



Alabama Department of Revenue

Abatement Booklet

The Tax Incentive Reform Act of 1992 (Section 40-9B-1 et seq., **Code of Alabama 1975**) was enacted to provide tax abatements as an incentive to attract new industries and encourage existing industries to expand in Alabama.

This booklet contains the procedures, forms, and instructions to apply for an abatement of noneducational sales and use taxes, noneducational property taxes, and/or mortgage and recording taxes on industrial development property in accordance with Section 40-9B-1 et seq., **Code of Alabama 1975**.

An abatement may be granted for a new project or a major addition. A new project is any business at which the predominant trade or business activity conducted will constitute an industrial or research enterprise in Alabama. A major addition is an addition to an existing facility in which the addition equals the lesser of thirty (30) percent of the original cost of the existing land, building, and equipment (industrial development property), or \$2,000,000, and at which the predominant trade or business activity conducted will constitute an industrial or research enterprise in Alabama.

For new businesses or major additions to existing businesses to qualify for an abatement of noneducational sales and use taxes, noneducational property taxes, and/or mortgage and recording taxes, the project must be defined as any trade or business described in the 1987 Standard Industrial Classification major groups 20 to 39, inclusive, 50 or 51, Industrial group number 737, or Industry numbers 0724, 4613, 8731, 8733, or 8734.

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About the Abatement Booklet

Procedures – The procedures in this booklet were implemented to assist the private user and the granting authority in taking advantage of the tax abatement incentives statutorily available in Alabama. Each form provided in this booklet can be utilized for any abatement granted by any granting authority (city, county, industrial development board, or industrial development authority).

Frequently Asked Questions List – The frequently asked questions list includes the most commonly asked questions pertaining to the abatement of noneducational sales and use taxes, noneducational property taxes, and mortgage and recording taxes. If you have questions pertaining to abatements, you may call the Alabama Department of Revenue, Commissioner’s Office at (334) 242-1175.

Combined Application for Abatement of Taxes – The Combined Application for Abatement of Taxes has been provided for the private user to apply to the granting authority for an abatement. Instructions have also been included. As complete a listing as possible of property and cost on which an abatement is requested should be submitted with the application in order for a cost/benefit analysis to be made. A copy of the combined application should be submitted to the Alabama Department of Revenue.

Resolution – The generic resolution provided in this booklet contains all the pertinent information to be contained in an abatement resolution and may be used as the actual resolution or modified by the governing body. A copy of the resolution certifying the abatement was granted should be submitted to the Alabama Department of Revenue.

Abatement Agreement – The generic abatement agreement contains all the information that is statutorily required to be set out in an abatement agreement. The generic agreement may be used as the actual abatement agreement or as a basic outline by the governing body. A copy of the executed abatement agreement must be submitted to the Department of Revenue within 90 (ninety) days after an abatement is granted.

Sales and Use Tax Certificate of Exemption Application – The application for sales and use tax certificate of exemption provided in this booklet is for state and state-administered sales and use taxes only. If an abatement is granted in a locality which administers its own sales and use taxes, the applicant should contact the locality to request the necessary forms. For state and state-administered sales and use taxes, this application must be submitted to the Alabama Department of Revenue before a certificate of exemption will be issued.

ADDRESSES AND PHONE NUMBER

All abatement information submitted to the Department should be mailed to:

Alabama Department of Revenue
Attn: Abatement Program Administrator
P.O. Box 327001
Montgomery, AL 36132-7001

To request a copy of the abatement booklet and/or abatement regulations, you may write or call:

Alabama Department of Revenue
P.O. Box 327001
Montgomery, AL 36132-7001
(334) 242-1175

You may also access the abatement booklet from the Department’s Web site – www.ador.state.al.us under Tax Incentives.



State of Alabama Department of Revenue

Montgomery, Alabama 36132
(www.ador.state.al.us)

Procedures For Abatement of Noneducational Sales and Use Taxes, Noneducational Property Taxes, and/or Mortgage and Recording Taxes

1. The private user should determine the site for development. The site must be chosen before an abatement can be granted, because the source of abatement will be dependent upon the location of the site (i.e., what county, city, industrial development authority or board).

2. The private user should apply for an abatement of noneducational sales and use taxes, noneducational property taxes, and/or mortgage and recording taxes on industrial development property to the appropriate granting authority (i.e., county, city, or industrial development authority or board) by petitioning the appropriate authority. To petition, the private user should submit a completed "Combined Application for Abatement of Taxes" (Form CO:CAA) to the appropriate authority. The application should include a list of all real and personal property for which an abatement is requested.

The application for abatement form should be submitted to and approved by the public authority within the time constraints specified below for the applicable taxes:

Sales and Use Tax – Prior to commencing the acquisition, construction, or equipping of the project.

Property Tax – Prior to placing the project in service.

3. The granting of an abatement by the granting authority (i.e., county, city, industrial development authority or board) should be incorporated into a written abatement agreement between the granting authority and the private user. The abatement agreement shall specify the following:

- (a) an estimated amount of each abatement;
- (b) the maximum exemption period for each abatement;
- (c) projections of the amount to be invested, the number of individuals to be employed (initially and in the succeeding three years), and the payroll.
- (d) If the project is for an addition to an existing industrial development property, the agreement should contain information to document that the addition equals the lesser of 30 percent of the original cost of the industrial development property or \$2,000,000.

4. The private user should send a copy of the executed abatement agreement, certified resolution by the public authority, combined application for abatement of taxes (Form CO:CAA), and the original certificate of exemption application (Form ST:EX-A2) to the Department of Revenue at the following address within 90 days after the abatement is granted:

Alabama Department of Revenue
Commissioner's Office
ATTN: Abatement Program Administrator
P. O. Box 327001
Montgomery, AL 36132-7001

Effective August 1, 1998, any contractor or subcontractor who will purchase property to be incorporated into the project may also submit an application for a certificate of exemption with an original signature. Please note, however, that each certificate of exemption will be "project specific". Accordingly, contractors or subcontractors making tax-exempt purchases in conjunction with more than one project for which abatements have been granted shall apply for and obtain a separate certificate of exemption for each project. Each certificate of exemption shall be used only to make tax-exempt purchases for the project specified on the certificate.

In addition to the application for certificate of exemption, a prime contractor must attach written confirmation from the private user that it will be making purchases of tangible personal property to be incorporated into the project. A contractor or subcontractor must attach written confirmation from the private user or the prime contractor. The contractor or subcontractor obtaining the certificate of exemption is responsible for remitting any local educational sales and use tax due on purchases.

5. Once the executed abatement agreement, certified resolution, combined application for abatement of taxes, and all appropriate certificate of exemption application(s) are received by the Department, the Department will issue a certificate of exemption to the private user, as well as to any qualified contractor or subcontractor, for **Sales and Use tax purposes**. The abatement for noneducational sales and use taxes shall start on the date on which the abatement was granted by the granting authority and shall expire on the date of completion of the project.

An abatement applies to all tangible personal property incorporated into the project and purchased after the abatement is granted. Purchases are determined to be made at that moment at which the title to the property passes from the seller to the buyer or when the property is delivered from the seller to the buyer, whichever occurs first. Please note, purchases must be delivered to or purchased within the jurisdiction (i.e. city and/or county) for which the abatement is granted.

Certificate of Exemption:

(a) Once the certificate of exemption is issued, the certificate of exemption will be used to make all purchases of tangible personal property to be incorporated into the project without payment of sales and use tax to the vendor. The certificate holder will not have to file and remit any state sales and use tax returns with respect to the project unless the certificate is used to make a tax-exempt purchase of property which does not qualify for the abatement. For local taxes that are administered by the Department, the certificate holder is required to remit separately that portion of local sales and use taxes which have been earmarked for educational purposes and any local taxes due on purchases which do not qualify for the abatement but were purchased tax-exempt using the exemption certificate.

(b) However, it should be noted that if the site is located in an area which administers its own local sales and use taxes, then the certificate holder would be responsible for coordinating the amount of local abatements and taxes due with the local taxing authority.

(c) The certificate of exemption is effective the date the abatement is granted and will expire on the date of the completion of the project.

(d) In the event it is determined at a subsequent date that the certificate holder has not met all statutory requirements or if any items are purchased with a certificate that do not qualify for abatement, the certificate holder will be liable for all taxes, penalties, and interest that will be due.

6. For **Property tax** purposes, the private user should contact the local county assessing official to claim the abatement for noneducational property taxes. Any real and/or personal property that has been granted an abatement should be claimed between October 1 and December 31, with the local county assessing official. Therefore, to ensure that an industrial or research enterprise receives the proper credit due, a copy of any and all executed abatement agreements in addition to the listing of all abated property (real and/or personal) should be provided to the local county assessing official. Not providing this information to the local county assessing official may delay credit for the abated taxes.

However, the Department of Revenue will supervise the valuation, equalization, and assessment of the abated property. Also, the Department shall review and conduct inspections and investigations of property for which abatements are granted.

If bonds are issued, the abatement shall start on the date bonds are issued to finance any cost of a private use property; else, the abatement shall start on the date the project is placed in service or such date as specified in the executed abatement agreement. An abatement of noneducational property taxes shall not exceed ten years from the date the abatement begins.

In the event it is determined at a subsequent date that the private user has not met all statutory requirements for abatement, the private user will be liable for all taxes, penalties, and interest that will be due.

Frequently Asked Questions

regarding abatement of noneducational sales and use tax, noneducational property tax, and/or mortgage and recording tax

Who do I contact to get an abatement?

Abatements are authorized to be granted by the governing body of a:

- (A) municipality for private use industrial property located within the corporate limits of the municipality or within the police jurisdiction of the municipality,
- (B) county for private use industrial property located in the county and not within a municipality or its police jurisdiction, unless consented to by resolution of the governing body of the municipality, or
- (C) public industrial authority for private use industrial property located within the jurisdiction of the public industrial authority.

What qualifies as a major addition for abatement purposes?

Any addition to a qualifying existing industrial development property that equals the lesser of 30 percent of the original cost of the existing land, building, and equipment (industrial development property), or \$2,000,000.

Sales and Use Tax

When should an abatement of noneducational sales and use taxes be obtained?

An abatement for noneducational sales and use taxes must be granted prior to any purchases being made with regards to the Project.

What is a certificate of exemption?

With regard to abatements, a certificate of exemption is issued to the private user allowing all qualifying purchases for the project to be made without the payment of sales/use taxes to the vendor (in-state or out-of-state). Effective August 1, 1998, any contractor or subcontractor incorporating tangible personal property into the project may also be issued a certificate of exemption and make purchases for the project without the payment of sales/use taxes to the vendor. Each certificate of exemption will be "project specific". Accordingly, contractors or subcontractors making tax-exempt purchases in conjunction with more than one project for which abatements have been granted shall apply for and obtain a separate certificate of exemption for each qualifying project. Each certificate of exemption shall be used only to make tax-exempt purchases for the project specified on the certificate. For purchases of tangible personal property to which the abatement does not apply, the certificate holder should remit the sales/use tax directly to the Alabama Department of Revenue.

How often does the certificate holder have to file sales and use tax returns with regard to the certificate of exemption?

The only time a certificate holder must file a monthly state sales or use tax return is in the event the certificate holder uses the exemption certificate to make tax-exempt purchases that are not qualified for the abatement. With regards to the local sales and use taxes that are administered by the Department, the certificate holder is required to remit monthly local sales and use tax returns for that portion of local sales and use taxes which have been earmarked for educational purposes and local taxes due on property which does not qualify for the abatement but was erroneously purchased tax-exempt using the exemption certificate. For those local sales and use taxes that are not administered by the Department the private user would be responsible for coordinating the amount of local abatements and taxes due with the local taxing authority.

What should a contractor or subcontractor submit to the Department of Revenue to receive a certificate of exemption for their purchases of tangible personal property to be incorporated into an abatement project?

A prime contractor must submit an Application for Sales and Use Tax Certificate of Exemption (Form ST:EX-A2) along with written confirmation from the private user that it will be making purchases of tangible personal property to be incorporated into the private use industrial property for which an abatement has been granted. A subcontractor must submit an Application for Sales and Use Tax Certificate of Exemption along with written confirmation from the private user or the prime contractor that it will be making purchases of tangible personal property to be incorporated into the private use industrial property for which an abatement has been granted.

Property Tax

When should an abatement of noneducational property taxes be applied for?

An abatement of property taxes must be granted prior to the property being placed in service or becoming owned, for federal income tax purposes, by a private user.

How long does an abatement of noneducational property taxes last?

The maximum period of an abatement of noneducational property taxes is ten years. However, the granting authority may grant an abatement for any period less than the ten year maximum.

When does an abatement begin for property tax purposes?

The date on which an abatement of noneducational property tax begins varies. If revenue bonds are issued, the abatement period will begin on the date of the initial issuance of such bonds. If no bonds, are ever issued, the abatement period will begin on the later of 1) the date on which title to the property was acquired by or vested in a county, city, or public authority, or 2) the date on which the property is or becomes owned, for federal income tax purposes, by a private user.

If a business which has an existing abatement is sold, may the new owner then apply for another abatement of noneducational property taxes?

No. However, the new owner is entitled to receive the remainder of the benefits of the existing abatement.

Do revenue bonds have to be issued for the Industrial Development Board to grant the abatement?

No; however, the property must be in the Industrial Development Board's geographical jurisdiction.

Mortgage and Recording Tax

Does the governing body have to be a party to a mortgage, deed, etc. for the private user to claim the abatement of mortgage and recording taxes?

Yes. Pursuant to Section 40-9B-4(d), **Code of Alabama 1975**, mortgages, deeds, and documents must convey "title into or out of" the name of the granting authority in order to receive an abatement. Therefore, it is necessary that the city, county, or public authority be either mortgagor or mortgagee in each mortgage under consideration. If the city, county, or public authority is not a party to a mortgage (or other such document), then that mortgage does not convey title "into or out of" the name of the granting authority and, therefore, does not qualify for an abatement.

What if one company owns the real property (land and/or building) to be used for an industrial or research enterprise and another company owns the equipment and will occupy the facility? Can both companies receive an abatement?

Yes, however, each company must receive an abatement from the granting authority. The company owning the equipment and occupying the facility must have the qualifying SIC code and the company owning the real property (land and building) may also apply to the granting authority for an abatement based upon the qualifying company's SIC code. Note, if at some period during which the abatement is in effect, the real property is no longer used for an industrial or research enterprise business the property becomes fully taxable and the abatement would no longer be in effect. Please note that each company should submit a separate combined application for abatement of taxes with the amounts based upon their investment in the qualifying project.



ALABAMA DEPARTMENT OF REVENUE Application to Local Granting Authority for Abatement of Taxes

Noneducational Sales and Use Taxes, Noneducational Property Taxes, and/or Mortgage and Recording Taxes on Industrial Development Property

This form is to be submitted to the local granting authority for their consideration in granting an abatement of all state and local noneducational property taxes, all construction related transaction (sales and use) taxes, except those local construction related transaction taxes levied for educational purposes or for capital improvements for education, and/or mortgage and recording fees, in accordance with the provisions of Section 40-9B-1 et seq., Code of Alabama 1975.

| | |
|--|---|
| 1. TYPE OF ABATEMENT APPLYING FOR: <input type="checkbox"/> Sales & Use Taxes <input type="checkbox"/> Property Taxes <input type="checkbox"/> Mortgage & Recording Taxes | 2. PROJECT SIC CODE: <table border="1" style="display:inline-table; width:100px; height:20px; vertical-align: middle;"></table> |
|--|---|

3. TYPE OF PROJECT:
 New Project Major Addition To An Existing Facility

4. DOES MAJOR ADDITION EQUAL THE LESSER OF: (CHECK APPLICABLE BOX)
 \$2,000,000 OR 30% of original cost of existing property, original cost \$ _____

5. PROJECT APPLICANT: _____ DBA: _____

6. ADDRESS OF APPLICANT: _____

CITY: _____ STATE: _____ ZIP CODE: _____

| | | |
|----------------------------------|-----------------------------------|----------------------------------|
| 7. NAME OF CONTACT PERSON: _____ | TELEPHONE NUMBER: _____ () | 8. DATE COMPANY ORGANIZED: _____ |
|----------------------------------|-----------------------------------|----------------------------------|

9. PHYSICAL LOCATION OF PROJECT: _____

CITY (IF OUTSIDE CITY LIMITS, PLEASE INDICATE): _____ COUNTY: _____ ZIP CODE: _____

10. BRIEF DESCRIPTION OF PROJECT (PLEASE ATTACH A COMPLETE AND DETAILED LISTING OF PROJECT PROPERTY COSTS TO ENABLE A COST/BENEFIT ANALYSIS BY GRANTING AUTHORITY): _____

| | | |
|---|--|--|
| 11. ESTIMATED DATE CONSTRUCTION WILL BEGIN: _____ | 12. ESTIMATED DATE CONSTRUCTION WILL BE COMPLETED: _____ | 13. ESTIMATED DATE PROPERTY WILL BE PLACED IN SERVICE: _____ |
|---|--|--|

| | |
|---|--|
| 14. HAVE BONDS BEEN ISSUED FOR PROJECT: <input type="checkbox"/> No <input type="checkbox"/> Yes If yes, date bonds issued: _____ | 15. WILL BONDS BE ISSUED FOR PROJECT <input type="checkbox"/> No <input type="checkbox"/> Yes If yes, projected date of issue: _____ |
|---|--|

| 16. ESTIMATED NUMBER OF NEW EMPLOYEES | 17. ESTIMATED ANNUAL PAYROLL OF NEW EMPLOYEES | Estimated Investment for Project | 18. COST OR VALUE FOR PROPERTY TAX | 19. COST SUBJECT TO SALES TAX |
|--|---|--|------------------------------------|-------------------------------|
| INITIALLY | INITIALLY | a. Land (if donated, show market value) | 18a | XXXXXXXXXXXX |
| YEAR 1 | YEAR 1 | b. Existing Building(s) (if any) | 18b | XXXXXXXXXXXX |
| YEAR 2 | YEAR 2 | c. Existing Personal Property (if any) | 18c | XXXXXXXXXXXX |
| YEAR 3 | YEAR 3 | d. New Building(s) and/or New Additions to Existing Building(s) (19d = building materials only) | 18d | 19d |
| This form may be used as the application to the local granting authority required by Section 40-9B-6(a), Code of Alabama 1975. The information requested here is required by Section 40-9B-6 and Section 40-2-11(7), Code of Alabama 1975. | | e. New Manufacturing Machinery | 18e | 19e |
| | | f. Other New Personal Property (non-mfg machinery, office equipment, computers, etc.) | 18f | 19f |
| | | g. TOTALS (PROPERTY TAX TOTAL MUST EQUAL TOTAL PROJECT INVESTMENT. SALES TAX TOTAL WILL BE LESS.) | 18g | 19g |

The abatement of noneducational property taxes is based on the market value of specific assets; therefore, the actual amount of taxes abated is determined each year as the property is assessed and valued. An abatement of noneducational sales and use taxes shall apply only to tangible personal property and taxable services incorporated into private use industrial property, the cost of which may be added to capital account with respect to the property, determined without regard to any rule which permits expenditures properly chargeable to capital account to be treated as current expenses. No abatement of sales and use taxes shall extend beyond the date private use industrial property is placed in service. A verification inspection of qualifying property will be conducted by the Alabama Department of Revenue to insure compliance with Section 40-9B-1 et seq., Code of Alabama 1975, as amended.

I hereby affirm that to the best of my knowledge and belief the information in this application and any accompanying statement, schedules, and other information is true, correct and complete.

| | | |
|--------------------|-------------|------------|
| NAME (PRINT) _____ | TITLE _____ | DATE _____ |
| SIGNATURE _____ | | |

Instructions for Preparing the Application for Abatement of Noneducational Sales and Use Taxes, Noneducational Property Taxes, and/or Mortgage and Recording Taxes on Industrial Development Property

GENERAL INSTRUCTIONS

Chapter 9B, Title 40, Code of Alabama 1975, provides for an abatement of all state and local noneducational property taxes, all construction related transaction taxes (sales and use taxes), except those local construction related transaction taxes levied for educational purposes or for capital improvements for education, and/or all mortgage and recording taxes.

This form is to be submitted to the local granting authority for consideration in granting an abatement of noneducational sales and use taxes, noneducational property taxes, and/or mortgage and recording taxes. **If you have any questions about this form or the abatement of taxes in general, please contact the Alabama Department of Revenue at (334) 242-1175.**

A complete and detailed listing of project costs should be attached to this application in order for the granting authority to make a cost/benefit analysis in accordance with Section 40-9B-6(a).

LINE BY LINE INSTRUCTIONS

Item 1. Indicate which type(s) of abatement(s) being requested.

Sales and Use Taxes – Chapter 9B, Title 40, Code of Alabama 1975, provides for the abatement of certain noneducational sales and use taxes imposed by Chapter 23 of Title 40, Code of Alabama 1975. The abatement applies to the tangible personal property and taxable services incorporated into the project, the cost of which may be added to the capital account with respect to the project. However, only the state and local noneducational sales and use taxes may be abated. No sales and use tax abatement shall extend beyond the date the project is placed in service.

Property Taxes – Chapter 9B, Title 40, Code of Alabama 1975, provides for the abatement of noneducational property taxes imposed by the state, counties, municipalities and other taxing jurisdictions in Alabama. Only industrial property not previously placed in service in Alabama by the user or a related party may be eligible for an abatement of noneducational property taxes.

Mortgage And Recording Taxes – Chapter 9B, Title 40, Code of Alabama 1975, provides for the abatement of all taxes imposed by Chapter 22 of Title 40 of the Code of Alabama 1975, relating to mortgages, deeds, and documents used to issue or secure obligations and convey title into or out of the name of a public authority.

Item 2. Enter the Standard Industrial Classification Code of the project as published by the United States Government Office of Management and Budget. Only projects defined as any trade or business described in the 1987 Standard Industrial Classification (SIC) Major Groups 20 to 39, inclusive, 50 or 51, Industrial Group Number 737, or Industry Numbers 0724, 4613, 8731, 8733, or 8734 shall qualify for an abatement of noneducational sales and use taxes, noneducational property taxes, and/or mortgage and recording taxes, under Section 40-9B-3(6), Code of Alabama 1975.

Item 3. Indicate if project is a new project or a major addition.

New Project – Any business in Alabama at which the predominant trade or business activity conducted will constitute an industrial or research enterprise as defined by the SIC codes in the law. If new project, skip Item 4.

Major Addition – Pursuant to Section 40-9B-3(7), a major addition is an addition to an existing facility in which the addition equals the lesser of thirty (30) percent of the original cost of the existing land, buildings, and equipment (industrial development property), or \$2,000,000, and at which the predominant trade or business activity conducted in Alabama will constitute an industrial or research enterprise as defined by the SIC codes in the law. Capitalized repairs, rebuilds, maintenance, replacement equipment, or cost associated with the renovating or remodeling of existing facilities of industrial development property previously placed in service in Alabama by the Company are not allowed to be abated.

Item 4. Indicate if major addition is in accordance with Section 40-9B-3(7) requirement as denoted above. If major addition does not meet threshold requirement, project is not qualified to receive abatement. Original cost should include the total cost of existing facilities as of the date of application.

Item 5. Enter the name of the private user requesting abatement. If project is doing business under another name, also enter the name of the company under "Doing Business As (DBA)."

Item 6. Enter the address of the private user requesting abatement.

Item 7. Enter the name and telephone number of the person to which all correspondence should be directed regarding the abatement.

Item 8. Enter the date the company was organized.

Item 9. Enter the physical location of the project. Please include a detailed location, including the City, County and Zip Code.

Item 10. Enter a brief description of the project.

Item 11. Enter the estimated date the construction of the project will begin.

Item 12. Enter the estimated date the construction of the project will be completed.

Item 13. Enter the estimated date the project will be placed in service. If revenue bonds are issued, "placed in service," for property tax purposes, is determined as of the date of the initial issuance of such bonds. Otherwise, "placed in service" for sales and use tax and property tax purposes is determined as the later of 1) the date on which title to the property was acquired by or vested in a county, city, or public authority, or 2) the date on which the property is or becomes owned, for federal income tax purposes, by a private user.

Item 14. Indicate if bonds have been issued in financing the project. If bonds have been issued, enter the issuance date. If bonds have not been issued, proceed to Column 16.

Item 15. Indicate if bonds will be issued for financing the project. If bonds will be issued, enter the projected issuance date.

Column 16. Enter the estimated number of new employees to be hired at the project. The law requires the number of employees to be employed at the project initially and in each of the succeeding three years.

Column 17. Enter the estimated annual payroll for employees at the project. The law requires the estimated payroll of new employees initially and in each of the succeeding three years.

Column 18.

18a. Enter all costs or value for project land. If land is donated, enter the market value of the land.

18b. Enter all costs or value for existing building(s), if any.

18c. Enter all costs or value for existing personal property to be incorporated into project. Only personal property not previously placed in service in Alabama by the private user or a related party can be included. If a private user is including existing equipment from outside of Alabama, the existing equipment should be entered here at its original cost.

18d. Enter the total cost for new building(s) and/or new additions to existing building(s). Total cost includes building materials, construction costs, engineering costs, etc. Costs associated with renovating or remodeling existing facilities of an operating industrial or research enterprise do not qualify for abatement.

18e. Enter the total cost for new manufacturing equipment to be incorporated into the project. Replacement equipment does not qualify for abatement. New equipment that is defined as upgraded equipment may qualify. Upgraded equipment is equipment that replaces existing equipment, and performs not only the same functions, but also an additional function.

18f. Enter the total cost for all other new personal property. Other new personal property may include, but is not limited to, non-manufacturing machinery, office equipment, computers, vehicles, etc. Only personal property that is a depreciable item can be included.

18g. Add 18a. through 18f. and enter total here. This is the total amount on which the initial property taxes will be based. This total must be the total value of the cost or investment in the project. This total must agree with the total investment amount in the abatement resolution and the total investment amount in the abatement agreement.

Column 19.

19d. Enter the cost of the building materials (subject to sales tax) that become a part of realty for new building(s) and/or new additions to existing building(s). Other building costs (labor, engineering) are not subject to sales tax.

19e. Enter the cost of new manufacturing equipment for the project. For sales tax purposes, manufacturing equipment is taxed at a lower rate. Equipment that is purchased used from another company in an isolated transaction is not subject to sales tax.

19f. Enter the cost of all other new personal property.

19g. Add 19d. through 19f. and enter total here.

RESOLUTION NUMBER _____

This Resolution is made this _____ day of _____, _____, (the Effective Date)
by the _____ (the Granting Authority),
(City, County, or Industrial Development Board)

to grant a tax abatement for _____ (the Company).

WHEREAS, the Company has announced plans for a (check one):

- new project or major addition to their existing facility (the Project),

located within the jurisdiction of the Granting Authority; and

WHEREAS, pursuant to the Tax Incentive Reform Act of 1992 (Section 40-9B-1 et seq., **Code of Alabama 1975**) (the Act), the Company has requested from the Granting Authority an Abatement of (check all that apply):

- all state and local noneducational property taxes,
- all construction related transaction taxes, except those construction related transaction taxes levied for educational purposes or for capital improvements for education, and/or
- all mortgage and recording taxes; and

WHEREAS, the Company has requested that the abatement of state and local noneducational prop-erty taxes (if applicable) be extended for a period of _____ years, in accordance with the Act; and

WHEREAS, the Granting Authority has considered the request of the Company and the completed applications (copy attached) filed with the Granting Authority by the Company, in connection with its request; and

WHEREAS, the Granting Authority has found the information contained in the Company’s application to be sufficient to permit the Granting Authority to make a reasonable cost/benefit analysis of the proposed project and to determine the economic benefits to the community; and

WHEREAS, the construction of the project will involve a capital investment of \$ _____; and

WHEREAS, the Company is duly qualified to do business in the State of Alabama, and has powers to enter into, and to perform and observe the agreements and covenants on its part contained in the Tax Abatement Agreement; and

WHEREAS, the Granting Authority represents and warrants to the Company that it has power under that constitution and laws of the State of Alabama (including particularly the provisions of the Act) to carry out provisions of the Tax Abatement Agreement;

NOW THEREFORE, be it resolved by the Granting Authority as follows:

Section 1. Approval is hereby given to the application of the Company and abatement is hereby granted of (check all that apply):

- all state and local noneducational property taxes,
- all construction related transaction taxes, except those construction related transaction taxes levied for educational purposes or for capital improvements for education, and/or
- all mortgage and recording taxes

as the same may apply to the fullest extent permitted by the Act. The period of abatement for the noneducational property taxes (if applicable) shall extend for a period of _____ years measured as provided in Section 40-9B-3(8) of the Act.

Section 2. The governing body of the Granting Authority is authorized to enter into an abatement agreement with the Company to provide for the abatement granted in Section 1.

Section 3. A certified copy of this resolution, with the application and abatement agreement, shall be forwarded to the Company to deliver to the appropriate local taxing authorities (if applicable) and to the Alabama Department of Revenue in accordance with the Act.

Section 4. The governing body of the Granting Authority is authorized to take any and all actions necessary or desirable to accomplish the purpose of the foregoing of this resolution.

I hereby certify that the above and foregoing was duly adopted by the _____
(City, County, or Industrial Development Board)

of Alabama at a meeting held on the _____ day of _____, _____.

(Secretary)

Tax Abatement Agreement

This Agreement is made this _____ day of _____, _____, (the Effective Date)
 by and between the _____ (the Granting Authority),
(City, County, or Industrial Development Board)
 and _____ (the Company), its successors and assigns.

WHEREAS, the Company's Standard Industrial Classification Code, _____, meets the qualifications of an industrial or research enterprise in accordance with Section 40-9B-3(6), **Code of Alabama 1975**, as amended.

WHEREAS, the Company has announced plans for a (check one):

- new project or major addition to their existing facility (the Project),

located within the jurisdiction of the Granting Authority; and

WHEREAS, the Project is estimated to be completed by the _____ day of _____, _____; and

WHEREAS, the Project will be located in the County of _____ (check whichever is applicable)

- inside the city limits of _____,
- inside the police jurisdiction of _____,
- outside the city limits and police jurisdiction of the City of _____; and

WHEREAS, pursuant to the Tax Incentive Reform Act of 1992 (Section 40-9B-1 et seq., **Code of Alabama 1975**) (the Act), the Company has requested from the Granting Authority an Abatement of (check all that apply):

- all state and local noneducational property taxes,
- all construction related transaction taxes, except those construction related transaction taxes levied for educational purposes or for capital improvements for education, and/or
- all mortgage and recording taxes; and

WHEREAS, the Granting Authority has considered the request of the Company and the completed applications filed with the Granting Authority by the Company, in connection with its request; and

WHEREAS, the Granting Authority has found the information contained in the Company's application to be sufficient to permit the Granting Authority to make a reasonable cost/benefit analysis of the proposed project and to determine the economic benefits to the community; and

WHEREAS, at its meeting held on the _____ day of _____, _____ (the Meeting), the Granting Authority approved the Company's application for abatement of (check all that apply):

- all state and local noneducational property taxes,
- all construction related transaction taxes, except those construction related transaction taxes levied for educational purposes or for capital improvements for education, and/or
- all mortgage and recording taxes; and

WHEREAS, the Project will consist of private use industrial development property, which is composed of all real and related personal property to be acquired, constructed, and installed thereon, as described in Attachment One hereto; and

WHEREAS, the private use industrial development property for which the abatement is applied shall be (check whichever is applicable):

- owned by the entity applying for the abatement,
- leased from a public authority, municipal, or county government; and

WHEREAS, in the event that the private use industrial development property is leased from a public authority, municipal, or county government, the lessee shall be treated as the owner of such property for federal income tax purposes; and

WHEREAS, it shall be indicated whether the Granting Authority intends to issue bonds in connection with the private use industrial development property herein described, and, if so intends, shall attach a copy of the inducement agreement; and

WHEREAS, for the purposes of abatement of all noneducational property taxes (if applicable), it has been determined that no portion of the Project has been placed in service or operation by the Company or by a related party, as defined in 26 U.S.C. §267, with respect to the Company prior to the Effective Date of this Agreement; and

WHEREAS, for the purposes of the abatement of all construction related transaction taxes (if applicable), no portion of the Project which has been requested for abatement has been purchased prior to the Effective Date of this Agreement; and

WHEREAS, the Project conducts trade or business as described in any of the following 1987 Standard Industrial Classification Major Groups 20 to 39, inclusive, 50 or 51, Industrial Group Number 737, or Industry Numbers 0724, 4613, 8731, 8733, or 8734, as set forth in the Standard Industrial Classification Manual published by the United States Government Office of Management and Budget; and

WHEREAS, if the Project is a major addition to an existing facility, the request for abatement of all state and local noneducational property taxes (if applicable) and/or all construction related transaction taxes (if applicable) does not include any capitalized repairs, rebuilds, maintenance, replacement equipment, or costs associated with the renovating or remodeling of existing facilities of industrial development property previously placed in service by the Company; and

WHEREAS, if the Project is a major addition to an existing facility the addition equals the lesser of (i) thirty (30) percent of the original cost of the industrial development property, or (ii) \$2,000,000; and

WHEREAS, the Company is duly qualified to do business in the State of Alabama, and has powers to enter into, and to perform and observe the agreements and covenants on its part contained in this Agreement; and

WHEREAS, the Granting Authority represents and warrants to the Company (a) that it has power under that constitution and laws of the State of Alabama (including particularly the provisions of the Act) to carry out provisions of this Agreement, (b) that the execution of this Agreement on its behalf has been duly authorized by resolution adopted by the governing body of the Granting Authority;

NOW, THEREFORE, the Granting Authority and the Company, in consideration of the mutual promises and benefits specified herein, hereby agree as follows:

1. In accordance with the Act, the Granting Authority hereby grants to the Company an abatement from liability for the following taxes as permitted by the Act (check all that apply):

(a) Noneducational Property Taxes: all property taxes that are not required to be used for educational purposes or for capital improvements for education;

(b) Construction Related Transaction Taxes: the transaction taxes imposed by Chapter 23 of Title 40 of the **Code of Alabama 1975** on the tangible personal property and taxable services to be incorporated into the Project, the cost of which may be added to capital account with respect to the Project, except for those local construction related transaction taxes levied for educational purposes or for capital improvements for education;

(c) Mortgage and Recording Taxes: all taxes imposed by Chapter 22 of Title 40 of the **Code of Alabama 1975** relating to mortgages, deeds, and documents relating to issuing or securing obligations and conveying title into or out of the Granting Authority with respect to the Project.

2. An estimate of the amount of tax abated pursuant to this Agreement is set forth below. The Granting Authority and the Company hereby acknowledge that this estimate reflects the amount of tax abated for the period stated, under current law, and that the actual abatement for such taxes may be for a greater or lesser amount depending upon the actual amount of such taxes levied during the abatement period as stated. (Check all that apply)

(a) If no bonds are to be issued, noneducational property taxes are expected to be approximately \$_____ per year and the maximum period for such abatement shall be valid for a period of _____ years, beginning with the October 1 lien date next proceeding the acquisition date of abated property.

(b) If bonds are issued, noneducational property taxes are expected to be approximately \$_____ per year and the maximum period for such abatement shall be valid for a period of _____ years, beginning the initial date bonds are issued to finance project.

(c) Construction related transaction taxes, except those construction related transaction taxes levied for educational purposes or for capital improvements for education, are expected to be approximately \$_____ and such abatement shall not extend beyond the date the Project is placed in service.

(d) Mortgage and recording taxes are expected to be approximately \$_____.

3. The Company hereby makes the following good faith projections:

(a) Amount to be invested in the Project: \$_____;

(b) Number of individuals to be employed initially at the Project and in each of the succeeding three years:

Initially _____ Year 1 _____ Year 2 _____ Year 3 _____;

(c) Annual payroll initially at the Project and in each of the succeeding three years:

Initially \$_____ Year 1 \$_____ Year 2 \$_____ Year 3 \$_____;

4. The Company shall file with the Alabama Department of Revenue within 90 days after the date of the Meeting a copy of this agreement as required by Section 40-9B-6(c) of the Act.

GENERALLY

5. Compliance. If the Company fails to comply with any provision in this Agreement or if any of the material statements contained herein or in Attachment Two (*Note: This attachment shall include the application for abatement*), are determined to have been misrepresented whether intentionally, negligently, or otherwise, the Granting Authority shall terminate this Agreement and take such equitable action available to it as if this Agreement had never existed. If it is determined that certain items, which are identified on the application form for abatement of taxes, are not in compliance with the Act or governing regulations, these items may be subject to taxation for all local and state taxing authorities.

6. Binding Agreement. Each party to this Agreement hereby represents and warrants that the person executing this Agreement on behalf of the party is authorized to do so and that this Agreement shall be binding and enforceable when duly executed and delivered by each party. This Agreement shall be binding upon and inure to the benefit of each of the parties and their respective successors.

7. Limitations. Notwithstanding any provision contained herein to the contrary, this Agreement is limited solely to the abatement of (check all that apply):

- all state and local noneducational property taxes,
- all construction related transaction taxes, except those construction related transaction taxes levied for educational purposes or for capital improvements for education, and/or
- all mortgage and recording taxes fees for the periods specified herein. Nothing in this Agreement shall be construed as a waiver by the Company of any greater benefits that the Project or any portion thereof may have available under provisions of the law other than the Act.

8. Severability. This Agreement may be amended or terminated upon mutual consent of the Company and the Granting Authority. Any such amendment or termination shall not in any manner affect the rights and duties by and between the Company and the Granting Authority.

This Agreement is executed as of the dates specified below.

(the Company)

(the Granting Authority)

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____



ALABAMA DEPARTMENT OF REVENUE
SALES, USE & BUSINESS TAX DIVISION

ST: EX-A2
4/01

Application For
Sales and Use Tax Certificate of Exemption

For an Industrial or Research Enterprise Project

This Certificate of Exemption will be limited to purchases which qualify for an abatement of
sales and use taxes pursuant to Code of Alabama 1975, Section 40-9B-1, et seq.

APPLICANT'S LEGAL NAME
FEDERAL EMPLOYER IDENTIFICATION NUMBER (FEIN)

MAILING ADDRESS

CITY, STATE, AND ZIP

ADDRESS OF THE PROJECT SITE

CONTACT PERSON
IF CONTRACTOR APPLICATION, NAME OF PRIVATE USER

BUSINESS PHONE NUMBER
DATE ABATEMENT WAS GRANTED
ESTIMATED PROJECT COMPLETION DATE PER ABATEMENT AGREEMENT

A prime contractor must attach written confirmation from the private user that it will be making
purchases of tangible personal property to be incorporated into the project referenced above. A contractor or subcontractor must attach written confirmation from the private user or the prime contractor
that it will be making purchases of tangible personal property to be incorporated into the project refer-
enced above.

The undersigned hereby makes application for a certificate of exemption (Form STE-2) in accor-
dance with the provisions of Sales and Use Tax Rule 810-6-4-.24 and further agrees to abide by the pro-
cedures outlined in Sales and Use Tax Rule 810-6-4-.24.01.

Name (PLEASE PRINT)

Mail to:

Signature

Alabama Department of Revenue
Attn: Abatement Program Administrator
P. O. Box 327001
Montgomery, AL 36132-7001

Title

(334) 242-1175

Date

