2014 Legislative Update: Redevelopment Commissions and Tax Increment Financing (TIF)

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General Overview

Tax increment financing is an economic development tool allowing local government to finance the development or redevelopment of designated areas and to attract industrial and commercial development to those areas.

TIF Goals:

- Job Creation
- Wages and Income
- Community Enhancement
- Increased Local Spending
- Build Tax Base
- Economic Diversification

General Overview *(cont.)*

Some purposes of TIF:

- TIF provides for the temporary allocation to redevelopment districts of increased tax proceeds in an allocation area generated by increases in assessed value.

- TIF permits local governments to use increased tax revenues stimulated by development to pay for the capital improvements needed to induce the development.

- Depreciable personal property may be used under certain circumstances.

General Overview *(cont.)*

- A Redevelopment Commission created by a unit may "freeze" the assessed value of property within a given TIF "allocation area" prior to the development or redevelopment of such area.

- The unit continues to receive property taxes attributable to the value of the predevelopment property.

- The unit may utilize the incremental value created by new development or redevelopment within the "allocation area" to pay costs of infrastructure and other capital improvements associated with such development or redevelopment.

General Overview *(cont.)*

Example:

- Redevelopment Commission determines that it will redevelop an area (the "allocation area").
- The assessed value of the allocation area is "frozen" creating the "base assessed value" of the allocation area, *e.g.,* $100,000,000 AV.
- The following year, the assessed value of the allocation area increases, *e.g.,* to $110,000,000 – the amount of increase in assessed value from the base assessed value is the assessed value "increment," in this example $10,000,000.

SB 118 (2014)

On March 26, 2014, Governor Pence signed into law Senate Bill 118 which made significant changes to TIF Districts and the powers of Redevelopment Commissions and Redevelopment Authorities of Indiana.

SB 118 (2014)

- **Legacy TIFs:** Allocation Areas ("TIF Districts") established before July 1, 1995:
  - TIF Districts that were established before July 1, 1995 now expire by the later of June 30, 2025 or the last date of any obligations that are outstanding on July 1, 2015.
  - If TIF obligations are issued before July 1, 2015 in such a TIF District, then that TIF District may extend its term until June 30, 2040 (as current TIF Districts may have terms that expire 25 years after the date of the first principal and interest payment or lease payment is made on such obligations).

SB 118 (2014)

- **“But for” Test** for new TIF Districts:
  - Declaratory Resolutions must now include a finding of fact, supported by evidence, that "but for" the establishment of the TIF District new property taxes would not have been generated.

SB 118 (2014)

- **Excess TIF AV**: Will your RDC capture "excess" assessed value this year?
  - If so, your legislative body now has the power to pass through to underlying taxing units excess assessed value for TIF Districts that generate more than 200% of the excess assessed value necessary to make (i) principal and interest payments on bonds, and (ii) payments and expenses for other purposes.

SB 118 (2014)

- **Legislative Oversight:** Does your legislative body understand its role in working with your Redevelopment Commission?
  - Redevelopment Commissions need to provide supporting information to their legislative bodies and receive legislative body approval in order to establish TIF Districts.
  - Legislative bodies must approve obligations of the Redevelopment Commission, including specific details, powers, privileges and immunities related to the purpose and issuance of such obligations.
  - The budget of the Redevelopment Commission is subject to legislative body review.
  - Redevelopment Commissions and Redevelopment Authorities are subject to State Board of Accounts audit.

SB 118 (2014)

- Does your Redevelopment Commission have projects that require the use of eminent domain?
  - SB 118 removes the ability of Redevelopment Commissions to use eminent domain - such projects will now need to be restructured so that other local governmental units can exercise this power on behalf of the project.

SB 118 (2014)

- **Fiscal Oversight:** Does the fiscal officer understand TIF, your Redevelopment Commission and the projects you are pursing?
  - SB 118 now provides that your fiscal officer is the Treasurer of your Redevelopment Commission.

SB 118 (2014)

- **Reporting:** Does your RDC understand all its reporting requirements?
  - The 2013 General Assembly added new reports to be submitted to the fiscal body and the DLGF.
  - SB 118 also requires, by July 1, the Treasurer of the Redevelopment Commission and Redevelopment Authority submit annual reports to the fiscal body of the governmental unit.

RDC Annual Reporting

By March 15 - RDC Report to Executive & DLGF: prior year activities

1. Municipal RDC Report
   a. Names of the then qualified and acting RDC commissioners,
   b. Names of the officers,
   c. Number of regular employees and their fixed salaries or compensation,
   d. Amount of the expenditures made during the preceding year and general purpose,
   e. Accounting of the TIF revenues expended by any entity receiving the TIF revenues as a grant or loan from the RDC,
   f. Amount of funds on hand at the close of the calendar year, and
   g. Other information necessary to disclose the activities of the RDC and the results obtained.
2. County RDC Report
   a. Same information as the Municipal RDC Report,
   b. Plus, names of any RDC commissioners appointed or removed from office during the preceding year.
3. RDC Reports must be filed with Executive and an electronic copy filed with the DLGF.

RDC Annual Reporting

By July 1 - RDC Treasurer's Report

RDC Treasurer submits annual report to the fiscal body.

SB 367 – RDC info and data to DLGF – Actitives, budget, AV, projects, resolutions, plans and more…

RDC Annual Reporting

By July 15 - Excess Assessed Value Notice

1. RDC determines amount of excess assessed value, after bond payments and expenses.
2. Notice to County Auditor, Fiscal Body, and the officers who are authorized to fix budgets, tax rates, and tax levies of tax units located within allocation area.
3. Notice – Must state amount of AV available or not available; also, 200% test.

RDC Annual Reporting

By August 1 – RDC Report to Fiscal Body:

1. Information for prior year for each TIF District must include:
    a) Revenues received,
    b) Expenses paid,
    c) Fund balances,
    d) Amount and maturity date for all outstanding obligations,
    e) Amount paid on outstanding obligations, and
    f) A list of all parcels included in each TIF District allocation area and the base AV and incremental AV for each parcel on the list.

RDC Annual Reporting

By October 1 – Fiscal Body Report to DLGF

Fiscal body shall compile the reports received for all TIF Districts and submit a comprehensive report to the DLGF in the form required by the DLGF.

Age Restricted Housing Programs – HEA 1359 (2013)

1. Allows RDC to establish a program for age-restricted housing that satisfies the requirements of the federal Housing for Older Persons Act.
2. The program must be approved by the municipal legislative body or county executive.
3. Before submission of the program to the RDC, the Department of Redevelopment:
   a. Shall consult with persons interested in or affected by the proposed program, and
   b. Shall hold public meetings in the areas affected by the proposed program.
4. Findings –
   a. The program cannot be accomplished by regulatory processes or by the ordinary operation of private enterprise because of:
      i. the lack of public improvements,
      ii. the existence of improvements or conditions that lower the value of the land below that of nearby land, or
      iii. other similar conditions.
   b. The public health and welfare will be benefited by the program.
   c. The accomplishment of the program will be measured by:
      i. an increase in the property tax base,
      ii. encouraging an age-diverse population in the unit, or
      iii. other similar public benefits.
   d. The program will encourage older residents to locate or relocate to the unit.
   e. The program will not increase the school-age population.
5. All of the RDC rights and powers may be exercised to implement a program for age-restricted housing, however, the RDC cannot exercise power of eminent domain.

TIF Neutralization and Abatement – HEA 1116 (2013)

1. An adjustment to the base AV of a TIF allocation area: (1) may not include the effect of the phase in of AV due to property tax abatements, and (2) may decrease base AV only to the extent that AV in the allocation area have been decreased due to annual adjustments or the reassessment under a reassessment plan.
2. AV increases due to abatement may not be included in the base AV of an allocation area.

Housing TIFs – HEA 1270 (2013)

Increases from 150 acres to 300 acres the total area that may be included in a Housing TIF.

Maximizing the Benefits of TIF Projects with Tax Units & Taxpayers

- Pass-thru Excess TIF Assessed Value

- Only capture a portion of the TIF
  - Example: Capture 90% of the incremental assessed value and pass through 10% to overlapping taxing units.

- Keep the Term of the TIF Bonds short
  - 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.

- Pay-off TIF Bonds early
  - Example: Issue 20-year Bonds, but pay-off early with surplus TIF; structure bonds for 150% coverage to allow build-up of surplus.

- Communicate Purpose and Value of TIF

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TO: **Counties, Cities and Towns, and Redevelopment Commissions**

FROM: **Courtney Schaafsma, Budget Division Director**

RE: **TIF Data Collection for Department Report**

DATE: **June 5, 2014**

On March 26, 2014, Governor Mike Pence signed into law Senate Enrolled Act 118 ("SEA 118") and Senate Enrolled Act 367 ("SEA 367"). Together, these bills implemented a non-Indiana Code provision that requires the Department of Local Government Finance ("Department") to prepare a report on redevelopment during the 2014 legislative interim. This report is to be provided to the Legislative Services Agency prior to October 1, 2014, for further distribution to the appropriate study committee as determined by the legislative council.

SEA 118 and SEA 367 require the following information to be contained in the Department's report:

1) The activities of each redevelopment commission, authority, and department throughout Indiana, including projects proposed and projects completed.
2) The budgets for 2009 through 2013 for each redevelopment commission, authority, and department, including a summary of these budgets.
3) The audit findings for 2009 through 2013 for each redevelopment commission, authority, and department audited by the State Board of Accounts, including a summary of these audits.
4) The actual increase in assessed values in redevelopment areas compared to the estimated increases set forth in the respective redevelopment plans.
5) The actual increases in assessed values in redevelopment areas compared to the increase in assessed values outside redevelopment areas.
6) Suggested changes in the law with regard to redevelopment commissions, authorities, and departments.

While the Department will make every effort to gather information that is readily available to it in compiling this report, the Department will also need each redevelopment commission, authority, or department to provide certain information in order for the Department to prepare an accurate and complete report. This memo provides information on the requested data to be submitted by each redevelopment commission, authority, or department

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Thank you…

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