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# Payment in Lieu of Tax Agreements

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Dear Reader:

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We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other CTAS website material.

Sincerely,

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# Payment in Lieu of Tax Agreements

Reference Number: CTAS-2472

Payment in Lieu of Tax (PILOT) agreements can be a very important economic development tool. It is important that they are structured correctly and that they are only entered into when it is in the best interests of the county.

Cities and counties are constitutionally prohibited from granting tax abatements to non-exempt persons. Thus, such abatements are accomplished by going through an industrial development corporation. Property (real or personal) that is included as part of a "project" can be transferred to an industrial development corporation, which would make such property tax exempt. The industrial development corporation would then lease the property back to the entity involved in the project and upon receiving the proper delegation of authority from the creating municipality (which can be a city, county or a combination of both), the industrial development corporation could then enter into a PILOT agreement with that entity.

Industrial development corporations can negotiate, accept or waive payments in lieu of taxes only after receiving a formal delegation of authority from their creating municipality(ies). Such municipality can require that each negotiated PILOT agreement come back before the legislative body for final approval. T.C.A. § 7-53-305.

No PILOT agreement providing for the acceptance or waiver of payments in lieu of taxes, including any renewal or extension of such agreement, may result in a corporation's lessee making payments in lieu of taxes in an amount less than the applicable ad valorem taxes for a period that is greater than twenty (20) years plus a reasonable construction or installation period not to exceed three (3) years, unless both the commissioner of economic and community development and the comptroller of the treasury have made a written determination that the agreement is in the best interest of the state. T.C.A. § 7-53-305.

Before an industrial development corporation approves a PILOT agreement, the corporation must hold a public meeting relating to the proposed agreement after notice is provided by the corporation or governing body, as may be required by law, at least five (5) days prior to the date of such public meeting. Such notice must include the time, place, and purpose of the public meeting. The corporation must also attach to each agreement an analysis of the costs and benefits of the agreement, in such manner and under such conditions as shall be prescribed by the commissioner of economic and community development or the commissioner's designee. T.C.A. § 7-53-305.

PILOTs for retail projects must meet certain criteria set forth in T.C.A. § 7-53-305. There are also special provisions for PILOTs from industrial development corporations formed by municipalities that do not levy their own property tax. T.C.A. § 7-53-305.

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