Leveraging IDA incentives and property tax exemptions for development success - by David Wilkes and Kevin Clyne

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Real estate developers operating in New York State know that the high cost of taxes and regulatory compliance can be major obstacles to new construction and redevelopment. To address these challenges, New York has established a network of local Industrial Development Agencies (IDAs) and economic development authorities empowered to offer meaningful incentives to stimulate private investment. Created under the General Municipal Law and Local Authorities Law, IDAs provide a variety of financial tools — including tax abatements and exemptions — that can significantly improve project viability. For developers, understanding and leveraging these programs is critical to maximizing returns and navigating a competitive landscape.

How IDA Incentive Programs Work

At the core of IDA programs is the ability to structure projects in a way that reduces the traditional tax burden. When an IDA approves a project, it technically becomes the owner of the property, making the project eligible for exemption from real property taxes. To ensure that municipalities and school districts still receive some revenue, developers enter into Payment in Lieu of Taxes (PILOT) agreements, committing to annual payments that are typically lower than full taxes but still represent a significant improvement over the taxes paid on vacant or underdeveloped parcels. The structure and level of payments varies throughout the state but is often designed to allow the project to meet stabilized goals before the highest level of payments kick in.

In addition to property tax relief, developers may benefit from:

Sales tax exemptions on construction materials and equipment purchases; and

Mortgage recording tax abatements on financing instruments.

These incentives are contingent upon meeting certain statutory and contractual obligations, most notably the creation of temporary construction jobs and permanent employment opportunities. Moreover, the broader redevelopment often stimulates further private investment, benefiting the surrounding community through enhanced infrastructure, increased property values, and long-term economic growth.

Common Controversies Around PILOT Agreements

Despite their advantages, PILOT agreements can sometimes be the subject of public scrutiny. Criticisms typically focus on the perception that local governments, particularly school districts, lose revenue because PILOT payments are often less than what full taxes would have generated. Lawsuits and press criticisms occasionally arise, emphasizing the “lost” tax revenue based on a “but for” analysis — that is, the taxes that would have been collected if the full assessment applied.

However, such critiques often fail to acknowledge that many major development projects would not proceed at all without these incentives. Given New York’s high tax environment, PILOT agreements are frequently the determining factor in a project’s financial feasibility. In practice, PILOT-supported projects typically replace underutilized or vacant land with productive, tax-contributing properties, thereby increasing the overall tax base over time and generating far greater economic activity than would have occurred otherwise.

Apart from policy concerns, developers should ensure some degree of protection in the event the goals of the project do not materialize. In some instances, PILOT payments may actually become higher than for a similar project that remained on the taxable assessment rolls. Developers should ensure the right to challenge a PILOT-based tax assessment that becomes excessive and carefully consider contractual provisions that effectively punish efforts to terminate an agreement that has failed to be mutually rewarding to the parties.

Section 485-b: The Business Investment Property Tax Exemption

Beyond IDA-sponsored incentives, developers should also be aware of Section 485-b of the New York Real Property Tax Law (RPTL), which provides an as-of-right exemption for new construction and improvements to commercial, industrial, and certain other types of real property.

Section 485-b offers a 10-year, declining exemption on the increase in assessed value resulting from an improvement. The exemption reduces the tax liability by 50% of the increased value in the first year, decreasing by 5% each year thereafter. To qualify, developers must invest a minimum of $10,000, file an application within one year of the issuance of a certificate of occupancy or completion, and demonstrate an increase in assessed value.

Intersection Between 485-b and PILOT Agreements

An interesting development in the administration of PILOT agreements is the use of structures modeled after Section 485-b. Some IDAs adopt schedules that mirror or extend the 485-b exemption structure, offering a gradual reduction in payments over time. For instance, a PILOT agreement might provide a declining payment schedule over a 15- or 20-year term, with the rate of decrease more favorable than the statutory 485-b schedule.

Conclusion

IDA incentives and property tax exemptions such as Section 485-b remain powerful tools for developers seeking to overcome the challenges of New York’s high-tax environment. While PILOT agreements can attract some controversy, they are often essential for transforming underutilized parcels into vibrant, income-generating assets. Careful structuring and proactive engagement with IDAs and local taxing jurisdictions are critical to fully realizing these opportunities and ensuring long-term project success.

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