

INDIANA AUDITORS' ASSOCIATION

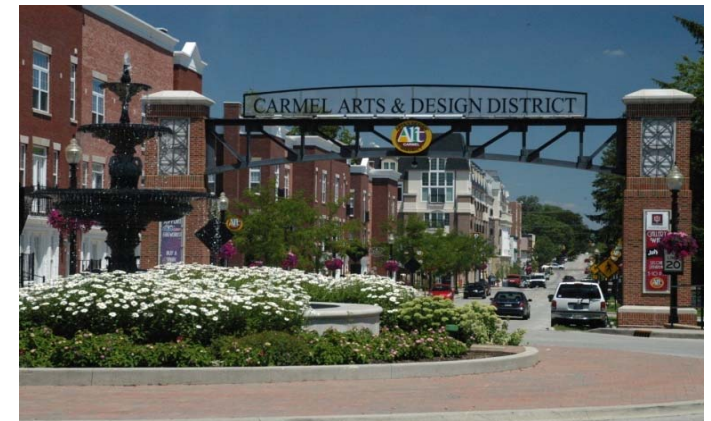
October 25, 2018

TIF: The Beginning, Middle, End and More

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REDEVELOPMENT



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ECONOMIC DEVELOPMENT

Office Parks



Industrial Parks



Alternative Energy Projects



Major Industrial Attraction /Expansion Projects



SPECIAL TAXING DISTRICT

- ❑ Redevelopment district is a “special taxing district” Boundaries of County/City/Town and redevelopment district are coterminous
- ❑ Exception to constitutional debt limit
- ❑ Separate 2% statutory debt limit for RDC
- ❑ IMPORTANT TOOL (marketing bonds)

REDEVELOPMENT COMMISSION

- ❑ Department of Redevelopment created by legislative body
- ❑ Five (counties may elect to have seven) (majority appointed by Commissioners/Mayor/Town Council President, remainder appointed by Council)
- ❑ One year terms; removed without cause by appointing body
- ❑ Subject to open door/public records
- ❑ Commissioners/Mayor/Town Council President appoints one non-voting advisor from School Board of a school corporation located in the District
 - Does not count toward a quorum
 - 2 year term

POWERS (examples from a laundry list; by no means exhaustive)

- Acquire property
- Dispose of property
- Repair, maintain, build structures, etc.
- Contract for local public improvements
- Issue bonds, enter into leases, accept grants / loans, etc.
- “On terms and conditions considered best by Redevelopment Commission”

DUTIES

- Promote use of land that best serves the County/City/Town
- Cooperate with other governmental departments or agencies to best serve County/City/Town
- Investigate, study and combat blight

WHAT IS TIF?

- ❑ Tax increment financing (or "TIF") is a tool which captures increases in assessed value from new development
- ❑ Can always capture increases in real property and, at times, depreciable personal property assessed value (equipment) if a taxpayer is designated as a "Designated Taxpayer"
- ❑ Generally cannot capture increased assessed value resulting from residential property improvements
 - Residential properties assessed as commercial (e.g. apartments) is an exception

PROCEDURES FOR ESTABLISHING AN AREA TO IMPLEMENT TIF

- Executive and legislative bodies appoint members to establish an RDC
- RDC prepares a redevelopment or economic development plan
- RDC adopts Declaratory Resolution, plan, and factual report
- Plan Commission approval** (is plan consistent w/ overall plan of development for community)
- Legislative body approval** of Plan Commission Order

PROCEDURES FOR ESTABLISHING AN AREA TO IMPLEMENT TIF

- Publish notice of public hearing and distribute Impact Statement
- RDC holds public hearing and adopts Confirmatory Resolution
- Legislative body approval** of creation of Area (only for EDA)
- RDC records Resolution, notifies Department of Local Government Finance ("DLGF") and files documents with County Auditor

PROCEDURES FOR AMENDING AN AREA

Generally, the same procedures as establishing TIF Area, as described below:

- RDC prepares an amendment to a redevelopment or economic development plan
- RDC adopts Amending Declaratory Resolution, amended plan, and factual report
- Plan Commission approval
- Legislative body approval of Plan Commission Order

PROCEDURES FOR AMENDING AN AREA

Same procedures for establishing TIF Area, as described below:

- Publish, and if required, mail notice of public hearing
- Distribute Impact Statement, if affecting an allocation provision
- RDC holds public hearing and adopts Amending Confirmatory Resolution
- Legislative body approval (only if expanding EDA)
- RDC records Resolution and files documents with County Auditor and DLGF, if necessary

TIF AND PERSONAL PROPERTY

- ❑ Personal property assessed value is not captured by default and cannot have “blanket” approval
- ❑ Personal property assessed value may only be captured when a RDC designates a “designated taxpayer”
- ❑ RDC must find that the capture of personal property assessed value is necessary to support payment of an obligation
- ❑ Only qualified personal property investments may be captured:
 - Industrial
 - Manufacturing
 - Warehousing
 - R & D
 - Processing
 - Distribution
 - Transportation
- ❑ The taxpayer’s property may not primarily consist of retail, commercial or residential projects

THE TERM OF AN ALLOCATION AREA

Date Alloc. Area Established	Expiration Date
TIF area is established <u>before</u> July 1, 1995.	TIF expires the <u>later</u> of 2025 or following the final maturity of obligations outstanding as of July 1, 2015.
TIF area is established <u>between</u> July 1, 1995 and July 1, 2008.	TIF expires 30 years <u>after</u> the date on which the allocation provision is established.
TIF area is established <u>after</u> July 1, 2008.	TIF expires 25 years after the date the first obligation payable from TIF was incurred.



RDC STATE REPORTING REQUIREMENTS

- ❑ By **April 1** of each year, the Treasurer of the RDC (the fiscal officer of the unit) must prepare a fiscal report for the Redevelopment Commission
- ❑ By **April 15** of each year, the RDC is required to file a report of its activities for the prior calendar year with the executive of the unit and the fiscal body
- ❑ The RDC has an affirmative obligation to notify by **June 15** of each year the county auditor, the fiscal body that created the commission and each taxing unit that is wholly or partly located in the TIF allocation area, and the DLGF in electronic format of its intended capture of incremental assessed value for the following year
- ❑ Auditor's responsibility of TIF "neutralization" by **August 1**

HEA 1242 – 2018 (SS)

- ❑ Bill passed during the May 14, 2018 special legislative session and signed into law
- ❑ Adds new annual requirements of redevelopment commissions:
 - The RDC must hold an annual public meeting that invites the taxing units that overlap with its tax increment allocation areas
 - The governing body of an overlapping taxing unit may request that a member of the RDC appear at its own public meeting
- ❑ The annual RDC meeting must address the following items:
 - The RDC's budget for tax increment revenues
 - The long-term plans for the tax increment allocation area
 - The impact on each of the taxing units
- ❑ State guidance on meeting timing and content requirements is not yet available

HOW TIF IS COLLECTED

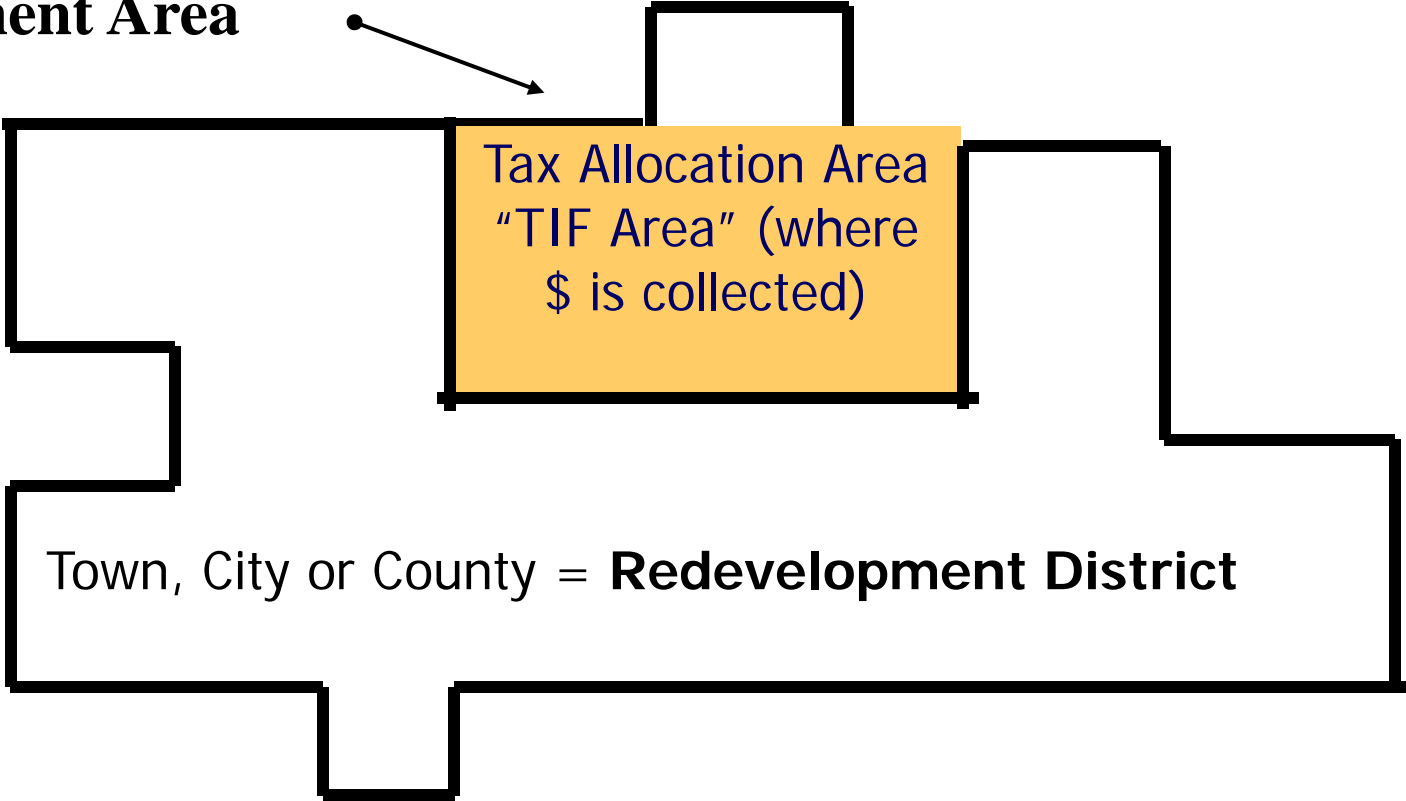
- ❑ A tax increment "allocation area" (or "TIF Area") is created by a Redevelopment Commission (or "RDC") establishing a base assessment date as of the prior January 1 (effective 2016; previously March 1)
- ❑ Existing assessed value cannot be captured. Base assessed value is the existing value as of the base assessment date.
- ❑ **Increases** in assessed value over the base value become incremental assessed value. Declaratory Resolution sets base assessment date to protect overlapping taxing units so that the assessed value that was already existing continues to flow through to the overlapping taxing units.

HOW TIF IS COLLECTED

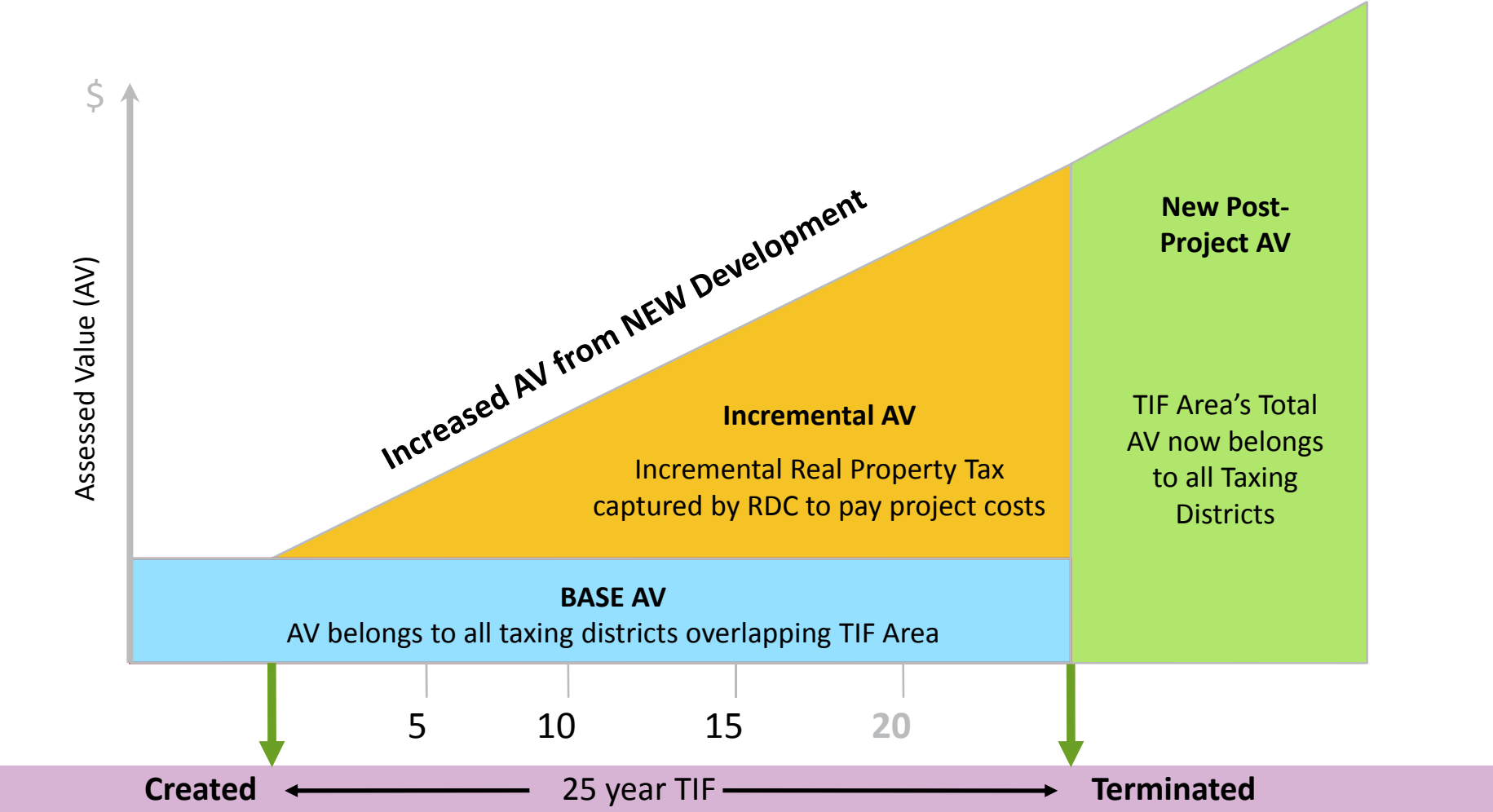
- ❑ Incremental assessed value multiplied by the property tax rate becomes TIF (collection subject to circuit breaker tax caps)
- ❑ The new businesses in a TIF Area still pay property taxes on their new private investment. The incremental taxes are captured to repay bonds or to pay directly for projects. The other taxing units forgo the increase in assessed value only during the term of the TIF Area
- ❑ Gives RDC NO MORE POWER over property/property owners. . . their incremental increase in taxes is captured.

TAX INCREMENT FINANCING (TIF) AREA

**Economic
Development Area**

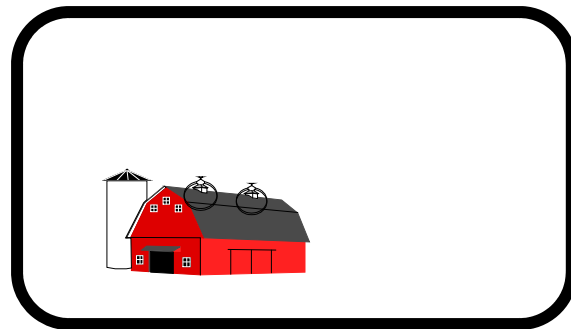


TIF MECHANICS



EXISTING PROPERTY ASSESSED VALUE IS PART OF TAX BASE FOR ALL OVERLAPPING TAXING UNITS

Tax Allocation Area –
Before New Construction

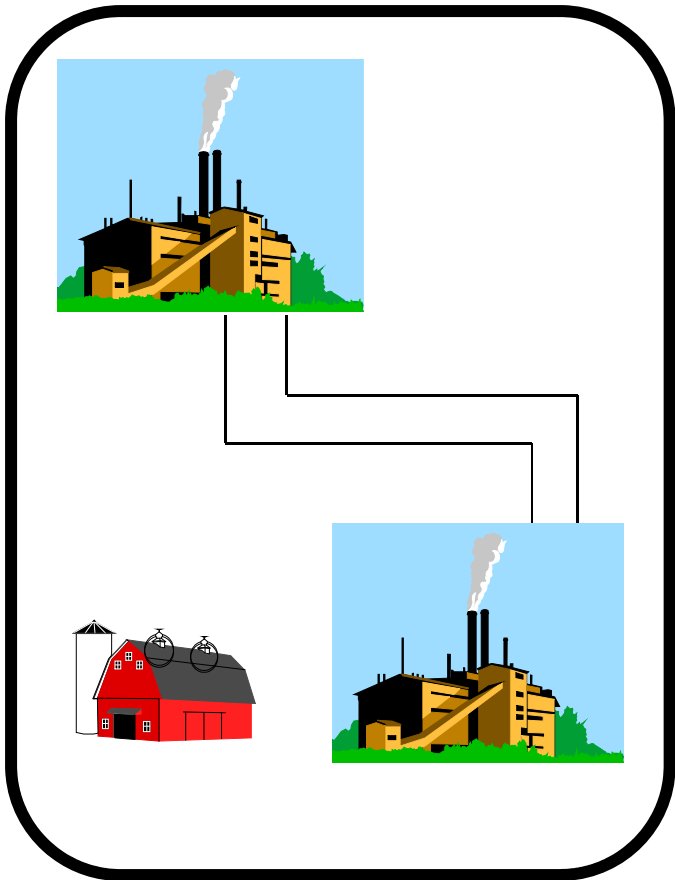


$$\begin{array}{l} \text{Base} \\ \text{NAV} \end{array} \times \begin{array}{l} \text{Tax} \\ \text{Rate} \end{array} = \text{Taxes}$$

- County
- School
- Library
- City

(on January 1 preceding adoption of declaratory resolution)

TIF: CAPTURE REAL AND (SOMETIMES) PERSONAL PROPERTY ASSESSED VALUE GROWTH



Tax Allocation Area – After New Construction

$$\text{Incremental Assessed Value} \times \text{Tax Rate} = \text{TIF Taxes}$$

→
Redevelopment
Commission
Allocation
Fund

$$\text{Base Assessed Value} \times \text{Tax Rate} = \text{Taxes}$$

- County
- School
- Library
- City/Town

TIF BASE NEUTRALIZATION

- ❑ What is it?
 - TIF Base Neutralization is the process of adjusting or “neutralizing” the base assessed value of ***real property*** in an allocation area to account for the effects of annual real property trending/reassessment
- ❑ How is neutralization accomplished?
 - Completion of the TIF Base Neutralization Worksheet
 - Application of the calculated neutralization factor to the base assessed values

TIF BASE NEUTRALIZATION – BEST PRACTICES

- ❑ Track all allocation area amendments and confirm parcels – request parcel lists
- ❑ Monitor allocation areas for parcel splits or combinations
- ❑ Flag parcels with new development, changes in tax status or demolitions
- ❑ Review the neutralization worksheets that are prepared by third parties
- ❑ Following the approval of the neutralization worksheets:
 - After the factor is applied, check the new base and incremental values against those calculated in the worksheet
 - Review any base reallocation for shifts between parcels and/or taxing districts
 - Track incremental assessed values from neutralization through certification, abstract preparation and settlements

USES OF TIF

- Any capital project that is “in, serving or benefitting” (or in some cases - if expenditure of the Unit as opposed to the RDC - "in or physically connected to") an economic development or redevelopment area

EXAMPLES:

- Roads, R.O.W., drainage, rail
- Land acquisition / development
- Buildings / equipment
- Police / fire stations
- Utility improvements
- Educational programs
- Need to be able to make findings to show an economic development or redevelopment purpose
- Fact sensitive analysis: operating expense (not allowed) (i.e. salaries; however, could pay portion of salary that qualifies as "supervisory expenses" of TIF capital projects) or capital expense (allowed)

COMMON WAYS THAT TIF IS USED:

- ❑ Economic Development
- ❑ To offer incentives to induce new private investment
- ❑ Infrastructure Development and Local Improvements
- ❑ To encourage growth in a specific area such as a potential industrial, office or commercial area (ex. Industrial park)
- ❑ To alleviate congestion and to facilitate additional growth in a developing area (ex. Road improvements)
- ❑ To fund improvements to enhance area
 - Examples: Fire stations, police stations

COMMON WAYS THAT TIF IS USED:

- ❑ Redevelopment of Blighted Areas
 - Examples: Rehabilitation of sewers, construct parking facilities or rehabilitate buildings in a downtown area

KEEPING A CLOSE EYE ON HOW YOU SPEND YOUR TIF PROCEEDS

❑ Gray Area – Subject to Interpretation

Various bodies are responsible for interpreting the TIF statutes. Local bodies must analyze their powers, often with the assistance of lawyers. Lawyers may give opinions in certain cases (almost always as to bonds). The SBOA and the DLGF frequently weigh in. The courts are the ultimate arbiters of statutory and constitutional issues if a challenge is raised. Obviously, the legislature can change the law. In many cases, reasonable people can differ as to the issues.

KEEPING A CLOSE EYE ON HOW YOU SPEND YOUR TIF PROCEEDS

- ❑ Reasonable people may also differ as to whether one particular use of TIF is creative or an abuse:
 - Make the appropriate findings in the proceedings of the redevelopment commission, including the resolutions and at the public hearing. The evidence to support those findings should always be in the record of the redevelopment commission. This might include:
 - The determination that a particular project will be in, serving or benefitting the area from which the TIF is generated.
 - The justification for the area through creation of jobs or investment (especially if it is a “field of dreams” TIF.)
 - The determination whether an expense is an “operating expense” of the Commission.

KEEPING A CLOSE EYE ON HOW YOU SPEND YOUR TIF PROCEEDS



- ❑ Players in tracking the expenditure of TIF revenues or bond proceeds may include:
 - The unit's fiscal officer
 - The RDC membership
 - Trustee Bank (formal role in certain bond transactions)
 - Financial Advisor/Municipal Advisor





MONITORING ALLOCATION AREAS

- ❑ Monitor assessed values
 - Changes following certification?
 - Impact on captured or base assessed value?
- ❑ Analyze settlements
 - How does the actual amount compare to estimates?
 - Are there special circumstances impacting settlement?
- ❑ Communication with the establishing entities
 - Composition of the area
 - Assessment issues
 - Area amendments
 - Settlement issues
- ❑ Communication with the Assessor's office
 - Appeals
 - Assessment changes
 - Parcel changes

HOW TIF CAN REDUCE PROPERTY TAX RATES

- ❑ Sometimes, not all incremental assessed value generated is captured and excess value is passed through to the overlapping taxing units
- ❑ After needed improvements are funded and bonds, if any, are retired, the area may be dissolved or expire and new assessed values become part of the tax base of all the overlapping taxing units
- ❑ Assessed value that is not captured is added to the tax base for the overlapping taxing units, and this tax base growth generally places downward pressure on property tax rates

ASSESSED VALUE – TAX RATE CORRELATIONS

- ❑  If assessed value increases,  tax rates decrease
- ❑  If assessed value decreases,  tax rates increase
- ❑ Units @ Max Levy, no additional tax revenue from assessed value growth
(except cumulative funds and circuit breaker change)
- ❑ Decreases in tax rates can reduce the impact of the property tax caps

IMPACT OF TIF

- ❑ TIF does not take away funds from other units
- ❑ TIF *postpones* adding new assessed value to the tax base, which postpones the reduction in tax rates for funds with controlled levies and postpones increased revenues from funds with controlled rates
- ❑ After TIF ends (or if there is surplus pass-through), the increased assessed value is added to the tax base of all the taxing units

WAYS TO LESSEN THE IMPACT ON THE OVERLAPPING TAXING UNITS?

- ❑ Only capture a portion of the TIF
 - Example: Capture 90% of the incremental assessed value and pass through 10% to overlapping taxing units
- ❑ Pass-through Excess TIF Assessed Value
- ❑ Keep the term of the TIF Bonds short or pay the TIF Bonds off early
 - Example: 10 – 15 year bond term; capture 100% of the TIF / no tax abatement; within 10 to 15 years, 100% of the new incremental assessed value will be added to the tax base
 - Issue 20-year Bonds, but pay-off early with surplus TIF; structure bonds for 150% coverage to allow build-up of surplus

DEPLOYING TIF FUNDS



- Cash funding
- Pay-as-you-go
- Reimbursement
- Debt instruments
 - Bonds
 - Leases
 - Other instruments
- TIF dollars (bond proceeds and/or cash) may be used as matching funds for most grants

ISSUES AFFECTING BONDS PAYABLE FROM TIF

- ❑ Taxable vs. tax exempt interest
- ❑ Security for bonds
 - TIF revenues only (usually some sort of backup)
 - Corporate guarantee, letter of credit, or company purchases bonds
 - Local tax backup
 - Property taxes or local income taxes (unusual for private incentive)
- ❑ Consider who bears bond risk, bond marketability, local political support/approval

TYPES OF TIF BONDS

- ❑ **Tax Increment Revenue Bonds** (tax-exempt or taxable)
 - Bonds payable solely from TIF (or can add other revenues)
 - Difficult to market; may add Developer guarantees
 - Need Reserve Fund and extra revenue coverage of debt service
- ❑ **Economic Development Revenue Bonds** (tax-exempt or taxable)
 - Company is responsible to repay bonds; TIF can be pledged to offset Developer payments
- ❑ **Special Taxing District Bonds**
 - Bonds payable from a Special Benefits Tax (SBT), which is a property tax levy on the Redevelopment District; also TIF
 - Counts against 2% statutory debt limit
- ❑ **Lease Bonds**
 - Lease payments from SBT levy, TIF, other revenues
 - Doesn't count against 2% statutory debt limit

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