




Interoffice Memorandum

May 21, 2018

TO: Mayor Teresa Jacobs
-AND-
Board of County Commissioners

FROM: Eric Ushkowitz, Economic Development Administrator 
Office of Economic, Trade and Tourism Development

SUBJECT: **June 5, 2018 – BCC Public Hearing**
Revocation of Economic Development Ad Valorem Tax Exemption
Agreement for Tax Exemption for DaVita Rx, LLC

Article VII, Section 3, of the Florida Constitution, and Section 196.1995, Florida Statutes, authorize the granting of economic development ad valorem tax exemptions to qualifying expansions and expansions of qualifying existing businesses upon the successful passage of a referendum. The electors of Orange County authorized the granting of such exemptions by the successful passage of a referendum held on January 31, 2012. Following the passage of the referendum, this Board enacted Ordinance No. 2012-05, the "Orange County Economic Development Ad Valorem Tax Exemption Ordinance" (ADVTE) to establish a program and appropriate procedures and guidelines for submission of applications for the Board's consideration.

DaVita Rx, LLC (DaVita) submitted an application in 2014 for an exemption for expansion of an existing business to be located at 2252 Commerce Park Drive, Suite 350, Orlando, Florida. On January 28, 2014 the Orange County Board of County Commissioners (BCC) adopted Ordinance No. 2014-02 granting DaVita an economic development ad valorem tax exemption from fifty percent (50%) of the assessed value of all Improvements made by or for the use of DaVita's expansion of an existing business for five (5) years. In DaVita's most recent annual report reflected that the company did not attain certain job creation requirements required by the Exemption Ordinance and the Agreement.

Pursuant to the requirements of the County's ADVTE program, on April 25, 2018, the County notified DaVita that it intended to revoke the exemption effective January 1, 2018.

ACTION REQUESTED: Approval and execution of an Ordinance of Orange County, Florida relating to taxation; revoking the economic development ad valorem tax exemption granted to DaVita RX, LLC by ordinance no. 2014-02; providing an effective date.

EU/tp

ORDINANCE NO. 2018-__

AN ORDINANCE OF ORANGE COUNTY, FLORIDA
RELATING TO TAXATION; REVOKING THE
ECONOMIC DEVELOPMENT AD VALOREM TAX
EXEMPTION GRANTED TO DAVITA RX, LLC BY
ORDINANCE NO. 2014-02; PROVIDING AN EFFECTIVE
DATE.

WHEREAS, Article VII, Section 3, of the Florida Constitution, and Section 196.1995, Florida Statutes, authorize granting of economic development ad valorem tax exemptions to qualifying new businesses and expansions of existing businesses upon the successful passage of a referendum; and

WHEREAS, the electors of Orange County authorized the granting of such exemptions by the successful passage of a referendum held on January 31, 2012; and

WHEREAS, subsequent to the passage of such referendum, on February 2, 2012, the Orange County Board of County Commissioners enacted Ordinance No. 2012-05, entitled the "Orange County Economic Development Ad Valorem Tax Exemption Ordinance" ("Program Ordinance"), to establish a program ("Program") for granting such exemptions from certain ad valorem taxation for qualifying new businesses and expansions of existing businesses and to provide procedures and guidelines for the submissions of applications for the Board's consideration of granting such exemptions; and

WHEREAS, DaVita Rx, LLC, a Delaware limited liability company authorized to conduct business in the state of Florida (the "Company"), submitted an application for an exemption for the expansion of an existing business indicating that its business expansion would result in an economic benefit to Orange County; and

WHEREAS, on January 28, 2014, the Orange County Board of County Commissioners adopted Ordinance No. 2014-02 ("Exemption Ordinance") granting the Company an economic development ad valorem tax exemption from fifty percent (50%) of the assessed value of all Improvements made by or for the use of the Company's Expansion of an Existing Business ("Expanding Business") located at 2252 Commerce Park Drive, Suite 350, Orlando, Orange County, Florida for a period of five (5) years ("Exemption"); and

WHEREAS, the granting of the Exemption was contingent upon the Company's compliance with the terms and conditions of the Exemption Ordinance and of an Economic Development Ad Valorem Tax Exemption Agreement ("Agreement") entered into between the Company and the County; and

WHEREAS, the Company's most recent annual report reflected that the Company did not attain certain job creation requirements required by the Exemption Ordinance and the Agreement; and

48 WHEREAS, the Exemption Ordinance provides that if the Company fails to satisfy the
50 conditions of the Exemption, the Orange County Board of County Commissioners may revoke
the Exemption or take such other action with respect to the Exemption that it deems appropriate;
and

52 WHEREAS, pursuant to the requirements of the Program, on April 25, 2018, the County
54 notified the Company that it intended to revoke the Exemption effective January 1, 2018; and

56 WHEREAS, the Orange County Board of County Commissioners desires to revoke the
Exemption as set forth herein.

58 BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF
ORANGE COUNTY, FLORIDA:

60 *Section 1. Revocation of Economic Development Ad Valorem Tax Exemption.* The
economic development exemption from certain ad valorem taxation granted to DaVita Rx, LLC
62 by Ordinance No. 2014-02 is hereby revoked effective January 1, 2018.

Section 2. Effective date. This ordinance shall become effective as provided by
64 general law.

ADOPTED THIS ____ DAY OF _____, 2018.

66
68 ORANGE COUNTY, FLORIDA
By: Board of County Commissioners

70 By: _____
72 Teresa Jacobs,
County Mayor

74 ATTEST: Phil Diamond, CPA, County Comptroller
As Clerk of the Board of County Commissioners

76 By: _____
78 Deputy Clerk

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**TERMINATION OF ECONOMIC DEVELOPMENT
AD VALOREM TAX EXEMPTION AGREEMENT**

DaVita Rx, LLC
2252 Commerce Park Drive, Suite 350
Orlando, Florida 32819

THIS TERMINATION OF ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTION AGREEMENT ("Termination") is made as of the date of last execution (the "Effective Date"), by and between Orange County, a charter county and political subdivision of the State of Florida ("County"), and DaVita Rx, LLC, a Delaware limited liability company registered to do business in Florida ("Company"). The foregoing entities individually may be referred to as a "Party" or collectively as the "Parties."

WITNESSETH:

WHEREAS, on January 28, 2014, the Orange County Board of County Commissioners ("Board") adopted Ordinance No. 2014-02 ("Exemption Ordinance") granting Company an economic development ad valorem tax exemption from fifty percent (50%) of the assessed value of all Improvements made by or for the use of Company's Expansion of an Existing Business located at 2252 Commerce Park Drive, Suite 350, Orlando, Orange County, Florida for a period of five (5) years ("Exemption"); and

WHEREAS, the granting of the Exemption was contingent upon Company's compliance with the terms and conditions of the Exemption Ordinance and of an Economic Development Ad Valorem Tax Exemption Agreement ("Agreement") entered into between the Company and the County; and

WHEREAS, the Parties entered into the Agreement on January 28, 2014, which set forth the requirements associated with the granting and continuation of Company's exemption, as well as the applicable policies and procedures related to County's program for granting such exemptions; and

WHEREAS, the Company's most recent annual report reflected that the Company did not attain certain job creation requirements required by the Exemption Ordinance and the Agreement; and

WHEREAS, the Exemption Ordinance provides that if the Company fails to satisfy the conditions of the Exemption, the Orange County Board of County Commissioners may revoke the Exemption or take such other action with respect to the Exemption that it deems appropriate; and

WHEREAS, pursuant to the requirements of County's economic development ad valorem tax exemption program, on April 25, 2018, County notified Company that it intended to revoke the Exemption effective January 1, 2018; and

WHEREAS, on June 5, 2018, the Board enacted an Ordinance revoking the Exemption effective January 1, 2018; and

WHEREAS, the Parties mutually desire to terminate the Agreement as set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, the parties hereto agree as follows:

Section 1. Recitals. The foregoing recitals are true and correct and are incorporated herein by reference.

Section 2. Termination of Agreement. The Parties hereby mutually agree to terminate the Economic Development Ad Valorem Tax Exemption Agreement dated January 28, 2014, and the Parties shall have no further rights or obligations under said Agreement.

IN WITNESS WHEREOF, the Parties have caused this Termination to be executed by their duly authorized representatives as of the date of last execution below.

ORANGE COUNTY, FLORIDA
By: Board of County Commissioners

By: _____
Teresa Jacobs, County Mayor

Date: _____

ATTEST: Phil Diamond, CPA, County Comptroller
As Clerk of the Board of County Commissioners

By: _____
Deputy Clerk

Date: _____

DAVITA RX, LLC

By: Pat Harrell
Printed Name: PAT HARRELL

Title: VP of Global Tax

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day of _____, 2018, by _____ (printed name), _____ (title) of DaVita Rx, LLC, a Florida foreign limited liability company, on behalf of the company. He/she is personally known to me or has produced _____ as identification.

Notary Public

Name typed, printed or stamped:

My Commission Expires: _____

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