



HARRIS BEACH ^{PLC}
ATTORNEYS AT LAW

Industrial Development Agencies (IDA's) and Local Development Corporations (LDC's)

Introduction to Industrial Development Agencies (“IDAs”)

- Formed under the New York State General Municipal Law (the “Act”), as public benefit corporations.
- Created to actively promote, encourage, attract and develop job and recreational opportunities and economically-sound commerce and industry in counties, cities, towns and villages throughout New York State.
- Empowered to provide financial assistance to private entities through tax incentives in order to promote the economic welfare, prosperity and recreational opportunities for residents of a municipality.
- Have the ability to purchase, sell, lease and/or mortgage real property and to borrow and make money available in connection with properly induced IDA projects.
- Subject to open government laws, limited investment powers and specifically are not empowered to make outright gifts to a private enterprise.



Financial Assistance

- Mortgage Recording Tax Exemption
- Sales and Use Tax Exemption
- Real Property Tax Abatement
- Tax Exempt Bond Financing



Financial Assistance: Mortgage Recording Tax Exemption

- If an IDA (on a non-recourse basis) has an interest in the property at the time the mortgage is recorded, the IDA will mortgage its interest in the property (exempt from the mortgage recording tax) and the company will simultaneously mortgage its interest in the property (exempt from the mortgage recording tax).



Financial Assistance: Sales and Use Tax Exemption

- 7.375% in Westchester County
- All purchases made by an IDA or its agent are exempt from sales and use tax.
- The IDA will appoint the company as its agent under a Project Agreement to make purchases on the IDA's behalf. These purchases will be exempt from sales and use tax.
- Company appointed as agent of the IDA may appoint subagents.



Financial Assistance: Real Property Tax Abatement (PILOT)

- Any real property owned or controlled by an IDA is not subject to ad valorem real property taxes. When an IDA takes a leasehold interest in real property, the property becomes 100% exempt from ad valorem real property taxes. However, real property owned or controlled by an IDA continues to be subject to special assessments and user fees, like water, sewer, fire, etc.
- An IDA is required to adopt a “Uniform Tax Exemption Policy” (“UTEP”) which outlines the types of PILOT Agreements the IDA offers and the procedures for deviation from those stated policies.



Financial Assistance: Tax Exempt Bond Financing

- IDAs are authorized by State law to issue bonds and notes.
- The proceeds of these tax exempt bonds can be used to fund all, or substantially all, the costs of the project. Since 2008, this form of benefit is granted through an affiliated Local Development Corporation (LDC).



Local Development Corporations (LDC)

- Empowered to conduct certain projects under the Not-For-Profit Corporation Law
- Similar to IDA's, LDC's can offer mortgage recording tax and sales tax relief. However, they cannot offer real property tax abatements.
- Tax-exempt bond financing for qualified 501(c)(3) organizations.



Tax Exempt Bond Financing

- Facilities that generally qualify for LDC tax exempt bond financing:
 - Manufacturing;
 - 501(c)(3) charitable entity – schools, YM(W)CA ,etc.; and
 - Airports, docks, mass commuting facility, water and sewage facilities, solid waste disposal, qualified residential rental projects (certain affordable housing developments); energy/gas facilities.
- Non-Recourse, Conduit Issuer.
- The Internal Revenue Code imposes an annual limit on the aggregate principal amount of private activity bond that may be issued in each state, commonly referred to as the statewide volume cap. The 2019 state volume cap is just over \$2 billion.
- The volume cap is generally allocated in equal thirds to local IDA's, state agencies and to the statewide bond reserve.



Projects Benefitted by Financial Assistance

- **Regeneron Phase I (Mount Pleasant)**
 - \$210 million dollar project (Regeneron Campus)
 - 300,000 square feet of development of Biotech
 - 2 new buildings for a publicly traded pharmaceutical company with parking garage;
 - 400 new permanent jobs created, hundreds of temporary construction jobs;
 - Due to the construction, by 2029, taxes will be **\$2.278 million** per year vs. **\$99,000** as vacant land;
 - Impact on local economy -- Regeneron employees purchased 21 homes at new Summit housing development.
 - Building Permit Fees: **\$1.9 million**
 - Also redevelopment of NY Life Building on Old Sleepy Hollow Road



Rendering of Regeneron (Headquarters)



Projects Benefitted by Financial Assistance

- **Pepsico (Mount Pleasant)**
 - \$160 million dollar project
 - Potential relocation to Texas/.
 - 395 jobs retained in excess of \$125k.
 - 120 temporary construction jobs.
 - By 2033, taxes will be at **\$1.234 million.**
 - Project resolved tax certiorari cases at a savings of over **\$1 million** to the Town.
 - Building Permit Fees: **\$1.5 million.**

RENDERING OF PEPSICO (R&D Headquarters)



Aerial view from Stevens Avenue