

**RESOLUTION NO. 2022-128**

**A RESOLUTION OF THE POLK COUNTY BOARD  
OF COUNTY COMMISSIONERS ADOPTING  
POLICY GUIDELINES TO BE APPLIED WHEN  
REVIEWING AND CONSIDERING AN  
APPLICATION FOR AN ECONOMIC  
DEVELOPMENT AD VALOREM TAX EXEMPTION;  
PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Board of County Commissioners of Polk County (hereinafter the "BoCC") believes that local government should support economic growth by providing an incentive for employment opportunities that will lead to the improvement of the quality of life of the residents of Polk County and the positive expansion of the economy; and

**WHEREAS**, to this end, the BoCC desires to offer ad valorem tax exemptions to new businesses relocating to Polk County and to expansions of businesses already situated in Polk County; and

**WHEREAS**, the granting of ad valorem tax exemptions to such businesses will provide Polk County with an additional economic development incentive which will enhance the ability of Polk County to be competitive when trying to encourage new business development in Polk County and retain local businesses with planned expansions; and

**WHEREAS**, such exemptions are authorized pursuant to Article VII, Section 3, of the Constitution of the State of Florida and Section 196.1995, Florida Statutes, upon the successful passage of a referendum; and

**WHEREAS**, the electors of Polk County have authorized the granting of ad valorem tax exemptions by the successful passage of a referendum held on November 3, 2020; and

**WHEREAS**, simultaneously with the adoption of this Resolution, Polk County has adopted Ordinance No. 2022-069, the Polk County Economic Development Ad Valorem Tax Exemption Ordinance (hereinafter the "Ordinance") which calls for the adoption of Economic Development AVTE Policy Guidelines by Resolution of the Board.

**NOW THEREFORE, BE IT RESOLVED BY THE POLK COUNTY BOARD OF COUNTY COMMISSIONERS, IN OPEN MEETING DULY ASSEMBLED, THIS 4th DAY OF OCTOBER, 2022, AS FOLLOWS:**

**Section I.** The recitals stated above are true and correct and fully incorporated into the body of this Resolution by reference. Capitalized terms used herein and not otherwise defined shall have the meaning ascribed in the Ordinance.

**Section II.** In considering an application for an economic development ad valorem tax exemption provided for in the Ordinance, the BoCC shall take into account the following factors:

1. Total number of net new jobs to be created by the Applicant;
2. Average annual wage of the new jobs to be created by the Applicant;
3. Capital Investment to be made by the Applicant;
4. Type of business or operation and whether it qualifies as a Target Industry Business, industrial or manufacturing plant, or other business or office space constituting a New Business or an Expansion of an Existing Business as defined herein;
5. Whether the project is located in a Federally Designated Opportunity Zone;
6. Environmental impact of the proposed business or operation;
7. Extent to which the Applicant intends to source its supplies and materials within the County; and
8. Any other economic-related characteristics or criteria deemed necessary or relevant by the Board that promotes the sustainability of economic development within the County.

**Section III.** The Polk County Economic Development Ad Valorem Tax Exemption Policy Guidelines and Application attached hereto as Exhibit "A" and made a part hereof, containing information relating to eligibility, the application process, the approval process, exemption criteria to be applied, and an application form, are hereby approved by the BoCC and adopted as the Economic Development AVTE Policy Guidelines to be applied in consideration of completed applications for an economic development ad valorem tax exemption until such time as they may be amended or modified by Resolution adopted in Regular Session by the BoCC.

**Section IV.** In the event that a Qualified Business which has been granted an Exemption fails to satisfy its projected Capital Investment, Jobs created, or average annual Wage paid as initially stated in its Application, but would qualify for a lesser AVTE Percentage Earned or Years Earned, as described on Exhibit "A", then said Qualified Business may request, one time, that the BoCC amend the company's Exemption to reduce the AVTE Percentage Earned and/or the Years Earned, accordingly. A Qualified Business may also make a one-time request to modify the start date of its Exemption Period. The BoCC may consider any such request and, in its sole discretion, approve the modification of an Exemption by Resolution.

**Section V.** No precedent shall be implied or inferred by the granting or denial of an Exemption. Each Application shall be considered by the Board in its legislative capacity on a case by case basis, after considering the Property Appraiser's report on the Application and the Exemption Criteria. The decision of the Board, in its sole discretion, to not grant an exemption shall not be reviewable by the Value Adjustment Board pursuant to Chapter 194, Florida Statutes.

**Section VI.** This resolution shall take effect on November 6, 2022, and shall supersede and replace Resolution 2013-026 and Resolution 2015-131 from that date forward.

**PASSED AND DULY ADOPTED BY THE POLK COUNTY BOARD OF COUNTY COMMISSIONERS IN REGULAR SESSION THIS 4<sup>th</sup> DAY OF OCTOBER, 2022.**

**ATTEST:**  
**STACY M. BUTTERFIELD, Clerk**

By:   
Deputy Clerk

**POLK COUNTY BOARD OF  
COUNTY COMMISSIONERS**

By:   
Dr. Martha Santiago, Chair



**EXHIBIT "A"**

**Polk County Economic Development Ad Valorem Tax Exemption**

**Policy Guidelines and Application**

*[attached hereto]*





## Polk County Economic Development AD Valorem Tax Exemption (AVTE)

### Policy Guidelines

Determine percentage and duration of exemption by finding where your company fits into each category below and adding the AVTE percentage and years earned.

New or Expanding Polk County Qualified Business		
Capital Investment	AVTE Percentage Earned	Years Earned
\$10-\$24 Million*	10%	3
\$25-\$49 Million	20%	4
\$50-\$74 Million	25%	5
\$75-\$124 Million	30%	6
\$125 Million & Above	40%	6
New Jobs	AVTE Percentage Earned	Years Earned
10-49 Employees*	10%	1
50-99 Employees	20%	1
100-199 Employees	25%	2
200 Employees & Above	30%	3
Wage	AVTE Percentage Earned	Years Earned
115%-124% of County*	10%	1
125%-149% of County	20%	1
150%-199% of County	25%	2
200% of County & Above	30%	3

\*Projects must meet the minimum requirement for each category. Maximum length of exemption allowed is 10 years regardless of the table shown above.

AVTE% \_\_\_\_\_ Years \_\_\_\_\_

+

AVTE% \_\_\_\_\_ Years \_\_\_\_\_

+

AVTE% \_\_\_\_\_ Years \_\_\_\_\_

☐ Project is in a Federally Designated Opportunity Zone (add 10% + 1 year to total AVTE)

=

**Total eligible AVTE benefit:**

AVTE% \_\_\_\_\_ Years \_\_\_\_\_

**Example:** A technology company locating their headquarters in Polk County commits to invest \$30 million in building and equipment. Adding 150 new jobs with average wages exceeding 200% of the County's average wage. Using the charts, we get the following results:

- The CapEx will earn the company a **20% exemption** for a term of **4 years**
- Additionally, 150 jobs would earn the company an additional **25%** and **2 additional years**.
- Lastly, 200% of the average wage would increase the AVTE percent by **30%** and **3 additional years**.

The result of the calculations yield a **75% AVTE for a term of 9 years**.



# POLK COUNTY ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTION (AVTE)

## Application

Chapter 196.1995, Florida Statutes

### GUIDELINES AND APPLICATION

The Polk County Economic Development Ad Valorem Tax Exemption ("Exemption") is an exemption of taxes to encourage quality job growth in targeted high value-added businesses. The Exemption was implemented to support economic growth and enhance the county's ability to be competitive. The Exemption was designed to encourage new business development and retain local business with planned expansions.

**ELIGIBILITY:** The company must satisfy one (1) of the following three (3) criteria:

- 1) Create at least 10 net, new full-time jobs and satisfy at least one of the following:
  - a) Be a Qualified Target Industry (QTI) as defined by Enterprise Florida; or
  - b) Principally engage in manufacturing for sale items of tangible personal property at a fixed location which comprises an industrial or manufacturing plant; OR
- 2) Create at least 25 net, new full-time jobs and have a sales factor, as defined by Section 22.15(5), Florida Statutes, for the facility with respect to which it requests the Exemption less than 0.50 for each year the Exemption is claimed: OR
- 3) Create at least 50 net, new full-time jobs at an office space owned and used by the company newly domiciled in Florida, first beginning operations on a site clearly separate from any other commercial or industrial operation owned by the same business or organization.

**Definition of Full Time Employee:** A full-time employee means a person who is employed by a business that works at least 35 hours per week and is eligible to receive benefits including health benefits, through their employer, subject to any eligible vesting periods.

In addition, the company must:

- 1) Pay an average annual wage that is at least 115% of Polk County's average annual wage (average annual wage includes overtime and bonus; benefits not included. The average annual wage changes annually, January 1st; AND
  - 2) Invest a combined minimum of \$10 million in building(s) (real) and equipment (tangible) property.
- \* **Please note that improvements to real property, or the purchase and placement of equipment, made before an Exemption is granted by ordinance adopted by the PCBoCC will not be eligible for Exemption.**

### APPLICATION PROCESS

- 1) Submit completed applications to:  
Central Florida Development Council via email or to:

Budget and Management Services Director  
Polk County Administration Building  
330 West Church Street  
Bartow, FL 33831

or mail to:

Polk County Board of County Commissioners  
P. O. Box 9005, Drawer CA01  
Attn: Budget & Management Services Director  
Bartow, FL 33831-9005

- 2) The Polk County Budget and Management Services Division will review the application for completeness and will promptly deliver a copy to the Polk County Property Appraiser for review.
- 3) The Property Appraiser's Office and the BoCC will make every effort to expedite the process to meet the applicant's schedule and will take no more than 45 days to evaluate a completed application and forward a report to the BoCC.
- 4) A Public Hearing will be scheduled before the BoCC no later than 45

days upon receipt of the Property Appraiser's report.

- \* No fees will be charged for processing the application or an exemption ordinance adopted by the BoCC.

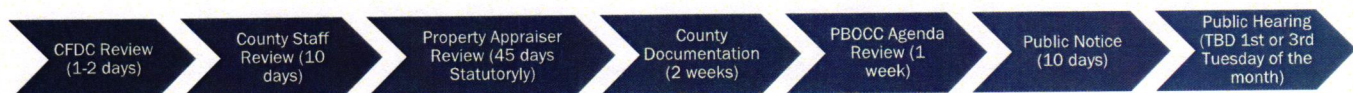
In accordance with Polk County Ordinance No. 2022-##, and Florida Statutes, the following information is required:

- 1) Complete and submit the Department of Revenue Economic Development Ad Valorem Property Tax Exemption Form (DR-418). Please use additional pages whenever necessary to provide complete information.
- 2) Attach the Polk County Application for AVTE along with all necessary documentation showing eligibility for an exemption.
- 3) The application must include a letter of recommendation from the Central Florida Development Council and/or your local economic development council.

### APPROVAL CRITERIA

- In making its determination as to whether to grant an exemption, the BoCC will apply the Exemption criteria, provided that the BoCC in its sole and absolute discretion may deviate from the Exemption criteria when considering applications from high value business that is in the best interest of Polk County
- The applicant agrees to submit to an annual audit and provide an annual renewal statement and an annual report to the Program Administrator on or before March 1 of each year in which the Exemption is granted.

AD Valorem Tax Exemption anticipated timeline for incentive approval process: 75-90 days.



**POLK COUNTY ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTION (AVTE)****Application**

Chapter 196.1995, Florida Statutes

1- Business name		1a- State of Incorporation (i.e., FL, DE, etc.)	
2- Is the applicant requesting confidential treatment of project in accordance with Florida statute 288.075? Y / N			
3- Please provide a description of your project (including internal or external competitive issues impacting the applicant's decision to locate the project in Polk County) use additional pages if necessary.			
3-a Requested start day of exemption period:			
3-b The location is in a (mark those that apply): <input type="checkbox"/> Community Redevelopment Area (CRA) <input type="checkbox"/> Federally Designated Opportunity Zone			
3-c Proposed project's environmental impact:		3-d Extent to which supplies and materials are intended to be sourced within Polk County:	
4- Competitive nature of projects new to Polk County only. Granting an ad valorem tax exemption is contingent upon this answer. Please list other counties or states (include name of city) that the applicant is considering for this project. Other than local expansions, noncompetitive projects will not be considered for an exemption. (Not applicable to local expansions)			
5- Has the applicant or a related firm received ad valorem tax exemptions from Polk County in the past? Y / N			
6- Cost of land and other property not listed on Form DR-418		\$	
7- Type of space:	New construction (Sq Ft)	Expansion (Sq Ft)	Expected date of completion for construction or expansion:
			Leased (Sq Ft)
8- Description of proposed full-time jobs (use additional pages if necessary)			
Proposed major Job functions		Number of Employees	Avg. Weekly Hours
			Proposed avg. Wages
			\$
Total number of proposed jobs			
9- Number of full-time employees used to seek exemption		10- Average wage used to seek exemption	
Legal disclaimer: the undersigned person hereby affirms that all information herein and on Form DR-418 is true to the best of their knowledge.			
Signature		Title	Date
Name		Email address	
Project Name:		Municipality partnering in project (if any):	
Other incentives from county to be utilized by the applicant:		Anticipated public hearing date:	







## General Information

Ad Valorem property tax exemptions can be granted to new and expanding businesses only after the voters of a city and/or county vote in a referendum to allow that city or county to grant exemptions. Section 196.1995, Florida Statutes, requires that a referendum be held if: (1) The Board of County Commissioners or governing authority of a municipality (city or county commission) votes to hold such a referendum, or (2) if the county or city commission receives a petition signed by ten percent of the registered voters of the county or city. This referendum question can then be placed before the voters of a city or county at any regular election or special election called for voting on the tax incentive referendum or for any other purpose.

If the voters authorize exemptions, a company must first meet the definitions of a new or expanding business as stated in s. 196.012 (15) and (16), F.S.

The expansion must be on the same or a collocated site of the business current operations.

If a business meets one of the above definitions as a new or expanding business, it must then file this application with the county or city commission or both.

After the city or county commission receives this application, it must submit the application to the county property appraiser for review. After the property appraiser makes the report as to the fiscal impact of granting the exemption, the county or city commission shall then adopt an ordinance in the usual manner-granting the exemption, if it chooses to do so.

A business cannot receive exemption from school taxes or water management district taxes. Also a business must pay taxes that were voted by the voters of a city or county to pay for bond issues and other special tax levies authorized by the voters of a city or county.

The exemption can only be for the improvements to the real property and for tangible personal property. The land on which the new or expanding business is to be located will still be taxed and taxes must be paid on it.

The action taken by a city or county commission can only exempt the taxes paid to that governmental body. A city can only exempt its taxes; a county can only exempt its taxes. All other taxes must be paid.

## Statutory Definitions

### Section 196.011 Annual application required for exemption. —

(1)(a) Every person or organization who, on January 1, has the legal title to real or personal property, except inventory, which is entitled by law to exemption from taxation as a result of its ownership and use shall, on or before March 1 of each year, file an application for exemption with the county property appraiser, listing and describing the property for which exemption is claimed and certifying its ownership and use. The Department of Revenue shall prescribe the forms upon which the application is made. Failure to make application, when required, on or before March 1 of any year shall constitute a waiver of the exemption privilege for that year, except as provided in subsection (7) or subsection (8).

### Section 196.012(15) and (16), Florida Statutes

(15) "New business" means:

(a)1. A business establishing 10 or more jobs to employ 10 or more full-time employees in this state, which manufactures, processes, compounds, fabricates, or produces for sale items of tangible personal property at a fixed location and which comprises an industrial or manufacturing plant;

2. A business establishing 25 or more jobs to employ 25 or more full-time employees in this state, the sales factor of which, as defined by s.220.15(5), for the facility with respect to which it requests an economic development ad valorem tax exemption is less than 0.50 for each year the exemption is claimed; or

3. An office space in this state owned and used by a corporation newly domiciled in this state; provided such office space houses 50 or more full-time employees of such corporation; provided that such business or office first begins operation on a site clearly separate from any other commercial or industrial operation owned by the same business.

(b) Any business located in an enterprise zone that first begins operation on a site clearly separate from any other commercial or industrial operation owned by the same business.

(c) A new business that is situated on property annexed into a municipality and that, at the time of annexation, is receiving an economic development ad valorem tax exemption from the county under s. 196.1995.

(16) "Expansion of an existing business" means:

(a)1. A business establishing 10 or more jobs to employ 10 or more full-time employees in this state, which manufactures, processes, compounds, fabricates, or produces for sale items of tangible

personal property at a fixed location and which comprises an industrial or manufacturing plant; or

2. A business establishing 25 or more jobs to employ 25 or more full-time employees in this state, the sales factor of which, as defined by s. 220.15(5), for the facility with respect to which it requests an economic development ad valorem tax exemption is less than 0.50 for each year the exemption is claimed; provided that such business increases operation on a site collocated with a commercial or industrial operation owned by the same business, resulting in a net increase in employment of not less than 10 percent or an increase in productive output of not less than 10 percent.

(b) Any business located in an enterprise zone that increases operations on a site collocated with a commercial or industrial operation owned by the same business.

### Section 196.1995 Economic development ad valorem tax exemption. —

(6) With respect to a new business as defined by s. 196.012(15)(c), the municipality annexing the property on which the business is situated may grant an economic development ad valorem tax exemption under this section to that business for a period that will expire upon the expiration of the exemption granted by the county. If the county renews the exemption under subsection (7), the municipality may also extend its exemption. A municipal economic development ad valorem tax exemption granted under this subsection may not extend beyond the duration of the county exemption.

### Section 220.15(5), Florida Statutes.

(5) The sales factor is a fraction the numerator of which is the total sales of the taxpayer in this state during the taxable year or period and the denominator of which is the total sales of the taxpayer everywhere during the taxable year or period.

(a) As used in this subsection, the term "sales" means all gross receipts of the taxpayer except interest, dividends, rents, royalties, and gross receipts from the sale, exchange, maturity, redemption, or other disposition of securities. However:

1. Rental income is included in the term if a significant portion of the taxpayer's business consists of leasing or renting real or tangible personal property; and

2. Royalty income is included in the term if a significant portion of the taxpayer's business consists of dealing in or with the production, exploration, or development of minerals.

(b)1. Sales of tangible personal property occur in this state if the property is delivered or shipped to a purchaser within this state, regardless of the f.o.b. point, other conditions of the sale, or ultimate destination of the property, unless shipment is made via a common or contract carrier.

2. When citrus fruit is delivered by a cooperative for a grower-member, by a grower-member to a cooperative, or by a grower-participant to a Florida processor, the sales factor for the growers for such citrus fruit delivered to such processor shall be the same as the sales factor for the most recent taxable year of that processor. That sales factor, expressed only as a percentage and not in terms of the dollar volume of sales, so as to protect the confidentiality of the sales of the processor, shall be furnished on the request of such a grower promptly after it has been determined for that taxable year.

3. Reimbursement of expenses under an agency contract between a cooperative, a grower-member of a cooperative, or a grower and a processor is not a sale within this state.

(c) Sales of a financial organization, including, but not limited to, banking and savings institutions, investment companies, real estate investment trust, and brokerage companies, occur in this state if derived from:

1. Fees, commissions, or other compensation for financial services rendered within this state;

2. Gross profits from trading in stocks, bonds, or other securities managed within this state;

3. Interest received within this state, other than interest from loans secured by mortgages, deeds of trust, or other liens upon real or tangible personal property located in this state, and dividends received within this state;

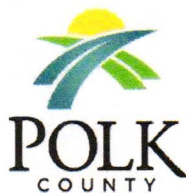
4. Interest charged to customers at places of business maintained within this state for carrying debit balances of margin accounts, without deduction of any costs incurred in carrying such accounts;

5. Interest, fees, commissions, or other charges or gains from loans secured by mortgages, deeds of trust or other liens upon real or tangible personal property located in this state or from installment sale agreements originally executed by a taxpayer or the taxpayer's agent to sell real or tangible personal property located in this state;

6. Rents from real or tangible personal property located in this state; or

7. Any other gross income, including other interest, resulting from the operation as a financial organization within this state.

In computing the amounts under this paragraph, any amount received by a member of an affiliated group (determined under s. 1504(a) of the Internal Revenue code, but without reference to whether any such corporation is an "includable corporation" under s. 1504(b) of the Internal Revenue code) from another member of such group shall be included only to the extent such amount exceeds expenses of the recipient directly related thereto.



Polk County  
Board of County Commissioners

Agenda Item

10/4/2022

**SUBJECT**

PUBLIC HEARING to consider adoption of an ordinance reauthorizing the Polk County Economic Development Ad Valorem Tax Exemption program and a Resolution adopting guidelines to be used in considering exemption applications.

The Board is asked to consider adoption of an ordinance the title of which is:

**AN ORDINANCE OF POLK COUNTY, FLORIDA, REAUTHORIZING AN EXEMPTION FROM CERTAIN AD VALOREM TAXATION FOR CERTAIN NEW BUSINESSES AND EXPANSIONS OF EXISTING BUSINESSES; PROVIDING A SHORT TITLE; PROVIDING FOR ENACTMENT AUTHORITY; PROVIDING FINDINGS OF FACT; PROVIDING FOR DEFINITIONS OF TERMS; PROVIDING FOR ESTABLISHMENT OF ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTION; PROVIDING FOR AN APPLICATION FOR AN EXEMPTION; PROVIDING FOR BOARD CONSIDERATION OF SUCH APPLICATIONS; PROVIDING FOR NO APPLICATION FEES; PROVIDING FOR CONTINUING PERFORMANCE; PROVIDING FOR BOARD REVOCATION OF EXEMPTION; PROVIDING FOR APPLICABILITY; PROVIDING FOR SEVERABILITY; PROVIDING FOR A SUNSET DATE; PROVIDING AN EFFECTIVE DATE.**

Florida's Constitution and Statutes authorize counties to grant ad valorem tax exemptions to qualifying new and expanding businesses under certain circumstances if such exemption program is first approved by voters. The County's current Economic Development Ad Valorem Tax Exemption ordinance (Ord. 13-017, as amended) expires on November 5, 2022. On November 3, 2020, Polk County electors approved a referendum authorizing renewal of the Polk County Economic Development Ad Valorem Tax Exemption program, in accordance with Section 196.1995, Florida Statutes.

To implement the exemptions, the Board must adopt a master ordinance setting out the procedures to be followed in considering and granting such exemptions. If granted, the ordinance provides that Polk County ad valorem taxes for tangible personal property and improvements made to real property by qualifying new and expanding businesses may be exempted up to 100% and for up to ten (10) years. The Ordinance sets out procedures for application by eligible companies and for review of the applications by the County Manager, the Property Appraiser and the Board. It also provides for the Board's adoption, by Resolution, of guidelines to be applied in considering exemption applications. The Board is asked to consider adoption of the Ordinance and, if approved, to adopt the Resolution setting out the guidelines to be applied in considering exemption applications. If adopted, the Ordinance and Resolution will both take effect on November 6, 2022, following expiration of Ord. 13-017, as amended.

**RECOMMENDATION**

(1) Approve and adopt the Polk County Economic Development Ad Valorem Tax Exemption Ordinance; and (2) adopt the Resolution establishing guidelines to be used in considering exemption applications.



**FISCAL IMPACT**

No fiscal impact will be realized by adopting the Ordinance and Resolution. Before an exemption can be granted for a specific business, the Board will be required to adopt an exemption ordinance for that business at which time a fiscal impact will result in the form of a reduction of ad valorem taxes.

**CONTACT INFORMATION**

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Deputy County Attorney  
863-534-6437