

MANUFACTURING

in Lehman's Terms

Incentives 101: Property Tax Exemption for New or Expanding Businesses



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What a difference a year can make. Last year at this time we were seeing shutdowns and supply chain disruptions from COVID-19 and low commodity prices wreaking havoc on manufacturing. Many operations were doing what they could to keep people employed. While there are still supply chain challenges, manufacturing seems to be very robust again. I am seeing considerable staffing demands and major expansion activity incorporating automation to help mitigate any workforce challenges. As companies go through the expansion justification process, I wanted to point out that North Dakota has some great tax incentives available through the North Dakota Office of the State Tax Commissioner. As there is a lot to go through, I will be covering these over the next few months. For this article, I'm going to cover the Property Tax Exemption for New or Expanding Businesses.

In North Dakota, a new or expanding primary sector business (certified through the North Dakota Department of Commerce), may be granted a property tax exemption (or payments in lieu of taxes or a combination of the two) for up to five years (up to 10 years for agricultural processors or if a project is located on property leased from a government entity). This can be a bit of a process, so it is typically reserved for larger projects.

For your project to qualify, you must be primary sector certified through Commerce. All buildings, structures, or improvements used in, or necessary to, the operation of the project may qualify. The land, however, does not. The project will also not qualify for the exemption if:

1. You have received a tax exemption under tax increment financing (TIF), or
2. the governing body determines the exemption fosters unfair competition or endangers existing businesses.

If your business is planning to apply for the property tax exemption, you will want to be sure to reach out to your local (city, county, or regional) economic development professional and they can help you navigate through the process. Since this program requires local notice and approval, this local resource is likely going to be best suited to assist you. *Keep in mind that the*

application must be made and granted prior to commencement of construction for a new project (or occupation if for an existing structure). The application process is as follows:

1. Fill out the [Application for Property Tax Exemption for New or Expanding Businesses](#) on the website of the North Dakota Office of State Tax Commissioner.
2. File the application with the city or county auditor (if you are outside of the city limits).
3. Project operator must publish two public notices in the official newspaper of the city or county at least one week apart. The last of which must be published at least 15 but, not more than 30 days before the municipality considers the application. An affidavit of publication must be presented to the municipality for proof of publication.
4. Public meeting will be held by the municipality to gather testimony for/against the incentive, after which they will vote on the incentive.
5. If granted, the municipality certifies the incentive by submitting a copy of the application to the North Dakota State Tax Commissioner and county director of tax equalization who would advise the local assessor when the property is taxable or exempt.
6. Political subdivision grantors shall maintain records of any business incentives provided and prepare an annual report to be sent to the North Dakota Department of Commerce.
7. Please keep in mind the political subdivision may revoke or reduce the tax incentive prior to the beginning of the tax year for the following reasons:
 - a. information is inaccurate or untrue,
 - b. property use does not reasonably meet the expectations of the governing body,
 - c. project scope is substantially different than expected by the governing body, and/or
 - d. there has been a change of ownership since the incentive approval.

It should be noted also that instead of taking the exemption, you may negotiate for payments in lieu of property tax for a period of up to 20 years from the project operations start date. While the application for exemption must be made and approved prior to starting the project, payments in lieu of taxes may be approved after construction or occupancy of a structure.

If you have an expansion project on the horizon, please reach out to your local developer to ensure you are going through the proper steps as some of these programs need to be approved and in place prior to starting. For additional information regarding this or other incentives applicable to your manufacturing operation, please feel free to reach out and I will point you in the right direction. If you are considering an expansion or relocating to North Dakota, I would be happy to work with you to make that a reality!

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