

CHAPTER 18
FIVE-YEAR TAX EXEMPTIONS
ARTICLE I

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ARTICLE 1. FIVE-YEAR TAX EXEMPTIONS

18-1. Definitions. The following words shall have the following meaning consistent with the provisions of N.J.S.A. 40A:21-3:

a. "Abatement" means that portion of the assessed value of a property as it existed prior to construction or improvement of a building or structure thereon, which is exempted from taxation pursuant to this Act. No tax abatements are intended to be permitted herein.

b. "Commercial or industrial structure" means a structure or part thereof used for the manufacturing, processing or assembling of material or manufactured products, or for research, office, industrial, commercial, retail, recreational, hotel or motel facilities, or warehousing purposes, or for any combination thereof, which the governing body determines will tend to maintain or provide gainful employment within the municipality, assist in the economic development of the municipality, maintain or increase the tax base of the municipality and maintain or diversify and expand commerce within the municipality. It shall not include any structure or part thereof used or to be used by any business relocated from another qualifying municipality unless: the total square footage of the floor area of the structure or part thereof used or to be used by the business at the new site together with the total square footage of the land used or to be used by the business at the new site exceeds the total square footage of that utilized by the business at its current site of operations by at least 10%; and the property that the business is relocating to has been the subject of a remedial action plan costing in excess of \$250,000.00 performed pursuant to an administrative consent order entered into pursuant to authority vested in the Commissioner of Environmental Protection under P.L. 1970, C. 33 (C.13:1D-1 et seq.) the "Water Pollution Control Act," P.L. 1977, c. (C.58:10A-1 et seq.), the "Solid Waste Management Act", P.L. 1970, c.39 (C. 13:1E-1 et seq.), and the "Spill Compensation and Control Act," P.L. 1976, c. 141 (C.58:10-23.11 et seq.).

c. "Completion" means substantially ready for the intended use for which a building or structure is constructed or improved.

d. "Construction" means the provision of a new commercial or industrial structure, or the enlargement of the volume of an existing commercial or industrial structure by more than 30%, but shall not mean the conversion of an existing building or structure to another use.

e. "Exemption" means that portion of the Assessor's full and true value of any

improvement or construction not regarded as increasing the taxable value of a property pursuant to this ordinance and the Five Year Exemption and Abatement Law, L. 1991, c. 441.

f. "Improvement" means a modernization, rehabilitation, renovation, alteration or repair which produces a physical change in an existing building or structure that improves the safety, sanitation, decency or attractiveness of the building or structure as a place for human habitation or work, and which does not change its permitted use to a use that is not permitted. In no case shall it include the repair of fire or other damage to a property for which payment of a claim was received by any person from an insurance company at any time during the three year period immediately preceding the filing of an application pursuant to this Act.

g. "Stiger Street Redevelopment Area" means that area designated by the Hackettstown Planning Board and designated by the Town of Hackettstown as a redevelopment area pursuant to N.J.S.A. 40A:12A-6 and 98-ORD17 adopted by the Mayor and Common Council on December 14, 1998.

18-2. General Procedures

a. All improvements, as defined above, shall be exempt from local real property taxes, if approved by the Tax Assessor after proper application has been made pursuant to L. 1991, c. 441. Application shall be made upon the forms prescribed by the Director of the Division of Taxation in the Department of the Treasury and shall be in compliance with any and all regulations adopted by the Commissioner of the Department of Community Affairs.

b. Applicants shall be encouraged to apply for tax exemption on improvements prior to the commencement of construction of the improvement or construction, provided that the applicant must file a proper application with the Tax Assessor within thirty (30) days, including Saturdays and Sundays, following the completion of the improvement in order to be eligible for tax exemption thereon. The Tax Assessor will simultaneously file with the Town Clerk/Business Administrator, and Planning Board Copies of the application.

c. Every property completed application for exemption of one or more improvements, which is filed within thirty (30) days including Saturdays and Sundays of the completion of the improvement, shall be approved and allowed by the Assessor to the degree that the application is consistent with the provisions of the adopting ordinance or the tax agreement, provided that the

improvement, conversion or alteration for which the application is made qualifies as an improvement, a conversion, or alteration pursuant to the provisions of the Five Year Exemption and Abatement Law, L. 1991, c. 441 (N.J.S.A. 40A:21-1 et seq.) and the tax agreement, if any. The granting of an exemption or exemption, or tax agreement shall be recorded and made a permanent part of the official tax records of the Town, which records shall contain a notice of determination date thereof.

18-3. New Construction.

a. Applicants for tax exemption for new construction of commercial or industrial structures shall enter into a tax agreement pursuant to Section 18-5 and shall provide the Mayor and Common Council with an application setting forth:

1. A general description of the project for which exemption is sought;
2. A legal description of all real estate necessary for the project;
3. Plans, drawings, and other documents as may be required by the Mayor and Common Council to demonstrate the structure and design of the project;
4. A description of the number, classes, and types of employees to be employed at the project site within two years of completion of the project;
5. A statement of the reasons for seeking tax exemption on the project, and a description of the benefits to be realized by, the applicant if a tax agreement is granted-
6. Estimates of the cost of completing such project;
7. A statement showing (1) the real property taxes currently being assessed at the project site; (2) estimated tax payments that would be made annually by the applicant on the project during the period of the agreement; and (3) estimated tax payments that would be made by the applicant on the project during the first full year following the termination of the tax agreement;
8. A description of any lease agreements between the applicant and proposed users of the project, and a history and description of the user's business; and
9. Such other pertinent information as the Mayor and Common Council may require.
10. Copies of the application and accompanying information shall simultaneously be filed with the Tax Assessor, Town Clerk, Chief Financial officer, and Planning Board.

18-4. Determination of Value.

In determining the value of property, the Town shall regard up to the Assessor's full and true value of the improvements as not increasing the value of the property for a period of five years, notwithstanding that the value of the property to which the improvements are made is increased thereby. During this exemption period, the assessment on the property shall not be less than the assessment thereon existing immediately prior to the improvements, unless there is damage to the structure through action of the elements sufficient to warrant a reduction. Notwithstanding anything else herein contained in this ordinance to the contrary, it is specifically provided that any exemption for improvements shall be authorized on an individual basis as to review, evaluation and approval of such application by the governing body.

18-5. Tax Agreements.

Upon adoption of this ordinance, and upon its reaching its effective date as provided for in Section F (3) below, the Mayor and Common Council may enter into a written agreement with the applicant for the exemption of local real property taxes. The agreement shall provide for the applicant to pay to the municipality in lieu of full property tax payments an amount: annually to be computed by one, but in no case a combination of the following formulas:

1. Cost Basis: The agreement may provide for the applicant to pay to the municipality in lieu of full property tax payments an amount equal to 2% of the cost of the project. For the purposes of the agreement, "the cost of the project" means only the cost of fair market value of direct labor and all materials used in the construction, expansion, or rehabilitation of all buildings, structures and facilities at the project site, including the costs; if any, of land acquisition and land preparation, provision of access roads, utilities, drainage facilities and parking facilities, together with architectural, engineering, legal, surveying, testing, and contractors' fees associated with the project; which the applicant shall cause to be certified and verified to the governing body by an independent and qualified architect, following the completion of the project.

2. Gross Revenue Basis: The agreement may provide for the applicant to pay to the municipality in lieu of full property tax payments and amount annually equal to 15% of the annual gross revenues from the project. For purposes of the agreement, "annual gross revenues" means the total annual gross rental and other income payable to the owner from the project. If in any leasing, any real estate taxes or assessments on property included in the project, any premiums for fire or

other insurance on or concerning property included in the project, of any operating or maintenance expenses ordinarily paid by the landlord, are to be paid by the tenant, then those payments shall be computed and deemed to be part of the rent and shall be included in the annual gross revenue. The tax agreement shall establish the method of computing the revenues and may establish a method of arbitration by which either the landlord or tenant may dispute the amount of payments so included in the annual gross revenue.

3. Tax Phase-In Basis: The agreement may provide for the applicant to pay to the municipality in lieu of full property tax payments an amount equal to a percentage of taxes otherwise due according to the following schedule:

(a) In the first full year after completion; no payment in lieu of taxes otherwise due;

(b) In the second tax year, an amount not less than 20% of taxes otherwise due;

(c) In the third tax year, an amount not less than 40% of taxes otherwise due;

(d) In the fourth tax year, an amount not less than 60% of taxes otherwise due; and

(e) In the fifth tax year, an amount not less than 80% of taxes otherwise due.

18-6. Nonpayment of Taxes: Disqualification from Exemption.

No exemption shall be granted, or tax agreement entered into, pursuant to this ordinance or the statute authorizing this ordinance, with respect to any property for which property taxes are delinquent or remain unpaid, or for which penalties for nonpayment of taxes are due.

18-7. Duration.

a. All tax agreements entered into by the Town of Hackettstown pursuant to this ordinance shall be in effect for no more than five full tax years next following the date of completion of the project.

b. No applications for exemption shall be filed or approved that will take initial effect following the adoption of this ordinance unless readopted by the Mayor and Common Council.