

**TAX ABATEMENT FOR INDUSTRIAL  
REAL AND PERSONAL PROPERTY, OWNED OR LEASED  
CITY OF WACO GUIDELINES AND POLICY STATEMENT**

**I. GENERAL PURPOSE AND OBJECTIVES**

Certain types of business investment which result in the creation of new jobs, new income and provide for positive economic growth and inner-city economic stabilization are beneficial to the City as a whole. This Tax Abatement Policy provides the general guidelines for all industrial real and personal property (owned or leased) tax abatement projects. Each applicant's industrial project will be evaluated for a potential tax abatement on a case-by-case basis and in accordance with this policy and state law.

This policy applies to real and personal property, owned or leased. Nothing in the policy shall be construed as an obligation by the City of Waco to approve any tax abatement application.

It is the policy of the City of Waco to give priority consideration for projects that:

- (a) are located in enterprise zones;
- (b) result in a development with little or no additional cost to the City;
- (c) result in 200 or more new jobs; or
- (d) result in 5 or more new jobs in designated areas (targeted neighborhoods, Community Development Block Grant Service Areas, and State Enterprise Zones).

It is further the policy of the City of Waco to encourage the use of disadvantaged business enterprises. For this reason, a final tax abatement contract may include specific goals and objectives relative to disadvantaged business enterprises, such as utilization of Waco-based firms, prospective employment commitments for Waco residents, and other specific criteria.

**II. DEFINITIONS**

A. "Abatement" means the full or partial exemption for ad valorem taxes of eligible properties in a reinvestment zone designated as such for economic development purposes.

B. "Agreement" means a contractual agreement between a property owner and a taxing jurisdiction for the purpose of tax abatement.

C. "Base Year Value" means the assessed value of either the applicant's real property and improvements on January 1 of the year of the execution of the agreement plus the agreed upon value of any property improvements made in a designated reinvestment zone after January 1 but before execution of the agreement, and/or the assessed value of any tangible personal property located on the owners real property at any time prior to the abatement period covered by the agreement.

D. "Economic Life" means the number of the years a property improvement is expected to be in service in a facility; provided, however, in no event shall the number of years exceed the depreciation allowance specified in the Federal Internal Revenue Service Code.

E. "Expansion" means the addition of buildings, structures, fixed machinery, or equipment for the purpose of increasing production capacity.

F. "Facility" means property improvements completed or in the process of construction which together comprise an integral whole.

G. "Full-time job" means a job that requires a minimum of forty (40) hours of work per week and includes benefits.

H. "Lease" means a relationship whereby the business applying for a tax abatement has a contract for exclusive possession of either the real property on which improvements are to be made and/or of movable personal property to be used for the operation of the business for a defined period of time.

I. "Modernization" means the replacement and upgrading of existing facilities, which increases the productive input or output, updates the technology, or substantially lowers the unit cost of operation, and extends the economic life of the facility. Modernization may result from the construction, alteration, or installation of buildings, structures, fixed machinery, or equipment. It shall not be for the purpose of reconditioning, refurbishing, repairing, or completion of deferred maintenance.

J. "New facility" means a previously undeveloped property that is placed into service by means other than expansion or modernization.

K. "Personal Property" means equipment and/or tools used, or bought or leased for use, in the operation of the business applying for tax abatement, other than that which was located on the real property at any time before the period covered by the tax abatement agreement, and other than inventory, supplies, and/or office equipment.

L. "Real Property" means the area of land defined by legal description as being owned or leased by the business applying for a tax abatement, including any improvements thereto, which is to be improved and valued for property tax purposes, and which is to be included in the reinvestment zone.

M. "Reinvestment Zone" or Tax Abatement District is an area designated as such for the purpose of tax abatement as authorized by the City of Waco in accordance with State law. In order to receive a tax abatement a business must be in a reinvestment zone.

1. Enterprise Zones are automatically considered reinvestment zones.
2. Reinvestment zones in designated areas, (targeted neighborhoods, CDBG Service Areas, and Enterprise Zones) are subject to less stringent criteria to qualify for an abatement.

### **III. ABATEMENT AUTHORIZED**

A. Authorized Facilities: Tax abatement may be granted for new facilities, lease facilities and for expansion or modernization of existing facilities in a reinvestment zone. The economic life of a facility or improvements must exceed the life of the abatement agreement.

B. Eligible Property: Tax abatement may be granted for improvements to real property and personal property in a reinvestment zone to the extent allowed by state law. Tax

C. Value of Abatement: Authorized facilities may be granted abatement on all or a portion of the increased taxable value or eligible property over the base year value for a period not to exceed 5 years for real or lease property and 7 years for qualified personal property.

D. Personal property abatements cannot be combined with real or lease property abatements unless specifically directed by the Waco City Council.

E. Application by a company for terms and/or percentages exceeding the guidelines does not provide the company with automatic consideration of those terms and/or percentages. Only the City Council can

grant those decisions. Application for extra terms and/or percentages by a company that does not substantially exceed the thresholds will be denied.

F. Companies that meet and substantially exceed the thresholds for Real and or Personal Property Abatement may be considered on a case-by-case basis for abatement terms and percentages greater than what is normally allowed, but this type of agreement would only be provided in exceptional cases at the specific direction of the Waco City Council. The maximum term of any tax abatement agreement is 10 years by law.

#### **IV. PROJECT IMPACT DATA**

##### **A. Introduction**

The criteria outlined in this Section will be used by the City of Waco City Council to determine whether or not it is in the best interest of the City of Waco and other affected taxing entities to recommend the tax abatement be offered to a particular applicant. Special considerations will include the degree to which the individual project furthers the goals and objectives of the City of Waco.

The applicant should provide the most accurate estimates possible based upon available information. The applicant may be requested by the City to describe the methodologies utilized to respond to the questions and to supply supporting documentation.

##### **B. Employment Impact**

1. How many of the following new jobs will be created in Waco at this site:
  - o Permanent full-time jobs?
  - o Temporary jobs?
  - o Part-time jobs?
2. What percentage of new employees will come from (a) within the City of Waco, (b) within McLennan County, (c) inside the state of Texas, and (d) outside the State of Texas?
3. What types of jobs will be created?
4. What will be the total projected annual payroll of the newly created jobs?
5. What type of specialized training will be required?

##### **C. Proposed Improvements**

1. Identify and describe the kind, number, location, and cost of all proposed real property improvements and/or personal property additions to the property; discuss the development schedule of the proposed improvements and/or additions; provide construction site plans.
2. Provide a list of all personal property additions to the City Manager's Office, including the following: type of personal property, any identification or serial numbers for the personal property; location of property, and documentation showing the original cost.
3. To what extent will additional public improvements be needed?

##### **D. Fiscal Impact**

1. How much real or personal property value will be added to the tax roll by the end of the abatement period?
2. How much direct sales tax will be generated?
3. How will this proposed project affect existing business and/or office facilities in the Waco area?
4. What is the proposed depreciation schedule for real or personal property to be abated?

##### **E. Community Impact**

1. What effect (approximately) will the proposed project have on the local housing market?
2. What environmental impact, if any, will be created by the project?
3. How compatible is the proposed project with the City's comprehensive zoning plan?
4. Will rezoning and platting/replatting be required?
5. What will be the estimated fiscal impact on the local school districts?

**V. GUIDELINES: OWNED OR LEASED REAL AND PERSONAL PROPERTY ABATEMENT**

**A. Real Property Abatement**

1. Each applicant for tax abatement must comply with Project Impact Data requestS for information by providing the most accurate estimates regarding real property as possible.
2. **Real Property Improvement**

The minimum threshold eligibility requirements to qualify for a real property abatement in a reinvestment zone are as follows:

- o a. new structure or square footage expansion of one hundred thousand (100,000) square feet, or more may qualify for a 90% abatement for 5 years; **or**
- o b. two hundred (200) new full-time jobs or more may qualify for a 90% abatement for 5 years.

**3. Real Property Improvement IN A DESIGNATED AREA:**

The minimum threshold eligibility requirements to qualify for a real property abatement in a reinvestment zone of a designated area (targeted neighborhoods, CDBG Service Areas, or State Enterprise Zones), are as follows:

**a. New Structure/Expansion**

Square Footage	Abatement	Number of Years
100,000 square feet	90%	5
99,999-50,000 square feet	65%	5
49,999-10,000 square feet	40%	5
9,999-5,000 square feet	40%	2
4,999-0 square feet	0%	0

**or b. Job Creation**

# of New Jobs	Abatement	Number of Years
200 new jobs	90%	5
199-100 new jobs	65%	5
99-5 new jobs	40%	5
4-0 new jobs	0%	0

**c. Premium Opportunity for job creation:** Additional 10% abatement available annually for the period of the abatement if two-thirds (66.7%) of new employees (additional employees in the case of a qualifying expansion) actually live within the City of Waco. This will be shown by the subject company on an annual basis, in a manner most convenient to the company, but not later than the last date on which the McLennan County Appraisal District may remove property from the tax rolls for exemption purposes. On or before December 31 of the abatement year is the preferred verification anniversary date. If at any time during the abatement period the property owner fails or ceases to comply with the required employment conditions, the abatement percentage will be reduced accordingly.

## B. Leased Real Property Tax Abatement

1. The minimum threshold eligibility requirements to qualify for any personal property tax (5 year maximum) abatement, are:

a. Office: 40,000 square feet Class A office space plus 200 new employees on the day the tax abatement starts, either relocated from outside the City of Waco or new hires; **or**

b. Office/Warehouse: 60,000 square feet of Office/Warehouse space plus 75 new employees on the day the abatement starts, either relocated from outside the City of Waco or new hires. Lease Property - Abatement Percentage

### **5-Year Lease:**

Year 1: 40% Abatement

Year 2: 30% Abatement

Year 3: 20% Abatement

Year 4: 15% Abatement

Year 5: 5% Abatement

**2. Premium Opportunity for job creation:** Additional 10% abatement available annually for the period of the abatement if two-thirds (66.7%) of new employees (additional employees in the case of a qualifying expansion) actually live within the City of Waco. This will be shown by the subject company on an annual basis, in a manner most convenient to the company, but not later than the last date on which the McLennan County Appraisal District may remove property from the tax rolls for exemption purposes. On or before December 31 of the abatement year is the preferred verification anniversary date. If at any time during the abatement period the property owner fails or ceases to comply with the required employment conditions, the abatement percentage will be reduced accordingly.

**3. Tax abatements under this section will only be granted to owners of leasehold interests in tax-exempt real property .**

**4. This lease property section cannot be combined with real or personal property abatements unless specifically directed to do so by the City of Waco City Council.**

## C. Personal Property Tax Abatement

1. Minimum threshold eligibility requirements to qualify for any personal property tax abatement (7 year maximum) located in a reinvestment zone are as follows:

a. Personal property that is appraised by McLennan County Appraisal District for more than ten-million (\$10,000,000.00) dollars and creates a minimum of 50 new employees on the day the tax abatement starts, either relocated from outside the City of Waco or new hires;

or b. Personal property that is appraised by McLennan County Appraisal District for more than two million (\$2,000,000) dollars and creates a minimum of 200 new employees on the day the tax abatement starts, either relocated from outside the City of Waco or new hires.

Personal Property - Abatement Percentage:

**7 Year Abatement**

- Year 1: 40% Abatement
- Year 2: 30% Abatement
- Year 3: 20% Abatement
- Year 4: 15% Abatement
- Year 5: 5% Abatement
- Year 6: 5% Abatement
- Year 7: 5% Abatement

c. Premium Opportunity for job creation: Additional 10% abatement available annually for the period of the abatement if two-thirds (66.7%) of new employees (additional employees in the case of a qualifying expansion) actually live within the City of Waco. This will be shown by the subject company on an annual basis, in a manner most convenient to the company, but not later than the last date on which the McLennan County Appraisal District may remove property from the tax rolls for exemption purposes. On or before December 31 of the abatement year is the preferred verification anniversary date. If at any time during the abatement period the property owner fails or ceases to comply with the required employment conditions, the abatement percentage will be reduced accordingly.

2. Personal property abatement requests that emphasize the City Council priorities of job creation and retention in reinvestment zones of designated areas (targeted neighborhoods, CDBG Service Areas, and State Enterprise Zones) may receive up to 5 years on the following scale: a. A new or expanding business which creates 31 or more full-time jobs is eligible for five year abatement:

- Year 1: 40% Abatement
- Year 2: 30% Abatement
- Year 3: 20% Abatement
- Year 4: 10% Abatement
- Year 5: 5% Abatement

b. A new or expanding business which creates 16-30 full-time jobs is eligible for a four year abatement:

- Year 1: 40% Abatement
- Year 2: 30% Abatement
- Year 3: 20% Abatement
- Year 4: 10% Abatement

c. A new or expanding business which creates 5 - 15 full-time jobs is eligible for a two year abatement:

- Year 1: 40% Abatement
- Year 2: 30% Abatement

d. For those businesses that create less than 5 full-time jobs:

0% Abatement

#### D. Tax Abatement Restrictions

1. No abatements will be granted for modernization projects unless there is a change in use or a change in ownership and the project is not attributable to delayed or deferred maintenance.
2. No abatements will be granted for inventory or supplies, including office equipment.
3. Personal property that was located on the real property at any time before the period covered by the abatement agreement will not be eligible for abatement.
4. Personal property abatements cannot be combined with real property abatements unless specifically directed to do so by the City of Waco City Council.
5. An applicant that is granted an abatement will not be eligible for water or sewer refund contracts.
6. The maximum term of any tax abatement agreement is 10 years by law.
7. Companies that simultaneously announce new facilities, of which at least one of the new facilities meets and substantially exceeds the thresholds for Real and/or Personal Property Abatement, may be considered on a case-by-case basis for abatement terms and percentages greater than what is listed for both/all new facilities, even when/if the locations of the facilities are not on the same property. This type of agreement would only be provided in exceptional cases at the specific direction of the Waco City Council.

#### VI. PROCEDURAL GUIDELINE

Any person, partnership, organization, corporation or other entity desiring that the City of Waco consider providing real or personal property tax abatement to encourage location of operations within the city limits of Waco shall be required to comply with the following procedural guidelines. Nothing within these guidelines shall imply or suggest that the City of Waco is under any obligation to provide tax abatement in any amount or value to any applicant. Further, no representations made herein are binding unless and until approved by the City of Waco City Council.

##### A. Preliminary Application Steps

1. Applicant located in designated areas (targeted neighborhoods, CDBG Services Areas, or State Enterprise Zones) shall submit a City of Waco Application for real, lease or personal property tax abatement with a filing fee of \$500.00. The filing fee for an applicant, located outside designated areas (targeted neighborhoods, CDBG Service Areas, or State Enterprise Zones) is \$1,000.00. An application will not be processed without the total amount of the filing fee being paid in advance
2. **Applicant shall address all criteria questions outlined in Section IV above in letter format.**
3. Applicant for real or personal property abatement shall prepare a survey map showing the precise location of the property, all roadways within five hundred (500) feet of the site, all existing land uses and zoning within five hundred (500) feet of the site and the kind, number and location of all proposed improvements.
4. City may request applicant to provide substantiation of the economic feasibility of the overall project to assist in determining the long-term benefit to the City.
5. A complete legal description of the real property where the real or personal property to be abated will be located shall be provided.
6. All information in the application package detailed above will be reviewed for completeness and accuracy.
7. The application will be distributed to the appropriate City Departments for internal review and comments. Additional information may be requested as needed.
8. Copies of the complete application package and staff comments will be provided to the City Council.

##### B. Consideration of the Application

1. The City Council will consider the application at meetings conducted pursuant to the Open Meetings and Property Redevelopment and Tax Abatement Acts. Additional information may be requested as needed.
2. A public hearing must be held before the City of Waco City Council will approve a new reinvestment zone for tax abatement. If the subject property is in an existing reinvestment zone, no public hearing is necessary.
3. The City Council shall hold the public hearing and determine whether the project is "feasible and practical and would be of benefit to the land to be included in the zone and to the municipality" after expiration of the tax abatement agreement.
4. The City Council shall consider adoption of an ordinance designating the area described in the legal description of the proposed project as an industrial tax abatement reinvestment zone.
5. The City Council shall consider approval of the terms and conditions of an agreement between the City and the applicant which governs the administration of the tax abatement.
6. The governing bodies of Waco Independent School District, Midway Independent School District, LaVega Independent School District, Connally Independent School District, McLennan Community College and McLennan County and all other applicable taxing units may consider offering and entering into a tax abatement agreement with the applicant. However, the City's action in offering and entering into a tax abatement agreement with applicant does not guarantee that any of the above-mentioned taxing entities will enter into a tax abatement agreement with applicant also.

## **VII. ANNUAL CERTIFICATION**

Beginning on or before December 31st of the year which establishes "Base Year Value" for the agreement, and throughout the term of such agreement, the owner shall annually submit a statement, preferably on or before December 31st of each year, but not later than the last date on which the McLennan County Appraisal District may remove property from the tax rolls for exemption purposes, which provides the names and addresses of employees, number of jobs created, dollar amount of payroll, type of equipment (if applicable) and the square footage of qualified facilities in the zone. The City shall have the right, if it deems necessary, to examine the owner's appropriate records and to renegotiate or adjust the abatement based on the verified information provided by owner's statement.

## **VIII. PREVIOUS TAX ABATEMENT AGREEMENTS NOT AFFECTED**

These Guidelines and Policy Statement for Tax Abatement approved by the City of Waco City Council Resolution Number **2007-485 on August 7, 2007** shall not affect any tax abatement previously approved by the City of Waco City Council.

## **IX. RECAPTURE**

If a project is not completed as specified, or if the terms of the tax abatement agreement are not met, the City has the right to cancel or amend the abatement agreement and abated taxes shall become due to the City and other affected taxing units as provided by law. If a project granted a tax abatement ceases to operate or is no longer in conformance with the tax abatement agreement, the agreement shall not be effective for the period of time during which the project is not operating or is not in conformance.

**If the project granted tax abatement fails or refuses to meet its obligations and commitments under this Agreement, it shall be responsible and obligated to repay to the City the incentives, including the value of in-kind incentives, received from the City. Repayment of incentives shall be made by the project upon sixty (60) days demand therefore by the City. Repayment of the incentives shall be made on a pro-rata basis based on the percentage of non-compliance by the project.**

## **X. INSPECTION AND FINANCIAL VERIFICATION**

The City of Waco reserves the right to review and verify the applicant's financial statements prior to granting a tax abatement and to review the financial condition of the project during the term of the abatement. The City of Waco also reserves the right to send representatives from the City and the McLennan County Appraisal District to inspect the facilities of the applicant during the term of the abatement to verify the accuracy of information provided for the tax abatement agreement. Provisions to this effect shall be incorporated into the agreement.

## **XI. EVALUATION**

Upon completion of the installation of the equipment, the City Manager's designee may annually (or such other times deemed appropriate by the City) evaluate each facility receiving abatement to insure compliance with the agreement and report possible violations of the agreement to all affected taxing units.