

RESOLUTION NO. 1090

STATEMENT OF POLICY AND PROCEDURES  
TAX EXEMPTIONS AND INCENTIVES FOR ECONOMIC DEVELOPMENT

SECTION 1. PURPOSE. The purpose of this policy statement is to establish the official policy and procedures of Atchison County for the granting of tax property tax exemptions and tax incentives for real and personal property used for economic development purposes, in accordance with the provisions of Section 13 of Article 11 of the Constitution of the State of Kansas.

SECTION 2. GENERAL OBJECTIVES. The securing of private economic growth and development and the addition of new jobs within the community are important current and long-term objectives of the County. The granting of property tax exemptions and tax incentives is one of the tools available under Kansas law to help secure these public objectives. This Statement is intended to establish the procedure and policy standards to govern the fair, effective and judicious use of the power to grant such exemptions and tax incentives of the County.

SECTION 3. LEGAL AUTHORITY. The governing bodies of Kansas counties and cities may exempt certain property used for economic development purposes from taxes for a maximum of 10 years, in accordance with the provisions of Section 13 of Article 11 of the Kansas Constitution, subject to such limitations or prohibitions as may be enacted by the legislature that are uniformly applicable to all cities and counties. This authority is discretionary with the County, and the County may provide for tax exemptions-incentives in an amount and for purposes more restrictive than that authorized by the Constitution or any such legislation. Pursuant to its home rule powers, the County may (1) require the owners of any property for which an exemption is requested to provide certain information, (2) condition the granting of an exemption to an agreement providing for the payment of in lieu charges or taxes under the provisions of K.S.A. 12-147 and 12-148, and (3) require the payment of initial application and annual renewal fees reasonably necessary to cover the costs of administration.

SECTION 4. GENERAL PROCEDURE. The following basic procedure shall govern the issuance of tax exemptions-incentives within the County:

- (1) The applicant business shall apply for a tax exemption-incentives by filing a written application as provided in Section 15.
- (2) The County shall then determine whether the requested tax exemption-incentive:
  - (a) may be lawfully granted, and
  - (b) should be granted, with the amount thereof later determined.
- (3) If it is determined that some tax exemption-incentive should be granted, a 100 percent exemption of that property of the business legally eligible for exemption

shall be provided, but subject to an agreement of the business to make an in lieu tax payment as may be required by the County.

- (4) The amount of the tax incentive, which will be an amount less than the taxes otherwise payable if the property were not exempt, will then be determined in accordance with this Statement.
- (5) Upon the failure of the business to fully and timely pay the in lieu tax payments, as may be required as a condition of the granting of an exemption, or to provide reports or other information requested by the County and reasonably necessary for the implementation of this policy, the County may either deny, revoke, or not renew, the authorization of such an exemption.

All requests for a tax exemption-incentive for economic development purposes shall be considered and acted upon in accordance with this statement.

SECTION 5. "TAX INCENTIVE" DEFINED. Various words and terms used in this Statement are defined in Section 28. The terms "tax incentive" or "tax exemption-incentive" shall mean the difference between the amount of ad valorem property taxes the affected business would pay if there were no county granted exemptions and the amount required to be paid as in lieu taxes or charges. For example, if the taxes required with no exemption were \$5,000, and the required in lieu payments were \$3,000, the "tax incentive" would be \$2,000.

SECTION 6. JURISDICTION. The county shall grant tax exempt-incentives as to property located within Atchison County.

SECTION 7. NOMINAL TAX DETERMINATION. All tangible property of a business receiving a tax exemption-incentive under this Statement shall be annually assessed by the county appraiser in the same manner as if it were not exempt, but the amount thereof shall not be placed on the assessment rolls. The amount of the property taxes which should be payable shall also be determined annually by the county clerk and treasurer, in the same manner as if the property were not exempt, but such amount shall not be placed on the tax rolls. Separate assessment and tax calculations shall be made for the land, for the improvements thereon, and for any tangible personal property associated therewith, of the exempt business. The appropriate county officers are requested to provide the County Commissioners with this information as early as possible, but not later than November 15, of each year.

SECTION 8. MAXIMUM PAYMENT IN LIEU OF TAXES. Any applicant receiving a tax exemption-incentive to this Statement shall be required to make a minimum payment in lieu of taxes which equals the amount of property tax which was paid or was payable for the most recent; year on the appraised valuation of the real estate, including either buildings together with land or land only, prior to the construction of new buildings or added improvements to buildings on such property or prior to the acquisition of the property by the new business. The purpose of requiring this minimum in lieu tax payment

taxing jurisdictions affected by the exemption will not receive less tax revenue from the exempted property than was received prior to the exemption. For extraordinary reasons, such as when vacant buildings are acquired for a new business, or when the marked value of the property decreases., this requirement may be waived in part or in whole by the governing body, as provided in section 27.

SECTION 9. SPECIAL ASSESSMENTS. Any tax exemption granted for real property under this statement shall not affect the liability of such property for any special assessments levied or to be levied against such property.

SECTION 10. PIRATING. It shall be the policy of the County to discourage applications for tax exemptions-incentives, or to grant such tax incentives, which deliberately encourage and cause the pirating of business from another Kansas community to this community, or from this community to another Kansas community. It is the intent of the County to avoid participation in "bidding wars" between cities or areas competing for the location of new business or expansion of existing business, through attempts to offer the largest tax incentive or other public inducement, which is detrimental to the state's economy and the public interest.

SECTION 11. APPLICATION OF "BUT-FOR" PRINCIPLE. Any tax exemption-incentive granted by the County shall be subject to the "but-for" principle, i.e., the tax incentive must make such a difference in determining the establishment or expansion of the business that the business would not otherwise be established or expanded in the County but for the availability of the tax incentive. It is the policy of the Board of County Commissioners that private businesses should not be subsidized with public funds, the indirect consequences of tax exemptions-incentives, unless some public good results and the public subsidization can reasonably be expected to make a significant difference in achieving economic growth and development and the creation of new jobs within the County.

SECTION 12. STANDARDS FOR DETERMINING BENEFITS The County will consider granting tax exemptions-incentives only upon a clear and factual showing of direct economic benefit to the County through advancement of its economic development goals, including the creation of additional jobs and the stimulation of additional private investment. The Board of County Commissioners in determining the amount and term of a tax exemptions-incentive to be granted, shall consider various factors including, but not limited to, the following:

- (a) The appraised valuation of the property in relation to the economic benefit to the County of increased employment.
- (b) the gain in tax revenue which may result from the new or expanded business, including the increase in the property tax base upon the expiration of the exemption.
- (c) The contribution that the new or expanded business will make towards increased employment and earnings within the

community.

- (d) The number of new jobs created directly by the business in relation to the amount of tax incentives granted.
- (e) The kinds of jobs created in relation to the type of skills available from the local labor market.
- (f) The utilization by the business of labor skills and abilities of unemployed persons in the community.
- (g) The degree to which the business improves the diversification of the economy of the County and its environs.
- (h) The degree to which the ultimate market for the manufactured products is outside the community, recognizing that outside markets bring in "new money" to the local economy.
- (i) The potential of the business for future expansion and additional job creation.
- (j) The beneficial impacts the business may have by creating other new jobs and businesses, including the utilization of local products or other materials and substances in manufacturing.
- (k) The beneficial economic impact the business will have on a particular area of the County, including designated enterprise zones and areas of needed revitalization or redevelopment.
- (l) The compatibility of the location of the businesses with land use and development plans of the County and the availability of existing infrastructure facilities and essential public services.
- (m) The extent to which additional direct or indirect public costs to the County and to other local units would be necessary, such as the cost of the extension of public facilities.
- (n) The extent to which the economic and employment benefits of the tax incentive accrue to the residents and taxpayers of those taxing subdivisions which indirectly "subsidize" the business as a result of the foregone tax revenue.

#### SECTION 13. NO EXEMPTIONS.

- (1) No tax exemption shall be granted if the exemption would create, in the judgment of the Board of County Commissioners, an unfair advantage for one business over another competing business within the County.
- (2) No tax exemption shall be granted to any business which

- (2) No tax exemption shall be granted to any business which commenced operation in the County prior to the adoption of this resolution nor for the expansion of a business unless such expansion created new employment.

SECTION 14. AMOUNT OF TAX INCENTIVES. The two primary objectives of the County in granting tax exemptions for economic development are to (1) provide needed jobs, and (2) expand the economic and tax base of the County. The County recognizes that a simple system of determining the amount of tax incentives to be granted to reach these objectives may not always be equitable if applied uniformly to different kinds of businesses. As a result, in determining the actual amount of tax incentive granted, the County shall consider the factors and criteria set forth in Section 12 of this Statement. In addition, the County shall consider the following standards:

- (1) A tax exemption-incentive shall be based upon the number of new full-time equivalent jobs created through the use of property which qualifies for the tax exemption-incentive under current Kansas laws and the provisions of Section 12 and Section 13, not to exceed 100% of ad valorem tax. No tax exemption-incentive granted by the County shall affect liability of property for special assessments duly levied to pay for public improvements. The schedule for calculation of an exemption-incentive will be as follows:

First calendar year	\$250.00	per employee.
Second calendar year	250.00	per employee
Third calendar year	200.00	per employee
Fourth calendar year	200.00	per employee
Fifth calendar year	150.00	per employee
Sixth calendar year	150.00	per employee
Seventh calendar year	100.00	per employee
Eighth calendar year	100.00	per employee
Ninth calendar year	50.00	per employee
Tenth calendar year	50.00	per employee.

- (2) "Full-Time Equivalent Job" means employed for 2000 hours per calendar year. In the initial year of operation of a firm, the property of which is granted an exemption from ad valorem taxes, such number of hours shall be prorated based upon the number of full months of operation during such calendar year.

SECTION 15. APPLICATION REQUIRED. The County will not consider the granting of any tax exemption-incentive unless the business submits a full and complete application, and provides such additional information as may be requested by the Board of County Commissioners. The County Clerk is hereby authorized and empowered to prepare a standard application form which, upon completion, will provide the Board of County Commissioners with adequate and sufficient information to determine whether a tax incentive should be granted and the amount

shall be verified by the applicant. Any misstatement of or error in fact may render the application null and void and may be cause for the repeal of any ordinance adopted reliance on said information.

SECTION 16. APPLICATIONS AND RENEWAL FEES. Any business requesting a tax exemption pursuant to this Statement shall pay to the County an application fee of \$250.00, which shall be submitted at the same time the application form required by Section 15 is submitted. In addition, any business which has been granted a tax exemption shall pay an annual renewal fee in the amount of \$100.00.

SECTION 17. INITIAL REVIEW PROCEDURE. On receipt of the completed application form and the required fee, the County Clerk shall determine (a) whether the application is complete and sufficient for review, and (b) whether the applicant business is eligible for an exemption under the Kansas Constitution, this Statement and any other applicable laws. If the application is incomplete, the County Clerk shall immediately notify the applicant, noting the need for such changes or additions as deemed necessary. If questions arise as to whether the business is legally eligible for an exemption, the matter shall be referred to the County Counselor, who shall consult with the applicant business. If the application is found complete, and is for a purpose which appears to be authorized by law, the County Clerk shall so notify the Administrative Review Committee.

SECTION 18. ADMINISTRATIVE REVIEW COMMITTEE. There is hereby created an Administrative Review Committee, which shall be composed of the Board of County Commissioners or other members as follows:

President of the Atchison Chamber of Commerce  
 A member Economic Development Board  
 and a member at large to be selected by the Board of  
 County Commissioners from the County of Atchison.

The purpose of the Administrative Review Committee shall be to receive and review requests and applications for tax exemptions-incentives, to gather and review such additional information as may be deemed necessary, to conduct preliminary information as may be deemed necessary, to conduct preliminary negotiations with the applicant business, and to make such recommendations as deemed advisable to the Board of County Commissioners. Administrative Review Committee records, including applications for tax exemptions, may be withheld from public disclosure under the Kansas Open Records Act as provided for under subsections (20) and (31) and other subsections of K.S.A. Supp. 45-221, but shall be available for public inspection when otherwise required by law.

The committee is authorized to issue administrative letters of intent when requested by the applicant upon a finding that the public interest requires confidentiality in order to successfully negotiate the location of the prospective business with the County or the expansion of an existing business. Such administrative letters of intent shall not be binding on the Board of County Commissioners, and shall be superseded by any final action by the Board of County

Commissioners or by any letter of intent issued by the Board of County Commissioners under Section 21.

SECTION 19. INITIAL COUNTY COMMISSION ACTION. Upon receiving the recommendations of the Administrative Review Committee, the Board of County Commissioners shall first determine whether to reject the requested exemption or to further consider the request. Upon a favorable vote for further consideration, the County Commission shall either (1) issue a letter of intent as provided by Section 21, or (2) schedule a public hearing thereon.

SECTION 20. NOTICE AND HEARING. No tax exemption shall be granted by the County prior to a public hearing thereon, except by waiver of the requirement under Section 27. Notice of the public hearing shall be published at least seven day prior to the hearing in the official county newspaper, giving the time and place, and the hearing may be held at a regular or special meeting of the County Commission. The county clerk shall thereupon notify the Atchison City Commission, the Superintendent of U.S. D. 409, the Superintendent of U.S. D. 377, and the clerk of any other taxing jurisdiction, excluding the state, which derives or could derive property taxes from the affected business, advising them of the scheduled public hearing and inviting their review and comment. Upon request, the County clerk shall provide any such public agency with a copy of the application. The applicant business shall be invited, but not required to attend the public hearing.

SECTION 21. LETTERS OF INTENT. Upon receiving the recommendation of the Administrative Review Committee, the County Commission may issue a letter of intent, setting forth in general terms its proposed plans for granting a tax exemption-incentive and any conditions thereto. Such letters of intent shall be issued only with the approval of the County Commission, and as an expression of good faith intent, but shall not in any way bind the County to the granting of an exemption-incentive. Such letters of intent shall expire six months after issuance, but may be renewed. A public hearing shall not be required prior to the issuance of letters of intent. No elected or appointed officer, employee or committee of the County, and no chamber, board, development council or other public or private body or individual, shall be authorized to speak for and commit the County Commission to the granting of a tax exemption-incentive. Letters of intent issued by the County Commission shall supersede any letters issued by the Administrative Review Committee.

SECTION 22. ANNUAL RENEWAL. The extent and term of any tax exemption-incentive granted shall be subject to annual review and determination by the County Commission to insure that the ownership and use of the property and any other qualifying criteria of the business for the tax exemption-incentive continue to exist. The review shall be completed by not later than February 1 each year. The County may require an annual renewal application to be filed or other information necessary to assure the continued qualification of the exempt business.

SECTION 23. TRANSFER OF OWNERSHIP OR USE. No exemption or tax incentive granted by the County shall be transferred as a result of a change in the majority ownership of the business. Any new owner shall file a new application for a tax exemption-incentive. Further, the County shall be notified by the business of any substantive change in the use of a tax exempt property (see Section 26).

SECTION 24. DISTRIBUTION OF REVENUE. The granting of tax exemptions-incentives by the County is hereby declared to be a contract under the provisions of K.S.A. 12-147. The in lieu of taxes payment which may be required of business granted a tax exemption under this Statement shall be paid to the county treasurer, with notice of the amount and date paid provided to the County. The county treasurer is directed to apportion the payment, under the provisions of subsection (3) of K.S.A. 12-148, to the general fund of all taxing subdivisions, excluding the state, which levy taxes on property where the business is situated. The apportionment shall be based on the relative amount of taxes levied, for any and all purposes, by each of the applicable taxing subdivisions.

SECTION 25. EXEMPTION ORDINANCE. The county clerk shall provide a copy of the ordinance, as published in the official county newspaper, granting an exemption from taxation to the applicant for the use in filing an initial request for tax exemptions as required by K.S.A. 79-213 and by K.S.A. 79-210 for subsequent years.

SECTION 26. EXTRA EXEMPTION FORM. A copy of the exemption applications required by K.S.A. 79-213 and 79-210, and the statement required by K.S.A. 79-214 for the cessation of an exempt use of property, shall be filed with the county clerk by the property owner.

SECTION 27. WAIVER OF STATEMENT REQUIREMENTS. The County Commission reserves the right to grant or not to grant a tax exemption-incentive under circumstances beyond the scope of this Statement, or to waive any procedural requirement. However, no such action or waiver shall be taken or made except upon a finding by the County Commission that a compelling or imperative reason or emergency exists, and that such action or waiver is found and declared to be in the public interest.

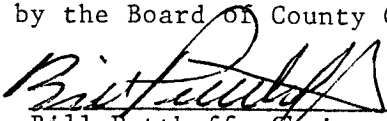
SECTION 28. DEFINITIONS. For the purpose of this Statement, in application to this County, the words or phrases as used in either the Constitution or this Statement shall have meaning or be construed as follows:

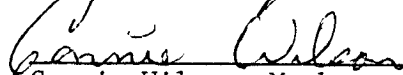
- (a) "Applicant" shall mean and include the business property owner or owners, and their officers, employees and agents.
- (b) "Associated therewith" as used with respect to tangible personal property shall mean being located within, upon or adjacent to buildings or added improvements to buildings.

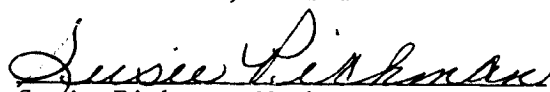


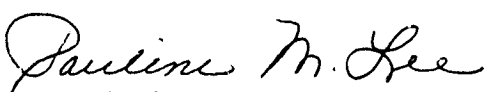
- (c) "Commenced operations" shall mean the start of the business activity housed in the building for which a tax exemption-incentive is requested.
- (d) "Economic Development purposes" shall mean the establishment of a new business or the expansion of an existing business, engaged in manufacturing articles of commerce, conducting research and development, or storing goods or commodities which are sold or traded in interstate commerce, which results in additional employment.
- (e) "Expansion" shall mean the enlargement of a building or buildings, construction of a new building, the addition of tangible personal property, or any combination thereof, which increases the employment capacity of a business eligible for a tax exemption-incentive and which results in the creation of new employment.
- (f) "Manufacturing articles of commerce" shall mean a business engaged in the mechanical or chemical transformation of materials or substances into new products, as defined in the "Standard Industrial Classification Manual."
- (g) "Research and development" shall mean the application of science or technology to the improvement of either a process or manufacturing or manufactured products or both.
- (h) "Storing goods or commodities which are sold or traded in interstate commerce" shall refer to the business of storing property which may be exempt from ad valorem taxation under the provisions of K.S.A. 79-201f.
- (i) "Tangible personal property" shall mean machinery and equipment used during the term of the tax exemption which may be granted.

Approved this 17th day of July, 1991 by the Board of County Commissioners,  
Atchison County, Kansas.

  
Bill Putthoff, Chairman

  
Connie Wilson, Member

  
Susie Pickman, Member

  
Attest: Pauline M. Lee, County Clerk