

HOUSTON COUNTY
TAX ABATEMENT
GUIDELINES AND CRITERIA

CONFIDENTIAL

PLEASE NOTE:

Section 312.003 of Chapter A of the Texas Tax Code provides that:

Information that is provided to a taxing unit in connection with an application or request for tax abatement under this chapter and that describes the specific process or business activities to be conducted or the equipment or other property to be located on the property for which tax abatement is sought is confidential and not subject to public disclosure until the tax abatement agreement is executed. That information in the custody of a taxing unit after the agreement is executed is not confidential under this section.

Persons in possession of this Application are reminded of this provision of the law and should restrict access to this document accordingly.

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SECTION 1 - PREAMBLE

This Tax Abatement Policy is designed to stimulate continued economic growth in Houston County, while preserving the values and existing assets that provide the quality of life our citizens already have come to enjoy.

It seeks a balance between attracting new businesses that are seeking to relocate here, providing a friendly environment for new undertakings, promoting the expansion of economic resources already in place, and considering the effect of economic change upon existing economic assets that already have realized their potential.

It seeks to preserve the values of the past, stimulate and consider current economic opportunities, and plan for a future that includes a global economic marketplace and new and exciting economic endeavors.

It is the intent of Houston County to put in place a Tax Abatement Policy that will take the County through the 21st century and be of benefit to all the citizens of our Community.

The County acknowledges that both the retention of economic assets and existing jobs and the creation of new jobs and economic endeavors have an important place in striking a positive economic balance in Houston County. These Guidelines and Criteria for seeking a Tax Abatement from the County are intended to be flexible, and special circumstances may lead the County to tailor individual Tax Abatement Agreements to specific circumstances.

This particular Tax Abatement Policy and Guidelines and Criteria apply to the granting of a Tax Abatement by Houston County. There are a number of other entities and bodies that can choose to abate or not abate taxes as well. We urge you to check with the appropriate agencies, and the Houston County Appraisal District to determine the circumstances of your particular situation as far as determining the taxing entities that may affect your project.

SECTION 2 - DEFINITIONS

- a. **"Abatement"** means the full or partial exemption from ad valorem taxes of certain property in a reinvestment zone or enterprise zone designated by Houston County for economic development purposes. The "abatement period" is the period during which all or a portion of the value of real property or tangible personal property that is the subject of a tax abatement agreement is exempt from taxation.
- b. **"Agreement"** means a contractual agreement between a property owner and/or lessee and an eligible jurisdiction for the purpose of tax abatement.
- c. **"Base year value"** means the taxable value of eligible property January 1 preceding the execution of the agreement plus the agreed upon value of eligible property improvements made after January 1 but before the execution of the agreement.
- d. **"Deferred maintenance"** means improvements necessary for continued operation which do not improve productivity or alter the process technology.
- e. **"Expansion"** means the addition of buildings, structures, machinery, equipment or payroll for purposes of increasing production capacity.
- f. **"Facility"** means property improvements completed or in the process of construction which together comprise an integral whole.
- g. **"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 the operation. 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 or repairing.
- h. **"New Facility"** means a property previously undeveloped which is placed into service by means other than or in conjunction with Expansion or Modernization.
- i. **"Office Building"** means a new office building to be occupied 100% by one owner or one tenant, providing further that said building and owner or tenant meet the other criteria set forth herein.

- j. **"Economic Life"** means the number of years a property improvement is expected to be in service in a facility.
- k. **"Eligible Jurisdiction"** means Houston County or other taxing district eligible to abate its taxes according to Texas law that levies ad valorem taxes upon and provides services to property located within the proposed or existing reinvestment zone.
- l. **"Manufacturing Facility"** means buildings and structures, including fixed machinery and equipment, the primary purpose of which is or will be the manufacturing of tangible goods or materials or the processing of such goods or materials by physical or chemical change.
- m. **"Regional Distribution Center Facility"** means buildings and structures, including fixed machinery and equipment, used or to be used primarily to receive, store, service or distribute goods or materials owned by the facility operator where a majority of the goods or services are distributed to points outside Houston County.

SECTION 3 - ABATEMENT AUTHORIZED

- a. **Eligible Facilities.** Upon application, Eligible Facilities shall be considered for Tax Abatement as hereinafter provided. Eligible Facilities must fall within one of the following series of the North American Industrial Classification Code (NAICS) as determined by the United States Office of Management and Budget:
 - 1) **Manufacturing**
Major Group 31-33 (Food and Kindred Products, Textiles, Furniture and Fixtures, Printing, Chemicals, Petroleum Refining, Leather, Stone Products, Fabricated Metals, Industrial Machinery, Electronic Equipment, Transportation Equipment, and Miscellaneous Manufacturing).
 - 2) **Transportation**
Major Groups 48-49 (Railroad Transportation, Warehousing, Communications, Electric and Gas Services). **Sector 22 (Utilities)**
 - 3) **Services**
Major Groups 54, 62 (Professional, Scientific, and Technical Services, Health Care Services). **Sector 11 (Agriculture, forestry, fishing and hunting) Sector 21 (Mining)**

(Wholesale trade) Sector 44-45 (Retail trade) Sector 51 (Information) Sector 52 (Finance and insurance) Sector 53 (Real estate and rental and leasing) Sector 55 (Management of companies and enterprises) Sector 56 (Administrative and support and waste management and remediation services) Sector 61 (Education services) Sector 71 (Arts, entertainment, and recreation) Sector 72 (Accommodation and food services) Sector 81 (Other services, except public administration) Sector 92 (Public administration) Sector 99 (Unclassified)

- b. **Creation of New Value.** Abatement may only be granted for the additional value of eligible property improvements made subsequent to and specified in an abatement agreement between the County and the property owner or lessee (if required), subject to such limitations as the County may require.
- c. **New and Existing Facilities.** Abatement may be granted for new facilities and improvements to existing facilities for purposes of modernization or expansion.
- d. **Eligible Property.** Abatement may be extended to the value of buildings, structures, fixed machinery and equipment, site improvements plus that office space, and related fixed improvements necessary to the operation and administration of the Facility.
- e. **Ineligible Property.** The following types of property shall be fully taxable and ineligible for abatement: land; inventories; supplies; tools; furnishings, and other forms of movable personal property; vehicles; vessels; aircraft; housing; deferred maintenance investments; property to be rented or leased except as provided in Section 3; property owned or used by the State of Texas or its political subdivisions or by any organization owned, operated or directed by a political subdivision of the State of Texas.
- f. **Owned/Leased Facilities.** If a leased facility is granted abatement, the agreement shall be executed with the property owner (lessor) and the lessee.
- g. **Economic Qualification.** In order to be eligible to receive Tax Abatement, the planned improvement:
 - (1) must be expected to have an increased appraised ad valorem tax value of at least \$500,000 based upon the Houston County Appraisal District's assessment of the Eligible Property;

- (2) must be expected to prevent the loss of payroll or retain, increase or create payroll on a permanent basis in Houston County;

h. **Standards for Tax Abatement.** The following factors, among others, shall be considered in determining whether to grant Tax Abatement.

- (1) Value of existing improvements, if any;
- (2) Type and value of proposed improvements;
- (3) The expected economic life of proposed improvements;
- (4) Number of existing permanent jobs to be retained by the proposed improvements;
- (5) Number of type of permanent new jobs to be created by the proposed improvements;
- (6) Amount of local payroll to be created or enhanced,
- (7) Whether the new jobs to be created will be filled by persons residing or projected to reside within Houston County;
- (8) Amount of local sales taxes to be generated directly;
- (9) The amount of property tax base valuation will be increased during term of Abatement and after Abatement, which shall include a definitive commitment that such valuation shall not, in any case, be less than \$500,000;
- (10) The costs to be incurred by Houston County to provided facilities or services directly resulting from the new improvements;
- (11) The amount of ad valorem taxes to be paid to Houston County during the Abatement period considering (A) the existing values, (B) the percentage of new value abated, (C) the Abatement period, and (D) the value after expiration of the Abatement period;
- (12) The population growth of Houston County that might occur directly as a result of new improvements;

- (13) The types and values of public improvements, if any, to be made by applicant seeking Abatement;
- (14) Whether the proposed improvements compete with existing businesses to the detriment of the local economy;
- (15) The impact on the business opportunities of existing businesses;
- (16) The attraction of other new businesses to the area;
- (17) The overall compatibility with the comprehensive, long-range plan for the area;
- (18) Whether the project is environmentally compatible with the community, and has no negative impact on quality of life perceptions.
- (19) The company profile - when established - including business references, principal bank, audited financial statement and Business Plan.

Each Eligible Facility shall be reviewed on its merits utilizing the factors provided above. After such review, Abatement may be denied entirely or may be granted to the extent deemed appropriate after full evaluation.

i. Denial of Abatement. No Abatement shall be authorized if it is determined that:

- (1) There would be substantial adverse affect on the provision of government service or tax base;
- (2) The applicant has insufficient financial capacity, which reasonably could be expected to jeopardize the success of the undertaking.
- (3) Planned or potential use of the property would constitute a hazard to public safety, health, or morals;
- (4) Granting an Abatement might lead to violation of other codes or laws;
- (5) Any other reason deemed appropriate by Houston County.

j. Taxability. From the execution of the Abatement to the end of the Agreement period, taxes shall be payable as follows:

- (1) The value of ineligible property as provided in Section 3(e) shall be fully taxable;
- (2) The base year value of existing eligible property as determined each year shall be fully taxable;
- (3) The additional value of new eligible property shall be fully taxable at the end of the Abatement period.

SECTION 4 - TAX ABATEMENT SCHEDULES

Houston County has agreed to abate the increased valuation of property taxes on real property developed, redeveloped, or improved to qualified businesses in the County's Boundary and Jurisdiction. The amount of tax abated on any increment in value added to the ad valorem value of the property will be determined by the following objective criteria.

A. Economic Development Policy

1. Objective Requirements

- a. The business must have a minimum of 5 new full time positions, with full time being defined as at least 1840 hours annually, or
- b. Add at least \$500,000 ad valorem value to the current value of business and fall within one of the following NAICS in section c.
- c. Fall within one of the following series of the North American Industrial Classification Code (NAICS) as determined by the United States Office of Management and Budget:

1) Manufacturing

Major Group 31-33 (Food and Kindred Products, Textiles, Furniture and Fixtures, Printing, Chemicals, Petroleum Refining, Leather, Stone Products, Fabricated Metals, Industrial Machinery, Electronic Equipment, Transportation Equipment, and Miscellaneous Manufacturing).

2) Transportation

Major Groups 48-49 (Railroad Transportation, Warehousing, Communications, Electric and Gas Services). **Sector 22 (Utilities)**

3) Services

Major Groups Professional, Scientific, and Technical Services, Health Care Services). Sector 11 (Agriculture, forestry, fishing and hunting) Sector 21 (Mining) (Wholesale trade) Sector 44-45 (Retail trade) Sector 51 (Information) Sector 52 (Finance and insurance) Sector 53 (Real estate and rental and leasing) Sector 55 (Management of companies and enterprises) Sector 56 (Administrative and support and waste management and remediation services) Sector 61 (Education services) Sector 71 (Arts, entertainment, and recreation) Sector 72 (Accommodation and food services) Sector 81 (Other services, except public administration) Sector 92 (Public administration) Sector 99 (Unclassified)

- d. Points are awarded in the following manner.
1. For each newly created full-time position -1 point.
 2. For each \$100,000 in capital investment generated -1 point.
 3. For each \$25,000 in annual payroll new or retained -1 point.
 4. The Service Sector, For each newly created part time position - .5 (½) points. A part time position is defined as at least 1,040 hours annually, a minimum wage + \$1.00 in the retail service sector, and \$12.00 an hour in the industrial sector.
 5. 50 points if the business is in the Manufacturer group as listed above.
 6. 30 points if the business is in the Transportation group as listed above.
 7. 20 points if the business is in the Service group as listed as above.
 8. 5 points for each full time position retained @ \$25,000 annual payroll.

B. Abatement Eligibility

Abatement percentages will be awarded depending upon points collected in the following categories for new and expanding industries:

Year	35 to 74	75 to 200	201 Plus
1	100%	100%	100%
2	80%	80%	80%
3	60%	60%	70%
4	40%	40%	60%
5	20%	20%	50%

SECTION 5 - APPLICATION

1. **"Submission"** Any present or potential owner of taxable property in the County may request a Tax Abatement by filing a written request with the County Judge. An application must be filed with each entity.
2. **"Review"** All abatement application(s) will be individually reviewed by the Commissioners Court and approved or disapproved based on the merits of the application and the guidelines and criteria set forth herein. In addition, in its discretion, the County may appoint a Tax Abatement Review Board to review and make suggested recommendations to the Commissioners Court regarding each application. If appointed it shall have no less than three or five members.
3. **"Included Items"** The application shall consist of a completed application form which shall provide detailed information on the items marked in Section 3 hereof; a map and property description; a time schedule for undertaking and completing the planned improvements. In the case of modernization, a statement of the assessed value of the facility, separately stated for real and personal property, shall be given for the next tax year immediately preceding the application. The application form may require financial and other information as may be deemed appropriate for evaluating the financial capacity and other factors of the applicant.
4. **"Notice to be Given"** Prior to the adoption of an order designating a reinvestment zone or enterprise zone, the County shall give notice as provided by the Tax Code, i.e., (a) written notice to the presiding officer of the governing body of each taxing unit in which the property subject to the agreement is located not later than the seventh day before the public hearing and (b) publication of a newspaper of general circulation within such taxing jurisdiction not later than the seventh day before the public hearing. Before acting upon the application, the County shall through public hearing afford the applicant, citizen of Houston County, and the designated representative of any governing body referenced herein above opportunity to show cause why the Abatement should or should not be granted.
5. **"60-Day Time Period"** Not more than 60 days after receipt of the completed application, except in unusual circumstances, the County shall by resolution either approve or disapprove the application for Tax Abatement. The County shall notify the applicant of approval or disapproval. Failure to act by resolution within 60 days shall not be construed as approval of abatement, either expressed or implied.

- (6) Size of investment and average number of jobs involved.

Such agreement shall normally be executed within sixty (60) days after the applicant has forwarded all necessary information and documentation to the Commissioners Court.

SECTION 7 - RECAPTURE

- a. **"Termination"** In the event that the company or individual (1) allows its ad valorem taxes owed Houston County to become delinquent and fails to timely and properly follow the legal procedures for their protest and/or contest; or (2) violates any of the terms and conditions of the abatement agreement and fails to cure during the Cure Period, the agreement then may be terminated and all taxes previously abated by virtue of the agreement will be recaptured and paid within thirty (30) days of the termination.
- b. **"Cure Notification"** Should Houston County determine that the company or individual is in default according to the terms and conditions of its agreement, Houston County shall notify the company or individual in writing at the address stated in the Agreement, and if such is not cured within thirty (30) days from the date of such notice ("Cure Period"), then the agreement may be terminated.
- c. **"Clawback Clause"** Is to be included in each contract as a way to recoup any abated property tax if the company leaves before completing the property tax abatement contract.

SECTION 8 - ADMINISTRATION

- a. **"Assessment Determination"** The Chief Appraiser of the Houston County Appraisal District will annually determine an assessment of the real and personal property covered under the abatement. Each year, the company or individual receiving abatement shall furnish the Appraiser with such information as may be necessary for the abatement. Once value has been established, the Chief Appraiser will notify Houston County Commissioners Court of the amount of the assessment.
- b. **"Access Guaranteed"** The abatement agreement shall stipulate that employees and/or designated representatives of Houston County will have access to the abated property during the term of the abatement to inspect the facility to

determine if the terms and conditions of the Agreement are being met. All inspections will be made only after the giving of twenty-four (24) hours prior notice and will only be conducted in such manner as to not unreasonably interfere with the construction and/or operation of the Facility. All inspections will be made with one or more representatives of the company or individual and in accordance with its safety standards.

- c. **“Annual Assessment Reports”** Upon completion of construction, the designated representative of Houston County shall annually evaluate each facility receiving abatement to insure compliance with the agreement, and a formal report shall be made to the Commissioners Court.
- d. **“Timely Filing”** The County shall timely file with the Texas Department of Economic Development and The State Comptroller’s Office all information required by the Tax Code.

SECTION 9 - ASSIGNMENT

An Abatement Agreement may be transferred and assigned by the holder to a new owner or lessee of the same facility upon the approval by resolution of the Houston County Commissioners Court subject to the financial capacity of the assignee. Any assignment shall provide that all conditions, terms, and obligations in the original Abatement Agreement are guaranteed by the execution of an additional contractual agreement with Houston County as an addendum to the Abatement Agreement. No assignment or transfer shall be approved if the parties to the existing agreement, the new owner or new lessee are liable to any jurisdiction for outstanding taxes or other obligations. Approval shall not be unreasonably delayed or withheld.

SECTION 10 - SUNSET PROVISION

These Guidelines and Criteria are effective upon the date of their adoption, and will remain in force for two years, unless amended or repealed by three-quarters vote of the Houston County Commissioners Court, at which time all reinvestment zones and Tax Abatement Agreements created pursuant to these provisions will be reviewed to determine whether the goals have been achieved. Based on that review, the Guidelines and Criteria will be amended/modified, renewed, or eliminated.

SECTION 11 - DISCRETION OF THE COUNTY

The adoption of these guidelines and criteria by the County does not:

- (1) Limit the discretion of the Commissioners Court to decide whether to enter into a specific Tax Abatement agreement.
- (2) Limit the discretion of the Commissioners Court to delegate to its employees the authority to determine whether or not the Commissioners Court should consider a particular application or request for Tax Abatement.
- (3) Create any property, contract, or other legal right in any person, partnership, corporation or other entity to have the Commissioners Court consider or grant a specific application or request for Tax Abatement.

Approved by Houston County Commissioners Court on April 28, 2020.



Jim Lovell, Houston County Judge



Attest: Terri Meadows, Houston County Clerk