

# Application For Property Tax Incentives For New or Expanding Businesses

Pursuant to N.D.C.C. Chapter 40-57.1

Project Operator's Application To \_\_\_\_\_  
City or County

File with the City Auditor for a project located within a city; County Auditor for locations outside of city limits.

A representative of each affected school district and township is included as a non-voting member in the negotiations and deliberation of this application.

**This application is a public record**

## Identification Of Project Operator

1. Name of project operator _____
2. Address of project _____ City _____ County _____
3. Mailing address of project operator _____ City _____ State _____ Zip _____
4. Type of ownership of project <input type="checkbox"/> Partnership <input type="checkbox"/> Subchapter S corporation <input type="checkbox"/> Individual proprietorship <input type="checkbox"/> Corporation <input type="checkbox"/> Cooperative <input type="checkbox"/> Limited liability company
5. Federal Identification No. or Social Security No. _____
6. North Dakota Sales and Use Tax Permit No. _____
7. If a corporation, specify the state and date of incorporation _____
8. Name and title of individual to contact _____ Mailing address _____ City, State, Zip _____ Phone No. _____

## Project Operator's Application For Tax Incentives

9. Indicate the tax incentives applied for and terms. Be specific. <input type="checkbox"/> <b>Property Tax Exemption</b> _____ Number of years _____ Percent of exemption	<input type="checkbox"/> <b>Payments In Lieu of Taxes</b> _____ Beginning year        _____ Ending year _____ Amount of annual payments (attach schedule if payments will vary)
10. Which of the following would better describe the project for which this application is being made: <input type="checkbox"/> New business project <input type="checkbox"/> Expansion of a existing business project	

**Description of Project Property**

11. Legal description of project real property \_\_\_\_\_

\_\_\_\_\_

12. Will the project property be owned or leased by the project operator?  Owned  Leased

If the answer to 12 is leased, will the benefit of any incentive granted accrue to the project operator?

Yes  No

If the property will be leased, attach a copy of the lease or other agreement establishing the project operator's benefits.

13. Will the project be located in a new structure or an existing facility?  New construction  Existing facility

If existing facility, when was it constructed? \_\_\_\_\_

If new construction, complete the following:

a. Estimated date of commencement of construction of the project covered by this application \_\_\_\_\_

b. Description of project to be constructed including size, type and quality of construction \_\_\_\_\_

\_\_\_\_\_

c. Projected number of construction employees during the project construction \_\_\_\_\_

14. Approximate date of commencement of operations for this project \_\_\_\_\_

15. Estimated market value of the property used for this project:

a. Land ..... \$ \_\_\_\_\_


b. Existing buildings and structures for which an exemption is claimed ..... \$ \_\_\_\_\_

c. Newly constructed buildings and structures when completed ..... \$ \_\_\_\_\_

d. Total ..... \$ \_\_\_\_\_

e. Machinery and equipment ..... \$ \_\_\_\_\_

16. Estimate taxable valuation of the property eligible for exemption by multiplying the market values by 5 percent:

a. Land (not eligible) ..... 

b. Eligible existing buildings and structures ..... \$ \_\_\_\_\_

c. Newly constructed buildings and structures when completed ..... \$ \_\_\_\_\_

d. Total taxable valuation of property eligible for exemption (Add lines b and c) ..... \$ \_\_\_\_\_

e. Enter the consolidated mill rate for the appropriate taxing district ..... \_\_\_\_\_

f. Annual amount of the tax exemption (Line d multiplied by line e) ..... \$ \_\_\_\_\_

## Description of Project Business

**Note: "project" means a newly established business or the expansion portion of an existing business. Do not include any established part of an existing business.**

17. Type of business to be engaged in:  Ag processing  Manufacturing  Retailing  
 Wholesaling  Warehousing  Services

18. Describe in detail the activities to be engaged in by the project operator, including a description of any products to be manufactured, produced, assembled or stored (attach additional sheets if necessary).

---

---

---

19. Indicate the type of machinery and equipment that will be installed \_\_\_\_\_

---

---

20. Projected annual revenue, expense, and net income of the project for each year for the first five years.

Year	_____	_____	_____	_____	_____
Annual revenue	_____	_____	_____	_____	_____
Annual expense	_____	_____	_____	_____	_____
Net income	_____	_____	_____	_____	_____

21. Projected annual average number of persons to be employed by the project at the project location for each year for the first five years and the estimated annual payroll.

Year	_____	_____	_____	_____	_____
No. of Employees	(1) _____	_____	_____	_____	_____
	(2) _____	_____	_____	_____	_____
Estimated payroll	(1) _____	_____	_____	_____	_____
	(2) _____	_____	_____	_____	_____

(1) - full time  
(2) - part time

## Previous Business Activity

22. Is the project operator succeeding someone else in this or a similar business?  Yes  No

23. Has the project operator conducted this business at this or any other location either in or outside of the state?

Yes  No

24. Has the project operator or any officers of the project received any prior property tax incentives?  Yes  No

If the answer to 22, 23, or 24 is yes, give details including locations, dates, and name of former business (attach additional sheets if necessary). \_\_\_\_\_

---

**Business Competition**

25. Is any similar business being conducted by other operators in the municipality?  Yes  No

If YES, give name and location of competing business or businesses \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Property Tax Liability Disclosure Statement**

26. Does the project operator own real property in North Dakota which has delinquent property tax levied against it?  Yes  No

27. Does the project operator own a greater than 50% interest in a business that has delinquent property tax levied against any of its North Dakota real property?  Yes  No

If the answer to 26 or 27 is Yes, list and explain \_\_\_\_\_

\_\_\_\_\_

**Use Only When Reapplying**

28. The project operator is reapplying for property tax incentives for the following reason(s):

- To present additional facts or circumstances which were not presented at the time of the original application
- To request continuation of the present property tax incentives because the project has:
  - moved to a new location
  - had a change in project operation or additional capital investment of more than twenty percent
  - had a change in project operators
- To request an additional annual exemption for the year of \_\_\_\_\_ on structures owned by a governmental entity and leased to the project operator. (See N.D.C.C. § 40-57.1-04.1)

**Notice to Competitors of Hearing**

Prior to the hearing, the applicant must present to the governing body of the county or city a copy of the affidavit of publication giving notice to competitors unless the municipality has otherwise determined there are no competitors.

I, \_\_\_\_\_, do hereby certify that the answers to the above questions and all of the information contained in this application, including attachments hereto, are true and correct to the best of my knowledge and belief and that no relevant fact pertaining to the ownership or operation of the project has been omitted.

-----

Signature Title Date

In compliance with the Federal Privacy Act of 1974, Public Law 93-579, the disclosure of the individual's social security number on this form is mandatory pursuant to North Dakota Century Code §§ 40-57.1-03 and 40-57.1-07. An individual's social security number is used as an identification number by the Office of State Tax Commissioner for file control purposes and record keeping.

**Certification of Governing Body (To be completed by the Auditor of the City or County)**

The municipality shall, after granting any property tax incentives, certify the findings to the State Tax Commissioner and Director of Tax Equalization by submitting a copy of the project operator's application with the attachments. The governing body, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, granted the following:

- Property Tax Exemption**  **Payments in lieu of taxes**
- \_\_\_\_\_ Number of years \_\_\_\_\_ Beginning year \_\_\_\_\_ Ending year
- \_\_\_\_\_ Percent of exemption \_\_\_\_\_ Amount of annual payments (Attach schedule if payments will vary)

\_\_\_\_\_ Auditor

## Notice To Competitors Of Hearing On Application For Property Tax Incentives

Notice is hereby given that the \_\_\_\_\_  
(City or county governing body)

of \_\_\_\_\_, North Dakota, will meet at \_\_\_\_\_  
(City or county) (Time)

on \_\_\_\_\_ at \_\_\_\_\_ to consider the application of \_\_\_\_\_  
(Date) (Location)

\_\_\_\_\_  
(Project operator name and address)

for property tax relief on the project which the applicant will use in the operation of

\_\_\_\_\_  
(Type of business)

at \_\_\_\_\_  
(Address)

\_\_\_\_\_  
(Legal description)

Any competitor of that applicant may appear and be heard by the \_\_\_\_\_  
(City or county governing body)

at the time and place designated herein. A competitor may provide written comments to the governing body before the scheduled hearing.

This notice is given by the above-named applicant pursuant to the provisions of North Dakota Century Code § 40-57.1-03



# Guideline

## Property Tax Incentives for New or Expanding Businesses

North Dakota Century Code § 40-57.1

*Cory Fong*  
*Tax Commissioner*

*July 2005*

North Dakota Century Code ch. 40-57.1, first enacted in 1969, provides incentives in the form of property tax exemptions, payments in lieu of taxes, or a combination of both to a qualifying business. The incentives are granted, at the discretion of the city or county in which the property is located, to any new or expanded revenue-producing project.

### Definitions

1. Commencement of construction means the building or erecting of any improvements other than site preparation or excavation.
2. Commencement of project operation means “the date the plant actually goes into its planned operations. To use the example..., if a manufacturing plant actually begins manufacturing of its products in December, 1970, that would be the date of commencement of project operations. The Act does not purport to authorize granting of tax exemptions for the time of construction of plants.” 1969 N.D. OP. Att’y Gen. 415.
3. Local Development Corporation means a profit or nonprofit corporation incorporated in this state for the purpose of furthering the economic development of a specified community or area.
4. Municipality means a city or a county.
5. Project means any new revenue-producing business or an expansion to an existing business.
6. Project operator means the individual, partnership, limited liability company (LLC), corporation, or association that owns or operates the project.
7. Structure means any property where a business is conducted. The structure might be an entire building, if occupied by one business, or individual quarters within a larger building.

### What Qualifies

8. New and existing buildings, structures, and improvements owned or leased by a qualifying project may receive property tax incentives.
9. New buildings, structures, and improvements constructed and owned by a local development corporation may receive a partial or complete exemption from ad valorem taxation while unoccupied. Once occupied, the exemption continues until the next assessment date following the first occupancy. A qualifying project which locates in a building owned by a local development corporation qualifies for the property tax incentives, provided application is made and granted prior to occupancy.

## **Allowable Incentives**

10. A qualifying project may receive a complete or partial exemption from ad valorem taxation on structures used in or necessary to the operation of a project for up to five years following the commencement of project operations.
11. The exemption period begins with the assessment date immediately following the date of commencement of project operations.
12. Projects that produce or manufacture a product from agricultural commodities may receive a complete or partial property tax exemption on structures for up to ten years.
13. A project located in a structure leased from a governmental entity and which received a five-year property tax exemption qualifies for additional exemptions for up to five years. For the additional exemptions, the municipality grants the exemption one year at a time upon annual application.
14. Payments in lieu of taxes may be used in place of, or in combination with, property tax exemptions for qualifying projects. The municipality and project operator negotiate the amount of annual payments, when the payments begin, and the ending date, which may be no later than twenty years from the date project operations began.
15. Payments in lieu of taxes are apportioned in the same manner as the general real estate taxes unless a taxing district enters into a written agreement for an alternate method. Any agreement entered into between the municipality and other taxing districts for an alternate method of apportioning the payments in lieu of taxes may not affect the apportionment to any taxing district that is not a party to the agreement.
16. The tax incentives are valid as long as the property is used for the purposes stated in the application. If there is a change in use or project operator, a new application for the incentives must be filed with and approved by the municipality to receive the remainder of the incentives.

## **Limitations**

17. A project is not eligible for the property tax incentives if the project received a tax exemption under tax increment financing.
18. The tax exemption and the payments in lieu of taxes are limited to the new or existing buildings or structures used in the qualifying project.
19. Tax incentives may not be granted for land.
20. Payments in lieu of taxes are not eligible for the 5% discount for early payment.

## **Procedures**

21. The project operator applies to the governing body of the municipality where the potential project is to be located. If the project will be within city limits, the project operator applies to the city governing body. If the project is outside city limits, application is made to the county commission.

22. Application for the property tax exemption must be made *and* granted prior to the commencement of construction if the project locates in a new structure. If the project locates in an existing structure, application must be made *and* granted before the structure is occupied.

For qualifying projects, applications for payments in lieu of property taxes may be made after construction or occupancy of the structure.

A representative appointed by the board of each affected school district and of each affected township is included as a non-voting member during the negotiation and deliberation of granting tax incentives.

23. The project operator publishes two notices to competitors of hearing on the application. The notices are published in the official newspaper of the city or county at least one week apart. The last notice must be published at least 15 days, but not more than 30 days, before the city or county considers the application. For example, notices published one week apart on May 1 and May 8 would be appropriate for a hearing scheduled any time between May 23 and June 7. An affidavit of publication is presented to the governing body prior to the hearing as proof of publication. Publication of notices is not required if the municipality determines that project competitors do not exist in the municipality.
24. The city or county holds a public hearing on the application and takes testimony both in favor of and in opposition to the granting of the tax incentives.
25. After the public hearing, the governing body determines the best interests of the municipality and approves or denies, in whole or in part, the application for tax incentives.
26. The municipality certifies the tax incentives granted by submitting a copy of the project operator's application with the attachments to the State Tax Commissioner and county director of tax equalization. The county director of tax equalization advises the local assessor when the property is taxable or exempt.