

**2008**  
**Tax Abatement**  
**Guidelines & Criteria**  
**Moore County, Texas**

COUNTY JUDGE'S OFFICE  
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## **SECTION I:**

### **PREAMBLE**

This Tax Abatement Policy is designed to stimulate continued economic growth in Moore 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 Moore County Commissioners' Court to put in place a Tax Abatement Policy that will take the County into the 21<sup>st</sup> century and be of benefit to all the citizens of our Community.

Commissioners' Court 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 Moore County. These Guidelines and Criteria for seeking a Tax Abatement from the County are intended to be flexible and special circumstances may lead Commissioners' Court 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 Moore County only, and by special entities that it may supervise directly. 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 Moore County Tax Appraisal District to determine the circumstances of your particular situation as far as determining the taxing entities that may affect your project.

Other taxing and abating entities can include (but are not limited to) school districts, community college districts, water conservation districts, municipalities, and the Moore County Hospital District.

## **SECTION II:**

### **DEFINITIONS**

- (a) “Abatement” means the full or partial exemption from increases in ad valorem taxes of certain real property in a Reinvestment Zone designated by the County for economic development purposes.
- (b) “Eligible Jurisdiction” means Moore County and any municipality, school district, college district 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.
- (c) “Agreement” means a contractual Agreement between a property owner and lessee and an eligible jurisdiction for the purposes of Tax Abatement.
- (d) “Base Year Value” means the taxable value of eligible property January 1 of the year after a project is substantially completed.
- (e) “Economic Life” means the number of years a property improvement is expected to be in service in a facility.
- (f) “Deferred Maintenance,” means improvements necessary for continued operations, which do not improve productivity or alter the process technology.
- (g) “Expansion” means the addition of buildings, structures, fixed machinery or equipment for purposes of increasing production capacity.
- (h) “Facility” means property improvements completed or in the process of construction, which together comprise an integral whole.

- (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 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.
- (j) “New Facility” means a property previously undeveloped, which is placed into service, by means other than or in conjunction with expansion or modernization.
- (k) “Manufacturing Facility” means buildings and structures, including fixed machinery and equipment, the primary purpose of which is or will be the manufacture of tangible goods or materials or the processing of such goods or materials by physical or chemical change.
- (l) “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 Moore County.
- (m) “Research Facility” means building and structures, including fixed machinery and equipment, used or to be used primarily for research or experimentation to improve or develop new tangible goods or materials or to improve or develop the production processes thereto.
- (n) “Office Building” means a new office building to be occupied 100% by one owner or one tenant, providing further that said office building and owner or tenant meet the other criteria set forth herein.

## **SECTION III:**

### **ABATEMENT AUTHORIZED**

- (a) “Eligible Facility,” A facility may be eligible for abatement if it is a Manufacturing Facility, Regional Distribution Center, Research Facility, or any other real property not excluded under Section III (e). That shall include an office building as defined in Section II (n).
- (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 and lessee (if required), subject to such limitations as Commissioners’ Court 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. Population-driven enterprises that reasonably can be expected to locate or stay in a community without Tax Abatement should be at discretion of the Dumas Economic Development Corporation or taxing entity. This includes the following in most cases: hotel and motels, conference centers, restaurants, hospitals, banks and financial institutions.
- (e) “Ineligible Property,” The following types of property shall be fully taxable and ineligible for abatement; existing value of land prior to improvements included in the tax abatement request; inventories, unless approved for Freeport Exemption; supplies; tools; furnishings, and other forms of movable personal property; vehicles; vessels; aircraft; housing; hotel accommodations; deferred maintenance investments; property to be rented or leased except as provided in Section III; on-site directly related improvements for the

transmission of electrical energy installed and/or used by the Abatee but not wholly consumed by a new facility or expansion; 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) “Value and Term of Abatement,” Abatement shall be granted effective with the January 1 valuation date immediately following the date of execution of the Agreement, provided that the project has completed construction. Projects which meet the minimum employment and value guidelines set forth in Section III (h) are eligible for abatement of new or increased value on a sliding scale.

(h) “Minimum Guidelines,” The capital investment of new eligible improvements must be in excess of one million dollars (\$1,000,000.00) and/or gross annual payroll of \$200,000.

(i) "Recommended Structure and Existing Enterprise Considerations."

(1) "Recommended Structure."

<b>Ad Valorem Tax Value</b>	<b>and/or</b>	<b>Gross Payroll</b>	<b>Recommended Abatement Schedule</b>	
<u>Applicant Category A</u>				
\$1,000,000 to 2,999,999		<u>\$200,000</u> to \$1,199,999	Year 1:	0%
			Year 2:	80%
			Year 3:	80%
			Year 4:	60%
			Year 5:	40%
 <u>Applicant Category B</u>				
\$3,000,000 to 9,999,999		\$1,200,000 to \$2,999,000	Year 1:	0%
			Year 2:	90%
			Year 3:	90%
			Year 4:	80%
			Year 5:	80%
			Year 6:	70%
			Year 7:	60%
 <u>Applicant Category C</u>				
\$10,000,000 or greater		\$3,000,000 or greater	Year 1:	0%
			Year 2:	90%
			Year 3:	90%
			Year 4:	90%
			Year 5:	80%
			Year 6:	80%
			Year 7:	70%

- (2) “Existing Enterprise Considerations,” Commissioners’ Court may, at its discretion, give any weight it feels is appropriate to the granting or not granting of a tax abatement application, based upon their consideration of whether or not the potential beneficiary of an applied-for tax abatement would compete with an already existing business.

In general, the Court takes the position it is not fair for an existing local tax paying business operating in the same or a similar manner as far as type of product or products, scope of production and/or services, and the size of investment made – to have to compete with a new business competitor whose taxes would be abated.

*SPECIAL NOTE/SPECIAL CIRCUMSTANCES: Nothing contained in the Moore County Tax Abatement Guidelines and Criteria should be construed to limit or restrict Commissioners’ Court in the exercise of its discretion in setting term limits or percentages of reduction in any particular Abatement Application. The Abatement may be extended through the initial Agreement, and a subsequent Agreement may be required if necessary to comply with state law regarding the term of the Reinvestment Zone. If the period of construction exceeds two years, the facility shall be considered completed for purposes of Abatement and in no case shall the period of Abatement – inclusive of construction and completion exceed eight years.*

- (j) “Reporting Requirements,” Semi-annual Status Reports (January 1 and July 1) along with the timely filing of renditions of value, and annual applications for abatement with the Moore County Tax Appraisal District are mandatory conditions of the Abatement.
- (k) “Economic Qualification,” In order to be eligible to receive Tax Abatement the planned improvement:
- (1) Must be reasonably expected to increase taxable ad valorem tax value of at least \$1,000,000 based upon the Moore County Tax Appraisal District’s appraisal of the Eligible Property and/or increase gross annual payroll by at least \$200,000.



- (2) Must be expected to prevent the loss of payroll or retain, increase or create payroll on a permanent basis in the County.
  - (3) Must not be expected to solely or primarily have the effect of transferring employment from one part of the County to another.
  - (4) Must be necessary because capacity cannot be provided efficiently utilizing existing improved property.
- (1) “Standards for Tax Abatement,” The following factors, among others, shall be considered in determining whether to grant Tax Abatement:
- (1) The value of land and existing improvement, if any.
  - (2) The type and value of the proposed improvements.
  - (3) The expected economic life of the proposed improvements.
  - (4) The number of existing, permanent jobs to be retained by the proposed improvements.
  - (5) The number of new permanent jobs to be created by the proposed improvements.
  - (6) The 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 the County.
  - (8) The amount of local sales taxes to be generated directly.
  - (9) The amount the property tax base valuation will be increased during the term of Abatement and after Abatement, which shall include a definitive commitment that such valuation shall not, in any case, be less than \$1,000,000.
  - (10) The costs to be incurred by the County to provide facilities or services directly resulting from the new improvements.
  - (11) The amount of ad valorem taxes to be paid the 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 the County that might occur as a direct 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 Application shall be reviewed on its merit, 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.

(m) “Denial of Abatement,” No Abatement Agreement shall be authorized if it is determined that:

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

(n) “Taxability,” From the execution of the Abatement, to the end of the Agreement period, property taxes shall be payable as follows:

- (1) The value of ineligible property as provided in Section III (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 IV:**

##### **APPLICATION**

- (a) “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, and the Commissioner in whose Precinct the abated project is located, preferably via Dumas Economic Development Corporation,. The Application shall finally be forwarded to Commissioners’ Court for final action.
- (b) “Review” All abatement application(s) will be individually reviewed by Commissioners’ Court, approved or disapproved based on the merits of the Application and the guidelines and criteria set forth herein. In addition, in its discretion, Commissioners’ Court may appoint a Tax Abatement Review Board to review and make suggested recommendations to Commissioners’ Court regarding each Application. If appointed, that Board shall include: The County Judge, the Commissioner in whose Precinct the abated project is located, and the County Attorney. It shall have no less than seven and no more than nine members. In the absence of a specially appointed Tax Abatement Review Board, this function shall be performed by the Dumas EDC Board of Directors.
- (c) “Included Items,” The Application shall consist of a completed application form which shall provide detailed information on the items described in Section III hereof; a map and property description; a time schedule for undertaking and completing the planned improvements, and an economic and fiscal impact analysis. 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 tax year immediately preceding the Application. The

application form may require such financial and other information as may be deemed appropriate for evaluating the financial capacity and other factors of the applicant.

- (d) “Notice to be Given,” Prior to the adoption of an order designating a Reinvestment Zone, the County shall give notice as provided by the Tax Code, i.e., (1) written notice to the presiding officer of the governing body of each taxing unit in which the property to be subject to the Agreement is located not later than the seventh day before the public hearing and (2) publication in 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 and the designated representative of any governing body referenced herein above opportunity to show cause why the Abatement should or should not be granted.
- (e) “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 such approval or disapproval. Failure to act by Resolution within 60 days shall not be construed as approval or Abatement, either expressed or implied.
- (f) “Timeliness of Actions,” The County shall not enter into an Abatement Agreement if it finds that the request for the Abatement was filed after the commencement of construction, alteration or installation or improvements related to a proposed modernization, expansion or new facility. Property eligible for abatement includes only the new improvements that occur after the completion of an Abatement Agreement with the County.
- (g) “Confidentiality Required,” Information that is provided to the County in connection with an Application or request for Tax Abatement and that describes the specific processes 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. After the

Agreement is executed and the information is in the custody of a taxing unit, all information is Public Record and not confidential unless otherwise provided for by State Law.

## **SECTION V**

### **AGREEMENT**

- (a) “Notice of Jurisdictions,” Not later than the seventh day before the date on which the County enters into the Abatement Agreement, the County shall deliver to the presiding officer of the governing body of each other taxing unit in which the property is located a written notice that the County intends to enter into the Agreement.
  
- (b) “Agreement Contents,” After approval, the County shall formally pass a Resolution and execute an Agreement with the owner of the facility, and lessee as required, which shall include;
  - (1) The estimated value to be abated and the base-year value.
  - (2) The percent of value to be abated each year, as provided in Section III (i).
  - (3) The commencement date and the termination date of Abatement.
  - (4) The proposed use of the facility; nature of construction, time schedule, map, property description and improvement list – as provided for in the Application for Tax Abatement.
  - (5) Contractual obligations in the event of default, violation of terms or conditions, delinquent taxes, recapture, administration and assignment as provided under Sections III, VI, VII, and VIII.
  - (6) The size of the investment, the average number of jobs involved and gross annual payroll.

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

## **SECTION VI**

### **RECAPTURE**

- (a) “Termination,” In the event that the company or individual (1) allows its ad valorem taxes owed the 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 with thirty (30) days of the termination.
  
- (b) “Cure Notification,” Should the County determine that the company or individual is in default according to the terms and conditions of its Agreement, the County shall notify the company or individual of such default 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.

## **SECTION VII**

### **ADMINISTRATION**

- (a) “Assessment Determination,” The Chief Appraiser of the Moore County Tax Appraisal District shall annually determine an assessment of the real property covered under the Abatement. Each year, the company or individual receiving abatement shall furnish the Chief Appraiser with such information as may be necessary for the Abatement. Once value has been established, the Chief Appraiser shall notify the County of the amount of the assessment.
  
- (b) “Access Guaranteed,” The Abatement Agreement shall stipulate that employees and/or designated representatives of the 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 Abatement are being met. All inspections will be made only after the giving of prior notice, and will 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 the County shall annually evaluate information regarding each facility receiving abatement to ensure compliance with the Agreement, and a formal, written report shall be made to the Commissioners’ Court.
- (d) “Timely Filing,” The County shall timely file with the State Comptroller’s Office, or other State office as may be designated, all information required by the Tax Code.

## **SECTION VIII**

### **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 Commissioners’ Court of the County 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 the 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 withheld.

## **SECTION IX**

### **SUNSET PROVISION**

These Guidelines and Criteria are effective upon the date of their adoption, and will remain in force for two years, unless amended by three-quarters vote of the Commissioners’ Court of the County as so provided for in the Tax Code, 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 may be modified, renewed or eliminated.

## **SECTION X**

### **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.