed by the BCIDA or New York State upon such extension or renewal. Such requests must be provided to the BCIDA in writing and with the approval of the BCIDA.

#### Section 8: Mortgage Recording Tax Exemptions

The BCIDA’s policy is to grant exemptions from the mortgage recording tax to all qualified and approved projects to the full extent of the law.

#### Section 9: Industrial Revenue Bonds

The BCIDA, in its effort to stimulate desirable and sound economic development and to create and retain quality employment opportunities, may serve as a vehicle for medium and long-term low interest financial assistance through the issuance of Industrial Revenue Bonds (IRBs) and other incentives. Eligible costs shall include:

- i. Acquisition
- ii. Construction
- iii. Expansion
- iv. Rehabilitation
- v. Purchase of Equipment

#### Section 10: Transfers to “Qualified Transferee”

With respect to any project, provided the project owner is compliant with BCIDA policies; a transfer of benefit may be considered to a “Qualified Transferee” under the following conditions:

- a. The project owner must notify the BCIDA and its Counsel in writing (the “Transfer Notice and Request”) no later than two (2) months prior to the proposed date of sale, transfer, assignment or conveyance that the company intends to sell, convey, assign or otherwise transfer the Project, or any controlling interest therein, and/or that any person or entity that controls such company, intends to sell, convey, assign or otherwise transfer any of his, her or its interests in and to the company, and in connection with any such sale, transfer or conveyance, request that the PILOT Agreement be transferred or otherwise remain in full force and effect in accordance with its terms.
- b. “Controlling interests” means, with respect to the Project, the sale, conveyance, assignment, or tother transfer of more than 49% of the fee title and/or leasehold interest in and to the Project. “Controls” shall mean the ownership of a majority

of the legal and beneficial interest in the company, together with the ability to direct the management, affairs, and operations thereof.

- c. The Transfer Notice and Request must contain a representation and warranty from; (1) the Purchaser (as hereinafter defined), and (2) the company, to the best of its knowledge based solely upon the information and documentation provided to it by the Purchaser (as herein defined), and the (3) company, to the best of its knowledge based solely upon the information and documentation provided to it by the Purchaser that each proposed purchaser, transferee, or assignee, is a qualified transferee or assignee by such information and documentation as the BCIDA, as acting by and through its warranty.
- d. “Controls” shall mean the ownership of a majority of the legal and beneficial interest in such purchaser, transferee, or assignee, together with the ability to direct the management, affairs, and operations thereof. The Purchaser shall constitute a “qualified transferee” if the BCIDA determines in its reasonable judgement that:
  - i. The Seller has successfully and continuously owned and operated projects of similar size, scope and use to that of the Project over the then proceeding ten (10) years.
  - ii. The Seller is current on the payment of all real estate taxes, levies, charges, fees, and assessments due and owing to the BCIDA.
  - iii. The Seller is current on the payment of all PILOT payments due and owing to the BCIDA.
  - iv. The Purchaser has demonstrated that it has a net worth sufficient to fund the successful ongoing operation and maintenance of the Project.
  - v. The Purchaser has not outstanding cases or proceedings, without a judicially mandated settlement agreement.
  - vi. The Purchaser is current on the payment of all federal, state and County taxes and has made all filings of all required returns; and
  - vii. The Purchaser has furnished to the BCIDA at least two (2) banking reference.

#### Section 11: General Financial Information Necessary to Apply

- a. A completed, signed, and notarized Application for Benefits
- b. A consultation with BCIDA staff, Chief Executive Officer for the affected taxing jurisdiction
- c. Composition of the applicant’ current real estate portfolio at the time of application including type of project and number of square feet or units owned/d and or managed.
- d. Applicants’ recent history if obtaining financing commitments for real estate development projects, detailing type of project, financing source and amounts committed.
- e. Bank references for the applicant and financial equity partner (if applicable).
- f. For applicant and its development team, a statement regarding any debarments, suspensions, bankruptcy, or loan defaults on real estate development projects and/or government contract

- g. A statement describing the expected equity requirements and sources, the anticipated sources of working capital, and the anticipated sources for the financing of the project, including its construction.
- h. Bank commitment letters and real estate appraisals upon request of the BCIDA

Section 12: Cost Benefit Analysis

In the event of a deviation to the terms of the PILOT agreement, the BCIDA will conduct, at the applicant’s expense, an independent, third-party cost-benefit analysis to determine the need for any such deviation and total PILOT value, which shall include:

- a. A comparison of the standard v. the proposed abatement.
- b. An explanation of the financial assumptions used in the analysis.
- c. Operational budget v capital cost budget
- d. Additional documentation relating to the “but for” such assistance, the Project could not move forward; and
- e. Public infrastructure costs and impacts

The value of the incentive offered must exceed the break-even point between the costs and benefits during the duration of a specific term of years unless the BCIDA makes an express determination that the proposed Project is of material significance and requires an even greater or lesser amount of Financial Assistance in the form of greater deviations from the Standard PILOT policy.

Section 13: Recapture of Benefits

It is the policy of the BCIDA to annually review project performance and reserves the right to recapture the value of PILOT Payments, State and County Sales and Use Tax, and mortgage Recording Tax exemptions in accordance with the provisions set forth in the following schedule:

<u>Period</u>	<u>Recapture Amount</u>
Within 3 years	100%
Within 5 years	85%
Within 10 years	75%
Within 15 years	50%
Within 20 years	25%

Section 14: Recapture Trigger Events

- b. Sale (except as expressly permitted pursuant to this UTEP), or closure of a facility within the time the Project receives BCIDA benefits.
- c. Departure of the project from the municipality in which the benefits were originally approved.

- d. Material employment reductions or material failure to meet stated employment creation or retention goals in any tax year to the extent, if any, that such goals are set forth in the PILOT Agreement or any other BCIDA transaction documents.
- e. Significant change in the use of a facility or in business activates by Project applicant or operator.
- f. Ceasing to be an eligible “project” under and as identified in the IDA Act
- g. Material non-compliance with or breach of terms and conditions of BCIDA transaction documents or breach of any zoning, land use or federal, state, or local environmental laws or regulations, material obligations by the project occupant to the United States, State of New York, or any of its political subdivisions, the affected taxing jurisdictions in which obligations were imposed in connection with the Project.
- h. Decrease in projected revenues and/or projected economic benefits from the Project in any given year to the extent, if any, then any such projected revenues and/or economic benefits are set forth in the PILOT Agreement and other BCIDA transaction documents; or
- i. Failure to comply with annual reporting documents or provide the BCIDA with requested information

Section 15: Application Process

- a. Environmental Compliance – Applicant must comply with New York State Environmental Quality Review Act (SEQRA) before applying for benefits.
- b. Preliminary Meeting – Project owner must meet with BCIDA to discuss project.
- c. Application Submittal –
  - i. Project owner submits completed application to the BCIDA (see “General Information Required to Apply”
  - ii. BCIDA Staff Review and PILOT development
  - iii. Independent, third-party cost-benefit (if required)
  - iv. Presentation to BCIDA Governances Committee
- e. BCIDA Inducement Resolution – Project is induced by initial resolution allowing IDA Executive Director to discussions and/or negotiations on any proposed financial assistance
- f. Public Hearing Notification – Public hearing notice summarizing the details of the project and the financial assistance is published in the official newspaper with ten (10) days’ notice prior to hearing date
- g. Public Hearing – Applicant should be present at the Public Hearing scheduled in connection to the Project
- h. BCIDA Final Authorizing Resolution – BCIDA will consider final authorizing resolution for consideration by the Board of Directors
- i. Labor Policy Compliance – Applicant must notice all required entities as outlined in Application for Benefits
- j. Sales Tax Agreement – BCIDA will issue Sales Tax Agreement to Project owner within in thirty (30) days of Project approval
  - i. Forms of Security – Project owner will provide necessary form of security as outlined in the Application for Benefits

- j. Closing – Contracts and other documents necessary to consummate transaction with are executed by the Company, BCIDA, and any other interest, including payment of any required BCIDA fee.

Section 16: Amendment or Modification

The BCIDA, by resolution and upon notice to taxing jurisdictions, may amend or modify the foregoing policy, as it may, from time to time determine, and in accordance with the Laws of the State of New York.

Approved by the BCIDA Board of Directors March 16, 2022

## APPENDIX A

**Broome County Industrial Development Agency  
Schedule of Uniform Real Property Tax Exemption Policy**

PILOT Year	Operating Year	COMMERCIAL PROJECTS		INDUSTRIAL PROJECTS		HOUSING	
		<u>New Construction</u>	<u>Improvement on Existing</u>	<u>New</u>	<u>Improved Existing</u>	<u>NEW AND REHABILITATION</u>	<u>LESS THAN 25 UNITS REHABILITATION</u>
1	Construction	Construction		Construction		Construction	Construction
2	Construction	Construction		Construction		Construction	Construction
3	1	75%	75%	75%	100%	90%	90%
4	2	75%	75%	75%	75%	70%	80%
5	3	75%	50%	75%	75%	50%	70%
6	4	50%	50%	75%	75%	50%	60%
7	5	50%	50%	75%	75%	50%	50%
8	6	50%	50%	50%	50%	50%	40%
9	7	50%	25%	50%	45%	50%	30%
10	8	25%	25%	50%	40%	50%	20%
11	9	25%	25%	50%	35%	50%	15%
12	10	25%	25%	50%	30%	50%	10%
13	11	0%	0%	25%	25%	50%	0%
14	12	0%	0%	25%	20%	45%	0%
15	13	0%	0%	25%	15%	40%	0%
16	14	0%	0%	25%	10%	35%	0%
17	15	0%	0%	25%	5%	30%	0%
18	16	0%	0%	0%	0%	25%	0%
19	17	0%	0%	0%	0%	20%	0%
20	18	0%	0%	0%	0%	15%	0%
21	19	0%	0%	0%	0%	10%	0%
22	20	0%	0%	0%	0%	5%	0%

\* Each Schedule Assumes a 2% escalator annually

**Recapture Schedule**

Period	Recapture Amount
Within 3 years	100%
Within 5 years	85%
Within 10 years	75%
Within 15 years	50%
Within 20 years	25%

Approved by the BCIDA Board of Directors March 16, 2022

## APPENDIX B

### AFFORDABLE HOUSING PILOT DETERMINATION PILOT AT 10% SHELTER RENT

Residential Units		
Average Rent/Unit Monthly		Based on 60% AMI
Utilities Per Unit Annually		
Gross Revenue (at COO)	\$ -	Monthly Rent x Units x 12 = Gross Revenue
Utilities	\$ -	Utilities Per Unit Annually x Units = Utilities
Shelter Rent	\$ -	Gross Revenue - Utilities = Shelter Rent
	10%	
10% Shelter Rent	\$ -	Starting PILOT Amount (first 2 years frozen at existing tax amount)
Units	0	
Annual PILOT Per Unit		

\*2% escalator will be added per year

Approved by the BCIDA Board of Directors March 16, 2022