ECONOMIC DEVELOPMENT COALITION OF SOUTHWEST INDIANA

TAX INCREMENT FINANCING

In a tax increment financing, a redevelopment commission or redevelopment authority issues bonds payable directly or indirectly from property taxes attributable to the increase in assessed value of the property within a specified area. Typically, the proceeds from the bonds are applied to acquire, construct, renovate or equip facilities which are projected to increase the assessed value of the area by an amount that will generate property taxes sufficient to pay debt service on the bonds.

Tax increment financing is available for:

Land acquisition
Clearance of blighted areas
Construction of local public improvements

Permissible Uses of TIF Revenues

Indiana Code generally permits TIF revenues to be used for property rights acquired by the Redevelopment Commission in furtherance of redevelopment or economic development purposes that serve or benefit the allocation area generating the TIF revenues, or to pay debt service on bonds or lease payments used to finance such property.

Where the TIF is to be used to reimburse the unit's expenditures or to pay debt service on bonds or leases of the unit, then the project being financed with the TIF revenues must be physically connected to the allocation area. Redevelopment Commissions may spend up to 15% of their annual TIF revenues for educational or worker retraining programs. (Indiana Code 36-7-25-7.)

Paying the costs of an eligible efficiency project within the unit. "Eligible efficiency project" is defined in 36-9-41-1.5 as "a project necessary or useful to carrying out an interlocal cooperation agreement entered into by two (2) or more political subdivisions or governmental entities under IC 36-1-7; or (2) a project necessary or useful to the consolidation of local government services.")

Under regulations issued by the Department of Local Government Finance, a Redevelopment Commission may in some cases be able to use TIF to pay the salary of staff to the extent that the employee's services relate to a particular project in the allocation area and the Redevelopment Commission carefully records and documents the employee's services relating to such project.

TIF revenues may not be used for the operation expenses of the Redevelopment Commission.

TIF revenues may be used to pay for professional services relating to the allocation area, such as legal or accounting costs.

Depreciable Personal Property TIF.

Most TIF districts collect TIF only on real property. However, a Redevelopment Commission may designate taxpayers owning property within the TIF allocation as "designated taxpayers" for purposes of capturing TIF revenues on depreciable personal property. To do so, the Redevelopment Commission must make the following findings:

- taxes to be derived from the depreciable personal property in the allocation area, in excess of the taxes attributable to the base assessed value of that personal property, are needed to pay debt service or to provide security for bonds issued under section 25.1 of the Act or to make payments or to provide security on leases payable under section 25.2 of the Act in order to provide local public improvements for the allocation area;

- the taxpayer's property in the allocation area will consist primarily of industrial, manufacturing, warehousing, research and development, processing, distribution, or transportation related projects; and the taxpayer's property in the allocation area will not consist primarily of retail, commercial, or residential projects. Personal property TIF may be more significant than real property TIF in some TIF districts.

Limit on Term of TIF District

Effective January 1, 2010, the 25-year limit (imposed in 2008) on the term of a new TIF allocation area established after June 30, 2008, was modified to provide that the 25-year clock does not begin to tick until debt that is secured by TIF is incurred. TIF allocation areas created before July 1, 2008, have a thirty-year maximum term starting with the date of creation, except for TIF allocation areas created before July 1, 1995 (so - called "legacy TIF Districts"), which have no term limit. However, under Senate Enrolled Act 118, effective July 1, 2014, legacy TIF districts (with the sole exception of the Consolidated Allocation Area in Indianapolis) will have a statutorily imposed termination date of the later of (a) June 30, 2025, or (b) the final maturity date of obligations payable from the TIF District that are issued by July 1, 2015. Presumably, the new termination date for legacy TIF Districts would apply only to the portion of the TIF District created before July 1, 1995, and not to any expansions that occurred after June 30, 1995. Expansions that occurred after June 30, 1995, should keep their existing termination dates. Such termination dates are tied to when the portion of the TIF district was created, as follows:

Date of Creation of TIF District Portion: Maximum Term of TIF District Portion
July 1, 1995 through June 30, 2008 - 30 years
July 1, 2008 through Dec. 31, 2009 - 25 years
Jan. 1, 2010 or later - 25 years after debt is issued and the first principal payment or lease payment is scheduled to be paid from TIF.

Since TIF obligations issued under current law may not have a final maturity date longer than 25 years after their date of issuance, the practical effect of the legislation will be to limit the term of legacy TIF Districts to not later than June 30, 2040.

Source: Thomas Pitman, Barnes & Thornburg, LLP