



Chautauqua, Cattaraugus, Allegany & Steuben Counties
Southern Tier Extension Railroad Authority
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"This institution is an equal opportunity organization"

Terry Everetts, Chairman
Richard Zink, Chief Executive Officer

UNIFORM TAX EXEMPTION POLICY

This policy applies to all exemptions and abatements of fees, taxes, special ad valorem levies or assessments of any kind, whether state or local, including but not limited to fees, taxes, special ad valorem levies or assessments on real property, franchise taxes, sales taxes or other taxes, that will be provided by the Chautauqua, Cattaraugus, Allegany and Steuben Southern Tier Extension Railroad Authority ("STERA") in Chautauqua, Cattaraugus, Allegany and Steuben Counties in New York State.

STERA's policy is to grant abatements and exemptions from fees, taxes, special ad valorem levies or assessments of any kind, whether state or local, including but not limited to fees, taxes, special ad valorem levies or assessments on real property, franchise taxes, sales taxes or other taxes to applicants as described below. STERA also may deviate from its standard policy, including the granting of enhanced benefits, on a case-by-case basis, after following the process for deviation as described below.

1. Purpose and Authority

- A. STERA Purpose.** Pursuant to Title 28-AA of the State Of New York Public Authorities Law, the "continued existence and strengthening of the system of railroads serving Chautauqua, Cattaraugus, Allegany and Steuben counties in New York state and Warren and Erie counties in the Commonwealth of Pennsylvania is essential to the long term viability of the economies, municipalities, and ways of life in these counties." The New York State Legislature created STERA to preserve and enhance the system of railroads serving these counties, so as to insure a healthy economy for these counties. Accordingly, the Legislature found that "such purposes are in all respects for the benefit of the people of the State and the authority shall be regarded as performing an essential governmental function in carrying out its purposes and in exercising the powers granted by this title."
- B. STERA Exemption from Taxes and Fees.** Pursuant to Title 28-AA of the State Of New York Public Authorities Law, STERA is not required to pay any fees, taxes, special ad valorem levies or assessments of any kind, whether state or local, including but not limited to fees, taxes, special ad valorem levies or assessments on real property, franchise taxes, sales taxes or other taxes, upon or with respect to any property owned by it or under its jurisdiction, control or supervision, or upon the uses thereof, or upon or with respect to its activities or operations in furtherance of the powers conferred upon it by this title, or upon or with respect to any fares, tolls, rentals, rates, charges, fees, revenues or other income received by STERA.
- C. Purpose of Policy.** This uniform tax abatement policy was adopted to provide consistency in the application of real estate property tax abatements to appropriate and eligible railroad property so as to effect STERA's corporate purpose as set forth in Section 2642-d of Title 28-AA of the State Of New York Public Authorities Law, the findings and intent of the New York State Legislature as set forth in Section 2642-a of Title 28-AA of the State Of New York Public Authorities Law, and STERA's corporate mission as set forth in a resolution adopted by STERA on May 17, 2010.
- D. Authority to Exempt and Abate Taxes and Fees.** STERA's legal authority to abate real estate property taxes on appropriate and eligible railroad property is found in Section 2642-h paragraph 1 of Title 28-AA of the State Of New York Public Authorities Law. STERA's legal authority to provide PILOT agreements to

affected taxing jurisdictions is found in Section 2642-h paragraph 1 of Title 28-AA of the State Of New York Public Authorities Law.

- E. **Adoption.** This uniform tax abatement policy was adopted pursuant to a resolution enacted by STERA on November 15, 2010.

2. Definitions

All words and terms used herein and defined in this Policy shall have the meanings assigned to them in this Policy, unless otherwise defined herein or unless the context or use indicates another meaning or intent. The following words and terms used herein shall have the respective meanings set forth below, unless the context or use indicates another meaning or intent:

- A. **"Affected taxing jurisdiction"** shall mean any county, including the counties of Chautauqua, Cattaraugus, Allegany and Steuben, city, town, village, school district, improvement district, any other such instrumentality, including an agency or public benefit corporation of the state, or any of the foregoing, or any combination thereof, located in these counties.
- B. **"Parcel"** shall mean a parcel of land and the improvements located thereon.
- C. **"PILOT" or "Payment in Lieu of Tax"** shall mean any payment made to STERA or an affected taxing jurisdiction equal to all or a portion of the real property taxes or other taxes which would have been levied by or on behalf of an affected taxing jurisdiction with respect to a parcel but for tax abatement obtained by reason of the involvement of STERA in such parcel, but such term shall not include STERA fees or other income.
- D. **"PILOT Agreement" or "Payment in Lieu of Tax Agreement"** shall mean a payment in lieu of tax agreement.
- E. **"Railroad operations"** shall mean any activities of any railroad company operating in any affected taxing jurisdiction within Chautauqua, Cattaraugus, Allegany, and/or Steuben Counties of New York State.
- F. **"Real property"** shall mean lands, structures, franchises and interests in land, waters, lands under water, riparian rights and air rights and any and all things and rights included within said term and includes not only fees simple absolute but also any and all lesser interests including but not limited to easements, rights-of-way, uses, leases, licenses and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms for years and liens thereon by way of judgments, mortgages or otherwise, and any right-of-way and related trackage, rails, power plants, stations, terminals, parking lots, garages, warehouses, storage yards, intermodal facilities, transload facilities, repair and maintenance shops, yards, offices and other real estate or personalty used or held for or incidental to the operation, rehabilitation, or improvement of any railroad operating or to operate between points within the counties of Chautauqua, Cattaraugus, Allegany and Steuben or pursuant to joint service arrangements, including but not limited to buildings, structures, and areas notwithstanding that portions thereof may not be devoted to any railroad purpose other than the production of revenues available for the costs and expenses of all or any facilities of the authority or railroad companies undertaking railroad operations within these counties.
- G. **"STERA"** shall mean the Chautauqua, Cattaraugus, Allegany and Steuben Southern Tier Extension Railroad Authority, a public authority created as a public benefit corporation per Title 28-AA of the State Of New York Public Authorities Law.

3. General Provisions

- A. **General Policy.** The general policy of STERA is that at STERA's discretion, STERA may provide tax exemptions and abatements of fees, taxes, special ad valorem levies or assessments of any kind, whether state or local, including but not limited to fees, taxes, special ad valorem levies or assessments on existing

real property and improvements thereto, franchise taxes, sales taxes or other taxes, upon or with respect to any property owned by STERA or under STERA's jurisdiction, control or supervision, or upon the uses thereof, or upon or with respect to STERA's activities or operations in furtherance of the powers conferred upon STERA by Title 28-AA of the State Of New York Public Authorities Law.

- B. PILOT Payments.** The general policy of STERA is that at STERA's discretion, STERA may require the payment of PILOT Payments per an approved PILOT Agreement in amounts and per a payment schedule to be set by STERA.

4. Real Estate

- A. Discretionary Authority.** STERA will have the right, in its sole discretion and in accordance with applicable provisions of the New York State Law, to determine whether it is appropriate to grant a request for real estate tax abatement.
- B. Standard Amount and Term of Real Estate Tax Exemption and Abatement.** The standard real estate tax abatement shall be up to a 100% abatement for a 20 year term.
- C. Process for Real Estate Tax Exemption and Abatement.** STERA requires that applicants for a real estate property tax exemption and abatement submit a written request for the exemption and abatement. The applicant may request amount and terms that differ from STERA's standard policy, but shall be required to provide written justification supporting this request for deviation from STERA standard policy. The applicant also may submit a written request for specific PILOT terms and schedule, but shall be required to provide written justification supporting this request for deviation from STERA standard policy.
- D. Deviations.** Any deviations from STERA's standard policy will be made only with the specific approval of STERA's members based on the factors listed in Section 7 herein and those, if any, described in the New York State Law. Additionally, STERA will notify the affected tax jurisdictions of the proposed deviation from such policy and the reasons therefor.

5. Pilot Agreements

- A. Provision for Real Estate PILOT Agreement Payment.** At STERA's discretion, in instances where STERA provides a real estate property tax abatement, STERA also may require a PILOT Agreement specifying required payments to be made to STERA in amounts and per a payment schedule to be set by STERA. The PILOT Agreement will be in a form acceptable to STERA.
- B. Basis for Calculating PILOTS.** STERA will use existing tax data, or building values as established by the assessor of the municipal jurisdiction within which the project is located, or by STERA, as the basis for calculating PILOT Agreement terms. Therefore, STERA will normally not require appraisals to be done. STERA also may consider factors, similar to those described in Section 7 herein, when determining the amounts to be paid under the PILOT Agreement.
- C. Communication to Affected Taxing Jurisdictions.** STERA shall forward a copy of the PILOT Agreement to each of the affected taxing jurisdictions within fifteen (15) days of execution of said agreement by both parties.
- D. Allocation of PILOT Payments to Affected Taxing Jurisdictions.** Unless otherwise agreed by STERA, with input from the affected taxing jurisdictions, STERA shall allocate among and deliver such payments to the affected tax jurisdictions in proportion to the amount of real property tax and other taxes which would have been received by each affected taxing jurisdiction had STERA not provided the real estate property tax exemption and abatement. Once received, STERA shall provide timely disbursement of PILOT payments to the affected taxing jurisdictions within thirty days of receipt in full compliance with Section 874(3) of the New York State General Municipal Law, but shall not be bound by the traditional due dates for real estate taxes established by the various taxing jurisdictions.

6. Sales and Use Tax Exemptions

- A. **Discretionary Authority.** STERA will have the right, in its sole discretion and in accordance with applicable provisions of the New York State Law, to determine whether it is appropriate to grant a request for exemptions from local and New York State sales and use taxes for the purchase of construction materials and equipment rentals and purchases of project related equipment, furnishings and services that are made by the applicant as agent for STERA, until the project is completed (i.e. certificate of occupancy) or until a date established by STERA on a project-by-project basis. The operating and maintenance expenses of applicants and their projects are not incurred as agent of STERA, and accordingly, STERA will not provide sales and use tax exemptions for these expenses.
- B. **Process for Exemptions from Local and New York State Sales and Use Taxes.** STERA requires that applicants for an exemption from local and New York State sales and use taxes submit a written request for the exemption. The applicant must document that it is an agent of STERA in undertaking the purchase of construction materials and equipment rentals and purchases of project related equipment, furnishings and services, and must indicate why these actions are consistent with STERA's purpose and authority in providing such exemption.
- C. **Requirement that Recipients of Sales and Use Tax Exemptions File with New York State Department of Taxation.** All project applicants must agree in writing to file with the New York State Department of Taxation, in form and at times required, an annual statement of the value of all exemption from sales and use taxes claimed in order to comply with Section 874(8) of the General Municipal Law, and any other statutory or regulatory requirements.
- D. **Deviations.** Any deviations from STERA's standard policy will be made only with the specific approval of STERA's members based on the factors listed in Section 7 herein and those, if any, described in the New York State Law. Additionally, STERA will notify the affected tax jurisdictions of the proposed deviation from such policy and the reasons therefor.

7. Deviations

- A. **General Provisions for Deviations.** Absent special circumstances, STERA shall adhere to the general policy specified in Section 3 herein, and also to the provisions of Sections 4, 5 and 6 herein. However, STERA reserves the right to deviate from such policy and provisions from time to time in special circumstances. In determining whether special circumstances exist to justify such a deviation, STERA may evaluate certain factors, which might include, but which are not limited to, the following:
 - 1. the estimated value of any proposed tax exemptions or abatements;
 - 2. the magnitude and/or importance of any permanent private sector job creation and/or retention related to railroad operations on the parcel or any proposed project to be located on said parcel;
 - 3. the amount of private sector investment generated or likely to be generated by railroad operations on the parcel or any proposed project to be located on said parcel;
 - 4. the impact of railroad operations on the parcel or any proposed project to be located on said parcel on existing and proposed businesses and/or economic development projects in the vicinity, broadly defined;
 - 5. the extent to which railroad operations on the parcel or any proposed project to be located on said parcel will provide a benefit (economic or otherwise) not otherwise available within the affected taxing jurisdictions in which the railroad operations on the parcel or any proposed project to be located on said parcel is located;
 - 6. demonstrated public support for railroad operations on the parcel or any proposed project to be located on said parcel;

7. the extent to which railroad operations on the parcel or any proposed project to be located on said parcel will provide needed services and/or revenues to the affected taxing jurisdictions or businesses located in or impacted in the Affected taxing jurisdictions;
8. the extent to which railroad operations on the parcel or any proposed project to be located on said parcel will require the provision of additional services, including, but not limited to additional educational, transportation, police, emergency medical or fire services;
9. whether the affected taxing jurisdictions will be reimbursed by either the operating railroad or any occupant of said parcel per a proposed project to be located on said parcel if railroad operations or activities of the proposed project to be located on said parcel do not fulfill the purposes for which the tax exemption or abatement was granted;
10. the effect upon the environment and surrounding property of railroad operations on the parcel or any proposed project to be located on said parcel;
11. the likelihood of accomplishing any proposed project to be located on said parcel in a timely fashion; and
12. any other factors consistent with the implementation of STERA's corporate purpose and authority per Title 28-AA of the State Of New York Public Authorities Law and STERA's corporate mission per resolution adopted by STERA on may 17, 2010.

B. Types of Deviations Permitted. Deviations may involve, but are not limited to, deviations in the length of exemption or abatement approved and / or the amount or percentage of exemption or abatement.

C. Application for Deviation. No request for a deviation from the standard policies for tax exemption and abatement relating to railroad operations on a parcel or any proposed project to be located on said parcel shall be considered by STERA unless first a written request for such deviation shall be filed with STERA, indicating the requested deviation and the need and claimed justification supporting the proposed deviation. STERA may request additional documentation from the applicant to assist in its evaluation of a proposed deviation from standard policies. The written request also may propose a PILOT agreement.

D. Notice to Affected Tax Jurisdictions. Any approvals of deviations from standard policies approved by STERA shall not be effective until STERA has:

1. set forth in writing the reasons for deviation from such policies;
2. notified in writing the affected local taxing jurisdictions of the proposed deviation from standard policies and the reasons for the deviation; and
3. given each affected taxing jurisdiction a reasonable opportunity, both in writing and in person, to be heard by STERA with respect to the approved deviation.

8. Recapture of Benefits

A. General Provisions. STERA, at its sole discretion and on a case-by-case basis, may determine, (but shall not be required to do so) with respect to railroad operations on a parcel or any proposed project to be located on said parcel, that those railroad operations or that project has failed to meet its intended goals and may require the recipient of an exemption or abatement thereto to agree to the recapture by STERA of the value of any or all exemptions or abatements from taxation provided with respect to railroad operations on a parcel or any proposed project to be located on said parcel by virtue of STERA's involvement.

B. Recapture Triggers. Events that STERA may determine will trigger recapture may include, but are not be limited to:

1. the sale or closure of facility within the time period the applicant receives benefits from STERA;

2. a significant employment reduction or failure to meet stated employment goals;
3. the failure to meet stated investment goals;
4. a significant change in use in facility;
5. a significant change in business activities of project applicant or operator; or
6. a material noncompliance with or breach of terms of STERA's transaction documents, or of zoning or land use laws of regulations, or federal, state or local environmental laws or regulations.

C. Amount and Timing of Recapture. If STERA determines to provide for the recapture with respect to a particular project, in its sole discretion and on a case-by-case basis, STERA also shall determine the timing, amount, and percentage of recapture.

9. Effective Date

This Uniform Tax Exemption Policy shall apply to all requests for tax exemptions or abatements that STERA approves after January 1, 2011.

10. Amendments

STERA, by resolution of its members, and upon notice to all affected tax jurisdictions as may be required by law, may amend or modify this Uniform Tax Exemption Policy as it may, from time to time, in its sole discretion, determine.

**Adopted by the STERA
Board of Directors on
November 15, 2010**



**Thomas M. Barnes
STERA Corporate Secretary**

March 9, 2015

Date