

Center for Community & Economic Development



Tax Incremental Finance Law (TIF) of Wisconsin for Cities and Villages

by Joe Moskal

Center for Community Economic Development
University of Wisconsin-Extension

2/16/05

Introduction

What is TIF and how is it intended to work?

What kind of Economic Development Projects are permitted?

How is a TIF district created?

How is a TIF District Terminated?

Potential Benefits of using TIF

Potential Risks of using TIF

Assessing Your Municipality's Readiness to use TIF

For Further Information

Developer Funded Tax Incremental Financing (Not covered in this fact sheet: This is an article that appeared in *Wisconsin Lawyer*, May, 2006)

The purpose of this fact sheet is to help elected and appointed local government officials and economic development professionals better understand one economic development tool, tax incremental financing. Tax incremental finance is a financial tool that can be used to promote tax base expansion and job creation. It is targeted toward geographic areas that have become blighted, or are in need of rehabilitation or conservation work, or to promote industrial development or "mixed-use" development in areas which are experiencing declining value.

The focus is on the law in its present form, noting changes that became effective October 1, 2004. This sheet provides a general overview of TIF, not a detailed "how to do it" step-by-step manual. That information may be obtained from the [Wisconsin Department of Revenue](#).

This fact sheet addresses the following major topics:

- What is TIF and how is it intended to work?
- What kind of economic development projects are permitted?
- How are TIF districts created and terminated?
- What are the potential benefits and risks associated with TIF?
- How do you assess your readiness to use TIF?

Center For Community and Economic Development, University of Wisconsin-Extension
610 Langdon Street, Madison, WI 53703-1104

PH: (608) 265-8136; FAX: (608) 263-4999; TTY: (800) 947-3529; <http://www.uwex.edu/ces/cced>

An EEO/Affirmative Action Employer, UW-Extension Provides equal opportunities in employment and programming, including Title IX and ADA requirements.

What is TIF and how is it intended to work?

Local officials can encourage private development by making publicly funded improvements such as demolition, sewer, roads, curb and gutter. This option is expensive, however, and can discourage local officials from taking action-especially since the overlying taxing jurisdictions (school district, county and technical college) would not bear any redevelopment costs, yet would share in the expanded tax base.

State lawmakers saw this situation as inequitable to local taxpayers and counterproductive to redevelopment efforts. With TIF, the overlying taxing jurisdictions become involved in helping to pay development costs in partnership with the city or village.

In essence, the municipality makes the expenditures to promote development/ redevelopment in an area where development would not likely otherwise occur. Any resulting private development increases the tax base. The other taxing jurisdictions agree to forego the increase in property tax revenues so that the city or village can use it exclusively to repay the costs of public improvements. If everything works out well, development/redevelopment occurs, resulting in increased tax base and jobs; the local municipality recoups the cost of their investment; and thereafter, all taxing jurisdictions share the tax base. This is the theoretical basis of TIF.

What kind of Economic Development Projects are permitted?

Economic development is the process that communities engage in for the purposes of creating wealth through increasing jobs and income. There are several strategies that communities can use for their economic development efforts. TIF is particularly suited for two of these strategies; 1) attract new businesses to the community and 2) help retain and expand existing businesses.

Keep in mind that TIF is a solution to encourage development in blighted areas-those that are otherwise unlikely to develop/redevelop. The [Tax Incremental Law, 66.1105](#) describes blighted area to mean any of the following:

- a. An area, including a slum area, in which the structures, buildings or improvements, which by reason of dilapidation, deterioration, age or obsolescence, inadequate provision for ventilation, light, air, sanitation, or open spaces, high density of population and overcrowding, or the existence of condition which endanger life or property by fire and other causes, or any combination of these factors is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, or crime, and is detrimental to the public health, safety, morals or welfare.
- b. An area which is predominantly open and which consists primarily of an abandoned highway corridor (blight elimination and slum clearance), as defined in s. 66.1333 (2m) (a) or that consists of land upon which buildings or deterioration of structures or of site improvements, or otherwise, substantially impairs or arrests the sound growth of the community.

Blighted area does not include:

Predominantly open land area that has been developed only for agricultural purposes, commonly called “Greenfield” development.

A city or village must establish a properly approved “project plan” for the development or redevelopment of a tax incremental district. (See PE-215 [Tax Incremental Financing Common Language Guidelines for Project Plans](#)). A variety of project costs are permitted as legitimate public expenditures by the municipality. Examples of these are Capital, financing, real property assembly, professional service, administrative, relocation, organization, portion of public works costs. For more examples of project costs see [Tax Incremental Law, 66.1105](#) (pages 1-2).

A municipality cannot use TIF to help pay for several specific project costs; examples include costs for constructing or expanding admin buildings, general government operating expenses or cash grants with exceptions.

Expenditure Periods/Maximum Life of TID (effective October 1, 2004)		
	<u>Expenditure period</u>	<u>Maximum Life</u>
- Expenditure period for all new and existing TID’s is 5 years prior to the unextended termination date		
• TID’s created prior to October 1, 1995-	22 years**	27 years
• Prior to October 1, 1995 and before October 1, 2004 Blight or Rehabilitation-	22 years	27/31 years*
• Industrial TID’s created between October 1, 1995 and before October 1, 2004-	18 years**	23 years
• Blight or Rehabilitation TID’s created after October 1, 2004	22 years	27/30 years*
• Industrial or mixed use TID’s created after October 1, 2004	15 years	20/23 years*
- DOR must be notified of extension at least one year prior to termination		
* With Joint Review Board Approval		
** Expenditure period extension may require Mandate Relief Waivers		

How is a TIF district created?

When a Tax Incremental District (TID) is [created](#), the municipality and other taxing entities agree to support their normal operation from the existing tax base within the district. A finding must be made that no development would happen without this financing tool. (This is a critical provision of the TIF law, sometimes referred to as the “but for” provision. See Wisconsin Statute section 66.1105 for details.) If this is true, tax rates for the school district, county, technical college and municipality are based on the taxable value of the TID at the

time it is created and that value is the basis for taxes for the life of the TID. These rates are then applied to the TID value increment that results in additional revenues collected for the district's designated TIF fund.

Equalized Value Test (effective October 1, 2004)

- A municipality may create a TID provided the equalized value (EV) of the proposed TID plus the increment value of all existing TIDs may not exceed 12% of the municipality's total EV.
- The EV calculation is based on the most current EV reported prior to the date the TID resolution is approved by the governing body.

When a city or village creates a TID, it applies to the WI Department of Revenue for determination of property values within the district. This is known as the base value. As long as the TID exists the Department determines its equalized value as of January 1 each year. This is called the current value. The difference between the base value and the current value is the value increment. The value increment is used to determine the amount of tax increment revenue that can be collected for that particular year.

Types of Districts

- A minimum of 50%, by area, of the real property within a TID must be blighted; in need of rehabilitation or conservation or suitable for industrial sites, or mixed-use development.
- "Mixed Use Development": 50% of the land within the TID must be suitable for at least two of the following uses – industrial, commercial or residential. (Note: the new platted residential portion is limited to no more than 35% of the area of the TID.)
- If a TID is not exclusively "blighted", "in need of rehabilitation", "industrial" or "mixed use", then its classification shall be based on the predominant classification.
- Only industrial TID districts can have more than 25% vacant land in TID (if TID land has been standing vacant for at least 7 years.)

There are two methods for creating a TID:

Combined Hearing Method-The project plan and the boundary hearings are combined into a single public hearing. This method is less complicated from the standpoint of publishing notices and notifying affected taxing entities. Some people prefer this because it allows for the project, its costs and appropriate geographic boundaries to be considered all at once.

Separate Hearing Method

This method is less popular than the combined hearing method because the steps before the project plan and boundary public hearings need to be repeated, which makes the project more

complex and likely to take longer. But basically, the actions are the same using either method. And a specific sequence of steps must be followed by the municipality. (The WI Department of Revenue has a detailed, step-by-step outline of procedures, [Time-line for Creating TIF Districts](#), 11/04 (PE-221))

Amendments to a TID (effective October 1, 2004)

3 types: Project plan, Allocation and Territory amendments

- Project plan and allocation amendments are allowed numerous times based on approval of the other taxing jurisdictions.
- Districts are allowed four boundary amendments
 - applies to existing as well as new TIDs
 - can amend anytime during existence of the TID
 - may add or subtract territory
 - subtractions cannot make TID non-contiguous
 - project expenditure period remains the same
 - must not exceed 12% value limitations

The local planning commission is charged with preparing the project plan proposal.

How is a TIF District Terminated?

A tax incremental district terminates when the earlier of the following occurs:

- That time when the city or village has received aggregate tax increments from the district in an amount equal to the total of all project costs under the project plan. In this case, the tax revenues generated from the increased tax base within the district have “repaid” the municipality’s financial investments to spur development.
- That time when a deadline is reached, even if the municipality has not received enough aggregate tax increments to cover all project costs under the project plan. After a TID is created, a time limitation goes into effect that sets a maximum lifetime for the district to recoup the public investment. Generally, this is a period of 27 years. However, there is a range of deadlines that can reduce or increase the lifetime of a TID. This variability is influenced by several factors, including date of TID creation, amendments to the original project plan, and requests for project extension. (These details are covered under [WI state statues 66.1105](#).(7)) The municipality becomes financially liable for all unpaid project costs actually incurred should the TID’s deadline expire.

In either case, the municipality that created the TID must notify the Department of Revenue within 60 days of termination of the district and submit a final accounting of all expenditures. Total amount of project costs, if any, not paid for with tax increments that become obligations of the city after the district was terminated.

Upon termination of a TID, all tax increment value is added to the overall equalized value of the municipality. The result is a higher tax base for all the overlying taxing jurisdictions to share from that point on.

Potential Benefits of using TIF

A well planned and executed TIF project has many possible benefits to capture; these include:

- a broader tax base for the municipality, school district, technical college and county to share.
- the elimination or reduction of blighted areas
- the rehabilitation of areas declining in value
- the creation of new jobs and income
- a partnership for economic development between the municipality, school district, technical college and county

This last point is particularly significant in light of the Wisconsin “[Smart Growth](#)” law. This law requires that towns, villages, cities and counties engage in a process called comprehensive planning. This is a very specialized approach to planning that sets forth goals, policies and guidelines intended to direct the present and future physical, social and economic development in a specific community and its adjoining neighbors. Comprehensive planning attempts to integrate issues such as housing, transportation, utilities and community facilities, agricultural, natural and cultural resources, land use intergovernmental cooperation and economic development together.

Communities are expected to establish written economic development plans that include specific strategies and actions for implementation. This planning phase is a good place to be discussing the potential use of TIF as an economic development financing tool for achieving identified goals.

Potential Risks of using TIF

The biggest risk associated with TIF is financial. If the development/redevelopment does not happen as anticipated, the project revenue will not materialize. When project revenues are lower than expected and expenditures are not met, a deficit occurs. If this deficit continues so that the TIF district cannot meet its obligations within its maximum life, the municipality becomes liable for all unpaid costs. Any municipality creating a TIF district must be willing to accept the possibility that it may not produce the desired results. For this reason, it is important to plan the district in a realistic way, with a clear plan and sense of feasibility.

There are political risks associated with TIF as well. Keep in mind that a partnership between the municipality, school district, technical college and county is required to use TIF. The partners need to know enough about the law, the proposed project, their responsibilities and each other’s expectations if they hope to function effectively. Council must be dedicated to carrying out the original project plan for close to 20 years. There are a great many stakeholders who are likely to be affected by the project or who can affect the project. These affects can be both positive and negative. If one or more key stakeholders is affected

negatively or feels threatened by the project, the project could run into real trouble, impacting its feasibility.

Some of the key stakeholders to keep in mind may include the city or village, assessor, manager/clerk, economic development committee/organization, TIF Joint Review Board, planning commission, local school/technical college boards, county board, city/village council/board, businesses in or adjacent to the proposed TIF district and local residents (who will be paying the project costs).

Assessing Your Municipality's Readiness to use TIF

The use of TIF as an economic development financing tool is not appropriate for every city and village. It is technically complicated and time consuming to learn how to use. Getting positive results is not guaranteed. Awareness, skill and patience are required. So what needs to be taken into consideration before deciding to use TIF? Here are some key factors to discuss.

- If the community has a comprehensive plan in place (sometimes referred to as a master plan) or if it's working on one, what does the economic development plan element call for? What is the community trying to accomplish? What economic development strategies are being used? There are three strategies that TIF may be appropriate for.

-Attract new basic employers to the community

Any prospective firm will need an existing structure or a site to build on.

-Improve the efficiency of existing firms in order to retain and help them expand

Are their facilities adequate to serve their customers?

-Encourage new business formation/creation

If you're actively supporting start-up businesses, how adequate are the existing buildings and public infrastructure? Will new structures need to be built?

- If TIF appears to be worth pursuing, who is going to take responsibility for leading or managing the project at the local level? Here is where the issue of using a consultant becomes relevant. A consultant will be necessary if 1) you don't know enough about TIF to handle the project with internal resources, or 2) if you don't want to handle many of the planning and feasibility tasks needed to create a project plan.

- Does a cooperative environment for supporting economic development exist? This is a critical characteristic needed for involving multiple stakeholders who work together, rather than on an individual basis. It is an inclusive activity that encourages and supports participation from the private sector, elected and appointed local officials and community volunteers. Building this environment requires an ongoing investment in local capacity building through a combination of community development processes and effective leadership and management skills. The use of TIF requires a partnership between a variety of stakeholders who are willing and able to work together.

For more information, see “[A Guide to Wisconsin’s Tax Increment Law](#)”

For further information contact the Department of Revenue, Bureau of Property Tax, Equalization Section (tif@dor.wi.state.us) :

[Judie Gibbon](#) (608) 266-5708

[Susan Plakus](#) (608) 261-5335

[Joshua Dukelow](#) (608) 266-5516