

# Charter Township of Oscoda Tax Industrial Facilities Tax Abatement Policy



Adopted 2021

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# 1. Introduction

This policy establishes guidelines and procedures for businesses applying for tax abatements for new and expanded industrial facilities under Michigan Public Act 198 of 1974, also known as the Plant Rehabilitation and Industrial Development Districts Act. The Charter Township of Oscoda Board of Trustees adopted this policy on August 23, 2021.

Act 198 was adopted by the state legislature as a means of providing businesses an incentive to create and maintain jobs in the form of significant tax incentives. It allows certain new facilities to receive a 50% exemption from property tax on the taxable amount of value of new real and personal properties for a maximum period of 12 years.

The responsibility of the Board of Trustees of Oscoda Township is to establish industrial development districts and to approve the granting of exemption certificates. The board must find that the granting of exemption certificate, when considered together with other certificates previously granted, will not substantially impede the operation of the local government unit or impair the financial soundness of the Township.

# 2. Goals and Objectives

The Oscoda Township Board of Trustees will evaluate all Act 198 applications in light of the following goals and objectives.

- To expand Oscoda Township's tax base
- To encourage development that will increase the economic vitality of the industrial areas
- To attract Spaceport businesses
- To create and retain employment from existing industrial facilities that might otherwise leave the Community
- To assist in the rehabilitation of older facilities and/or expansions of existing industrial facilities
- To enhance the general attractiveness of the Community

The above mentioned goals and objectives are not intended to be all-inclusive. The Oscoda Township Board of Trustees reserves the sole and absolute discretion to consider such additional goals and criteria as are consistent with the interests of the Charter Township of Oscoda.

### **3. Eligible Facilities**

Facilities eligible for a tax abatement include plants which primarily manufacture or process goods or materials by physical change and related facilities of manufactures such as offices, engineering, research and development. Eligible industrial property may also include high technology activities such as advanced computing, advanced materials, biotechnology, electronic device technology, engineering or laboratory testing, medical device technology, product research and development, and advanced vehicles technology. Eligible facilities can also include a strategic response center, logistical operation center, a “qualified commercial activity,” major distribution and logistics facility, and agricultural processing facility.

### **4. Criteria for Granting Abatement Certificates**

#### **Criterial Generally**

Section 16 of Public Act 198 of 1974 provides that the legislative body of the local governmental unit shall determine the duration of an Industrial Facilities Exemption Certificate (tax abatement). The Oscoda Township Board of Trustees shall make this determination based on consideration of an analysis of the Superintendent or his/her designee of the following criteria. The Board of Trustees retains discretionary authority for the final determination and is not bound to using only the following when acting on a specific abatement request.

1. Capital Investment - projects with more capital investment will score higher for consideration of tax abatement.
2. Jobs. The more jobs a project brings in, the higher it will score.
3. Nature of Facility. Projects that are primarily comprised of manufacturing, or research and development, or high technology activities will score higher for consideration of tax abatement.
4. Main Headquarters Located in Oscoda. Those requests that include the company headquarters locating in Oscoda Township will score higher for consideration of tax abatement.

Abatements are offered for new facilities and expansions only. The Oscoda Board of Trustees may under separate criteria, consider the tax abatement option for companies requesting abatement on personal property only, for up to a maximum of five years. The Board does not offer abatement for a speculative building. Processing facilities which are primarily engaged in warehousing and or packaging for distribution shall not be eligible for abatement.

For those businesses that are not in ownership of their facility, the lease terms must be greater than the abatement period requested. No subsequent abatement extensions will be considered. However, secondary requests will be considered provided a new minimum investment of at least 50% of the initial request is being proposed.

The abatement may be revoked at the sole and absolute discretion of the Township Board in the event that the purposes for which the abatement was issued are not being fulfilled, as a result of failure of the holder to proceed in good faith with the replacement, restoration, or construction or operation of the replacement facility or new facility as a manufacturing facility in a manner consistent with the purposes of public at 198 of 1974.

## **Point Scale**

The following page contains a score sheet to be used when evaluating industrial tax abatement requests. This is meant as a guide however, the Township Board is not bound by it and retains the right to deviate from the scoring sheet's guidance.

## Oscoda Township Industrial Abatement Score Sheet

Category	Points	Score
<b>What is the cost of proposed real and personal investment. other than land?</b>		
Less than \$250,000	0	+
\$250,000 - \$499,999	5	
\$500,000 - \$1,999,999	10	
\$2,000,000 - \$2,499,999	15	
\$3,000,000 - \$4,999,999	20	
\$5,000,000 and over	25	
<b>Is the main headquarters for the firm applying for the abatement going to be on the site for which the abatement is requested?</b>		
No	0	+
Yes	5	
<b>How many new FTE jobs will the project house on the site for which the abatement is requested?</b>		
Fewer than 5	0	+
6 to 11	5	
11 to 20	10	
21 to 50	15	
More than 50	20	
<b>What proportion of the building or buildings allocated to Manufacturing, Research and Development, or High Technology Activities?</b>		
Less than 50%	0	=
50 to 75%	5	
More than 75%	10	
<b>TOTAL POINTS</b>		
	<b>Years</b>	
50 or more	12	
45 - 49	10	
35 - 44	8	
30 - 34	6	
20 - 29	4	
15 - 19	2	
Below 15	0	

## **5. Industrial Facilities Tax Exemption Certificate Review Process**

**STEP 1:** Applicant submits a completed application form as prescribed by the State Tax Commission. Items required include a general description of the facility and its proposed use, the general nature and extent of the proposed restoration, replacement or construction, a descriptive list of equipment that will be part of the facility and a timeline for the project.

**STEP 2:** Township staff will verify that the property in question is located in a previously established Plant Rehabilitation District (PHD) or Industrial Development District (IDD). If a PRD or IDD or has not already been established, the applicant must first request the Township establish a district as required by law.

**STEP 2A:** If a request is made to create a PRD or IDD, the Township Board will give written notice by certified mail to the owners of all real property within the proposed PHD or IDD and shall hold a public hearing on the establishment of the plant rehabilitation district or industrial development district at which those owners and other residents or taxpayers of the local governmental unit shall have a right to appear and be heard.

**STEP 2B:** In considering the request to determine if property comprising not less than 50% of the state equalized valuation of the industrial property within the district is obsolete, which is required in order to establish such a district.

**STEP 2C:** The Township Board will adopt a resolution establishing the district and acknowledging the determination mentioned in step 2B.

**STEP 3:** Township staff will send a copy of the IFT application to the Township Attorney for review and verification. A copy is also sent to the Township Assessor for their files.

**STEP 4:** If approved by the attorney, the item will be placed on the next available Board of Trustees agenda for consideration of the application. The Board of Trustees will set a public hearing date.

**STEP 5:** The item is placed on the next available Board of Trustees agenda for a public hearing (see MCL 207.555 (2)). Notice of the hearing shall be sent by regular mail to the Township Assessor and the legislative body of each taxing unit within the district that collects ad valorem taxes (see MCL 207.555 (2)). The applicant must be present at the public hearing.

**STEP 6:** The Township Clerk drafts a Resolution and Abatement Agreement, according to State requirements, for consideration by the Board to either approve or disapprove the application.

**STEP 7:** The Board holds the public hearing and takes action on the request. The Board shall, by resolution, state its decision to either approve or disapprove the application. If denied, the reasons shall be set forth in writing in the resolution. If approved, the Board shall set the

number of years for which the district will be valid and they will instruct the clerk to sign the resolution (see MCL 207.556).

**STEP 8:** The Township and the operator of the facility will execute an agreement outlining the conditions and recourses to be upheld during the abatement period.

**STEP 9:** If necessary, Forms T-1044A and/or T-1044, as created by the State Tax Commission, shall be completed. These are necessary if the abated SEV exceeds 5% of the Township's total SEV.

**STEP 10:** If the application is approved, the Clerk shall forward the application, resolution and other necessary information to the State Tax Commission (see MCL 207.556).

**STEP 11:** After review by the State Tax Commission, they will send the Industrial Facilities Exemption Certificate, or notice that the application was denied, to the Township by certified mail (see MCL 207.557(2)).

**STEP 12:** A copy of the Exemption Certificate shall be kept for the file, and another sent to the Assessor's Office for implementation.



## **6. Application Checklist**

### **To be submitted by applicant:**

- Original, signed P.A. 198 application (Michigan Department of Treasury Form 1012)
- Site drawing of the proposed facility (not necessary for personal property only)
- Legal description of the property (copy of deed or exhibit sheet w/ legal)
- List of the new equipment to be purchased, if any - this should be a certified statement/affidavit from contractor indicating exact date of commencement
- List of existing equipment - Two signed original standard tax abatement agreement with Oscoda Township
- Copy of building permit for facility, if applicable
- Check for \$1,000 made out to the Charter Township of Oscoda for the application fee
- Affidavit of fees (Two signed originals)
- Supplemental Information

### **To be completed by Oscoda Township:**

- Copy of published notice of public hearing to approve industrial development district
- Certified copy of resolution establishing industrial development district
- Map of district's parameters
- Copy of published notice on hearing to approve application
- Certified copy of resolution approving P.A. 198 application
- List of other taxing units who received notices
- Copies of notices to other taxing units

## **7. Industrial Tax Abatement Application Summary and Affidavit of Fees**

Name of Applicant, Telephone Number, and Email Address:

1. SIC Number

2. Type of Product(s):

3. Year of Establishment of Business:

4. Number of years the business has been located in Oscoda Township:

5. If not Oscoda, the number of years in community where presently located:

6. Value of investment:

Real Property:

Personal Property:

7. Total projected full-time and part-time employment in Oscoda Township within the next 12 months.

8. How many new full-time equivalent (FTE) jobs will be provided:

9. Will the business be headquartered in Oscoda Township or elsewhere?

10. Proportion of the building or buildings allocated to Manufacturing, Research and Development, or High Technology Activities:

## Industrial Facilities Tax Exemption Affidavit of Fees

In accordance with the State Tax Commission Bulletin No. 3 dated January 1998, the Local Unit and Applicant for Industrial Facilities Exemption Certificate do hereby swear and affirm that no payment of any kind, whether they be referred to as “fees, payments in lieu of taxes”, “donations”, or by other like items, such payments are contrary to the legislative intent of Act 198 that exemption certificates have the effect of abating all ad valorem property taxes levied by taxing units with the unit of local government with which approves the certificate.

We do swear and affirm by our signatures below that “no payment of any kind in excess of the fee allowed, as amended by Public Act 323 of 1996, has been made or promised in exchange for favorable consideration of an exemption certificate application.”

Charter Township of Oscoda

Signature \_\_\_\_\_

Printed Name \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

Applicant/Company

Signature \_\_\_\_\_

Printed Name \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

## **8. Tax Abatement Agreement**

### **Introduction to the Standardized Tax Abatement Agreement with the Charter Township of Oscoda**

The state of Michigan requires all industrial facilities exemption request forwarded to the state must include a separate agreement between the company requesting the exemption and the Charter Township of Oscoda an agreement which goes beyond the actual application. The agreement lists the conditions and resources of a tax abatement spelling Oscoda's requirements of a company during the exception period. If these requirements are not met, Oscoda has the right to reduce or revoke any and all abatements.

The Oscoda Board of Trustees approved a standardized agreement that will be used with all companies seeking an exemption. Companies seeking approval for the exemption from the Board of Trustees must agree to this document prior to the public hearing process. The Township's approval of the agreement will then automatically come with an approval of the application.

The agreement must be signed by both the company representative and Oscoda's Supervisor, who is designed to sign on behalf of the Board of Trustees and Community. Included as Attachment A is a copy of the agreement as prepared by the Charter Township of Oscoda for your review. This agreement will not be altered in anyway, shape, or form by the Board but must be agreed to by the company as currently written.

If you have any questions regarding this agreement or other aspects of the abatement process in Oscoda Township, feel free to contact the Township Assessor at (989) 737-3211, extension 5.

## **Standard Tax Abatement Agreement Between the Charter Township of Oscoda and \_\_\_\_\_(Name of Company)**

This Agreement, made this day of 20\_\_, by and between the Charter Township of Oscoda, herein referred to as the "Township", and \_\_\_\_\_, hereafter referred to as the "Company," whose address is \_\_\_\_\_.

WHEREAS, the Township is willing to approve the granting of an Act 198 Exemption Certificate, pursuant to Michigan Public Act 198 of 1974, as amended; and

WHEREAS pursuant to Section 22 of Michigan Public Act 198 of 1974 it is necessary for the Township and Company to enter into a written agreement prior to approval and issuance of an industrial facilities exemption certificate, herein referred to as an "Exemption Certificate"; and

WHEREAS, the Township has established certain terms and conditions in order for an Exemption Certificate to be approved; and

WHEREAS, the Company is willing to accept and be bound by such terms and conditions in order to receive an Exemption Certificate.

NOW THEREFORE, the parties agree to the following:

### **1. EXEMPTION CERTIFICATE**

The Township hereby approves of the granting of an Exemption Certificate by the State of Michigan in accordance with its resolution approving the same for an application received on \_\_\_\_\_, 202\_\_, included as Exhibit A, with an estimated project cost of \$\_\_\_\_\_.

### **2. TERMS AND CONDITIONS**

The Company hereby agrees that in exchange for receiving the tax benefits outlined in the Exemption Certificate, attached as Exhibit B, that it shall be bound by the following terms and conditions during the time period that the Exemption Certificate is in effect:

- a. The Company agrees to create \_\_\_\_\_ jobs within the Township and use its best efforts to utilize the Township businesses as vendors and suppliers for the project, hire Township residents for new jobs created, and advertise for any new jobs in the local newspaper.
- b. The Company agrees to notify the Township as soon as the subject property is completed, noting the specific beginning and completion date of the project and the total dollar amount invested in real property and the total dollar amount

invested in personal property included in the project. A detailed breakdown of the investment must be provided.

- c. The Company agrees to submit a report regarding status of employment by September 15 each year after the issuance of the industrial facilities exemption. The report must include:
  - i. The number of new jobs promised in the application and the actual number of new jobs created,
  - ii. If employment has not remained or exceed the number given in the application, and explanation detailing this and explaining the reasons for the shortfall shall be included,
  - iii. The dollar amount of any personal property included in the project, which has been disposed of and is no longer located on the project site.
- d. The Company maintain employment levels in Oscoda Township as proposed in its application.
- e. The Company abide by all ordinances and regulations of the Charter Township of Oscoda, subject, however, to such exceptions as may be granted by a public body empowered to grant a legal exception to an ordinance or regulation in the Charter Township of Oscoda.
- f. The Company is at all times in compliance with all federal, state, and local laws, regulations, and ordinances concerning environmental matters.

### 3. REVOCATION RESERVATION

The fulfillment of the conditions of this agreement provided for in Section 2 is a purpose for which the Exemption Certificate was approved by the Charter Township of Oscoda, in addition to the purpose is established by law. Failure to uphold these conditions will be considered to be operating the facility in bad faith in a manner not consistent with a purpose is of Act 198 of the Public Acts of Michigan, as amended, and will be considered to be circumstances within the control of the Exemption Certificate holder justifying the revocation of the Exemption Certificate.

The Township retains the right to revoke any Exemption Certificate for violation of any of the conditions stated in Section 2 above. If the applicant within three years of commencing the operation after receiving an industrial facilities exemption certificate moves the operations outside of Oscoda Township, then all of the abated tax will be paid to the Township. If the operation leaves after three years but before six years have expired, then one half of the abated tax must be returned. After six years no penalty will be applied. Likewise, if an exemption certificate is revoked for violation of any of the conditions in Section 2, then the same repayment of tax schedule shall be applied as if the applicant had moved it operations outside of the township.

#### 4. EFFECT

This agreement shall be binding upon the Township and the Company, and upon their successors and assigns. This agreement shall be interpreted in accordance with the laws of the State of Michigan. Upon default, the other party shall be liable to the non-defaulting party for reasonable attorney fees and court costs which may be incurred in enforcing a term or condition of this Agreement. This Agreement represents the entire Agreement of the parties, and replaces any prior oral, written or implied agreement of the parties. This Agreement may only be amended by the mutual written agreement of the parties.

**IN WITNESS THEREOF ON THE DATES HEREINAFTER INDICATED:**

The Charter Township of Oscoda, by:

\_\_\_\_\_ on \_\_\_\_\_ (date)

It's \_\_\_\_\_

\_\_\_\_\_ on \_\_\_\_\_ (date)

It's Township Clerk

Witness

\_\_\_\_\_

The Company, by:

—

\_\_\_\_\_ on \_\_\_\_\_ (date)

It's \_\_\_\_\_

\_\_\_\_\_

Witness