

Appendix N - Miami County Incentives Procedures

ARTICLE 5. POLICY AND PROCEDURES FOR TAX EXEMPTIONS AND INCENTIVES FOR ECONOMIC DEVELOPMENT

- 2-501. OBJECTIVES. The purpose of this policy is to establish the official position and procedures of Miami County, for considering applications for property tax abatements for real and personal property used for economic development purposes in accordance with the provisions of Section 13, Article 11 of the Kansas Constitution.
(R03-04-041)
- 2-502. SCOPE. The authority and decision to grant a tax abatement is vested solely with the County Commission. This policy is intended to provide a guide to the County Commission in considering applications. The decision to grant tax abatement is discretionary and each application will stand on its own merits. The County Commission is under no obligation to approve any requested abatement and reserves the right to deviate from the policies and criteria contained herein if, in the opinion of the County Commission, circumstances exist to warrant such deviation.
(R03-04-041)
- 2-503. DEFINITIONS. This policy contains definitions of a general nature, which apply to the entire policy unless a term is given a specific definition unique to a particular section of the policy.
- (A) **Abatement.** The difference between the amount of ad valorem property taxes an affected business would pay if there were not County-granted abatement and the amount to be paid as in lieu taxes or charges. For example, if the taxes were \$5,000 with no abatement, and the required in lieu payments were \$2,500, the "abatement" would be \$2,500.
 - (B) **Applicant.** Includes the business, property owner or owners, their officers, employees and agents requesting an abatement.
 - (C) **Economic development purposes.** For the purposes of an abatement pursuant to the Kansas Constitution, this term shall mean the establishment of a new business or the expansion of an existing business, engaged in manufacturing articles of commerce, conducting research and development, or storing goods or commodities which are sold or traded in interstate commerce, which results in additional employment.
 - (D) **Administrative Review Committee.** A committee comprised of the County Administrator, County Counselor, Chair of the County Commission, representative of the City if the applicant's physical site is situated within the "growth area" created by interlocal agreement between the City and County, representative of the Greater Miami County Economic Development Corporation and a representative of the school district in which the applicant will be physically located.
(R03-04-041)
- 2-504. PROVISIONS.
- (A) Criteria for Creating an Abatement: Each applicant for property tax abatement shall be evaluated in accordance with the following criteria:
 - (1) Maintain Existing Tax Base: Granting of the application shall not result in the County, school district or any other taxing jurisdiction affected by the abatement, receiving less tax revenue after the abatement from the abated property than was received prior to the abatement.
 - (2) Existence of Economic Benefit: There is a clear demonstration of public purpose and economic benefit to the County through the advancement of the County's economic goals which may be established by, but is not limited to, such things as additional, quality jobs; increased private capital investment within the County; expanded tax base; expansion of current

businesses in the County; importing new wealth into the County; exporting manufactured goods or technology from the County; spurring economic development in targeted County locations; encouraging location and retention of businesses that are good corporate citizens by providing leadership and support of local civic and philanthropic organizations; and encouraging development of targeted businesses that will enhance and expand the County's local economy.

- (3) "But For" Principle: The abatement should make a difference in determining the decision of the applicant business to located, expand or remain in the County in that the business would not otherwise be established, expanded or retained without the availability of the abatement.
 - (4) Unfair Competition: The abatement should not, in the determination of the County Commission, create an unfair advantage for one business over another competing business within the County unless there is a substantial overriding benefit to the County as a whole.
 - (5) Employment: The applicant will generate wages and benefits for the majority of its employees in excess of the average County wage, as determined annually by the Kansas Department of Human Resources Wage Survey.
 - (6) Type of Business: The applicant's business is of a nature that will stimulate the local economy and improve the quality of life for its citizens. Such businesses include but are not limited to regional or national headquarters, environmentally sound businesses, high technology industries, and development projects that spur significant retail projects.
 - (7) Location: The applicant's business will be located in an area that has been targeted for economic development by the County's Comprehensive Plan or by the Economic Development Corporation, or has specific site constraints that make development more difficult or costly.
 - (8) Capital Investment: An applicant establishing a new business should be making a minimum capital investment in the County of at least \$1,000,000. An applicant expanding or relocating an existing business, defined to be any business that has a significant physical presence within the County as an owner or tenant, should be making a minimum capital investment in the County of \$250,000. The term capital investment shall apply to the acquisition cost of land and building improvements, but shall not include tangible personal property constituting capital assets for accounting purposes.
 - (9) Cost Benefit Analysis: A cost/benefit analysis shall be performed on a model approved by the County. The result of the analysis should indicate that the benefit of the establishment, expansion or relocation of the applicant's business, even with the proposed abatement, outweighs the cost to the County and other affected taxing jurisdictions.
- (B) Duration and Amount of Abatement: Application of the criteria set forth herein will be considered in determining whether an abatement should be given to the application, and, if so, the length and amount of abatement granted. The following charts shall serve as a guide for the number of years for an abatement and the amount of the abatement.

**Amount of Capital Improvements for
New Businesses**

	Years Eligible for Abatement
\$1,000,000 - \$2,000,000	5
\$2,000,000 - \$3,000,000	6
\$3,000,000 - \$4,000,000	7
\$4,000,000 - \$5,000,000	8
\$5,000,000 plus	10

**Amount of Capital Improvements for
Existing Business**

	Years Eligible for Abatement
\$250,000 - \$1,000,000	5
\$1,000,000 - \$2,000,000	7
\$2,000,000 - \$3,000,000	8
\$3,000,000 plus	10

**% of Abatement for New
Business**

	Number of Employees	% of County Average Salary
25%	10-20	101% - 150%
50%	21-50	101% - 150%
	10-20	151% - 200%
75%	51 or more	101% - 150%
	21 or more	151% - 200%
	10 - 20	201% or more
100%	21 or more	201% or more

**% of Abatement for
Existing Businesses**

	Number of New Employees	% of State Average Salary
25%	5-10	101% - 150%
50%	10-20	101% - 150%
	5-10	151% - 200%
75%	21 plus	101% - 150%
	11-20	151% - 200%
	5-10	201% or more
100%	11 or more	201% or more

- (C) **Special Assessments:** A tax abatement shall not affect the liability of such property for any special assessments levied or to be levied against such property.
- (D) **Pirating:** The County discourages applications for tax abatements which deliberately encourage and cause the pirating of business from one Kansas community to another. The County intends to avoid participation in "bidding wars" between municipalities or areas competing for the location of new business or expansion of existing businesses through attempts to offer the largest tax abatement or other public inducement, which is detrimental to the State's economy and the public interest.
- (E) **Preliminary Review:** Prior to submittal of a formal application, a business may inquire as to eligibility for a tax abatement and the anticipated amount based on preliminary information that may be requested by the County. The County Administrative Review Committee will review the information submitted and respond to the business regarding eligibility and potential amount of abatement that may be granted. The Administrative Review Committee may utilize the services of other consultants, such as the County Economic Development

Director, and experts in reviewing and evaluating the information submitted by the applicant. The response by the County Administrative Review Committee shall in no way represent definitive findings or be seen as an expression of intent or obligation of the County Commission to favorably consider or approve a formal request for tax abatement. Information submitted and the County Administrative Review Committee's response shall be deemed to be proprietary business information; kept confidential, and not discussed in an open meeting unless consented to by the business or otherwise required by law.

(R03-04-041)

2-505. PROCEDURES.

- (A) Formal Application: An applicant may request a tax abatement by filing, with the County Administrator, six copies of a written application on a form provided by the County and accompanied by a filing fee of \$1,000 which shall include a non-refundable fee of \$500 to cover administrative costs of the County and \$500 which will be applied to professional fees incurred on behalf of the County in processing this application, including a cost benefit analysis. This fee is also in addition to other fees, which may be required by the County, including additional costs incurred, if any, for preparation of the required cost benefit analysis. The County will only consider complete applications. Unlike a preliminary application, all applications and records pertaining to a formal tax abatement request shall be subject to the provisions of the Kansas Open Records Act.
- (B) Initial Review: Each application for tax abatement shall generally adhere to the following procedures:
 - (1) Upon receipt of the completed application and filing fee, the County's Administrative Review Committee shall review the application; gather additional information as may be necessary to evaluate the application; prepare or cause to be prepared a cost benefit analysis report; conduct discussions with the applicant; discuss terms of a payment in lieu of taxes agreement (PILOT) to be drafted by the County Counselor or other retained attorney; and recommend to the County Commission as to whether or not the application should be favorably considered.
 - (2) If, after reviewing the Administrative Review Committee's recommendation, the County Commission determines further consideration of the application is warranted, the County Commission shall schedule a public hearing to consider granting a tax abatement and notify the appropriate taxing jurisdictions of the hearing. The County Commission may issue a resolution of intent, setting forth in general terms its proposed plans for granting a tax abatement and any conditions thereto. The resolution of intent shall be an expression of good faith intent, but shall not in any way bind the County to the granting of an abatement.
 - (3) Prior to granting a tax abatement, the County Commission shall hold a public hearing on the granting of such abatement. The County Clerk shall notify, in writing, the Board of Education for the school district affected by the proposed abatement about the public hearing and the proposed tax abatement, the City Council if the site of the proposed abatement is situated within a "growth area" and any other public bodies affected by a tax abatement. At the conclusion of the hearing, the County Commission shall take action on the abatement application. Such action may include approval or denial of an abatement or continuation to a specific date for further consideration and action. Approval shall be in the form of a resolution and shall specify the length and amount of abatement. The County Commission shall also require the abatement be conditioned upon

execution of an agreement for payment in lieu of taxes (PILOT). The PILOT may include, but not be limited to, a provision requiring specified performance as a condition for granting and maintaining the abatement; and the time within which the construction of the abated property must begin and be completed.

- (4) If approved, the applicant receiving the abatement (business) shall file the initial exemption application with the County Appraiser after review by the County at the time and in the form required by state statute or administrative regulation. The business shall also be responsible for filing the annual claim for exemption as required by state statute. The annual claim must include a signed statement from the County Clerk that the property continues to meet the terms and conditions of the abatement. This statement will be provided based upon an annual review of the abatement by County staff.
 - (5) The county shall be notified by the business of any substantive change in the use of the property receiving a tax abatement at any time during the term of the abatement. A tax abatement granted by the County shall not be transferred to any other person or entity assuming ownership of the property without the written consent of the County.
 - (6) Approval by the County of an abatement is not a warranty, guarantee or representation that the Kansas Board of Tax Appeals will approve the abatement.
- (C) Annual Review: Each tax abatement granted shall be subject to an annual review for the purpose of monitoring the business and determining if the business continues to remain in compliance with all established terms or conditions set forth in the PILOT agreement.
- (1) The application for annual review shall be filed on an annual basis with the County Clerk no later than January 15 of each year for the term of the exemption. The filing fee shall be \$300 per year and is non-refundable.
 - (2) The County Administrator or County Counselor, with the assistance of County staff, shall review the application and, unless ineligibility or noncompliance is evident, shall request the County Clerk to issue a certificate of compliance. Notice of the issuance shall be provided to the County Commission. If the County Administrator/County Counselor has questions or concerns regarding continuing eligibility or compliance, he/she shall submit a report to the County Commission for their determination of compliance.
 - (3) If a certificate of compliance is issued by the County, it shall be the business' responsibility to claim the appropriate tax abatement by submitting the appropriate forms to the County Appraiser by March 1. The claim form shall include a written statement, signed by the County Clerk, that the property continues to meet all terms and conditions established as a condition of granting the abatement.
 - (4) The County Commission reserves the right to revoke a previously approved tax abatement as a result of a fraudulent or inaccurate application; failure to submit the annual review application and supporting information; or failure to comply with the terms and conditions of an approved PILOT agreement.

(R03-04-041)

2-506. RESPONSIBILITY FOR ENFORCEMENT. The County Administrator shall be responsible to the County Commission for the enforcement of this tax abatement policy. County staff and officials shall assist in the implementation of this policy.

(R03-04-041)

ARTICLE 6. PROCEDURES FOR ISSUANCE OF INDUSTRIAL REVENUE BONDS

2-601. POLICY.

- (A) The project should result in economic growth for the county and the state.
- (B) The project should add to the employment or preserve existing jobs in the county.
- (C) Payment in lieu of taxes will generally be expected and will be negotiated with the applicant prior to the issuance of the resolution of intent.

(Code 2007)

2-602. PROCEDURE.

- (A) All requests for the issuance of industrial revenue bonds shall be initiated by filing four copies of an application in letter form with the office of the board of county commissioners.
- (B) All applications shall contain:
 - (1) The names and address of all persons who would be obligated as tenant and guarantor, if any, under the lease.
 - (2) The names and address of the principal officers and directors of the applicant.
 - (3) A description of the nature of the applicant's business.
 - (4) A detailed description of the proposed project to be financed with the proceeds of the bonds.
 - (5) A statement with respect to the impact upon the employment in the county.
 - (6) The dollar amount of the bonds being requested.
 - (7) A statement setting forth the estimated use of the bond proceeds including a detailed breakdown of the proposed costs which includes an estimate of underwriting, attorney fees and other miscellaneous expenses.
 - (8) The name and address of the proposed underwriter or purchaser of the bonds.
 - (9) A map showing the location of the proposed project.
 - (10) A statement with respect to the status of the zoning at the project site.
 - (11) A legal description of the property to be subject to the lease.
 - (12) The existing appraised valuation (not assessed) of the property to be acquired as of January 1 preceding the application as to land, improvements and equipment.
 - (13) A certified audit, if available, of the last fiscal year's business of the applicant prepared by an independent certified public accountant. Depending on the amount of time between the last certified audit and the date of the request for bonds, the county may require additional interim financial statements and records.
 - (14) For relatively new or proposed businesses, for which audits are unavailable, all information which might be relevant to the financial feasibility of the project, including feasibility studies, financial statements, historical experience and financial statements of the applicant, a complete financial outline of the total project plan including retirement of debt, and other corporate, partnership, and/or personal assurance that the applicant has sufficient financial strength to make the county's risk in issuing the bonds negligible.
 - (15) A statement that the applicant will pay all costs of the county relative to the application and issuance of the bonds whether or not the bonds are issued.

(Code 2007)