



Tax Increment Financing (TIF)

General Overview

June 2016

History

2007 Legislation (“The Act”):

- Replaced the original TIF Legislation from 2000
- Provides a method for accessing State tax revenues for eligible projects throughout the Commonwealth
- Requires local government participation in the project
- Codified in:
 - KRS 65.7041 to 65.7083 (Local participation)
 - KRS 154.30-010 to 154.30-090 (State participation)

Concept

- The Act allows a city or county to create a TIF district (“local development area” or “development area”) and use the increase in future taxes (“incremental revenues”) generated within the TIF district to support development within the area.
- Incremental revenues are the net tax revenues pledged to the area or project, determined by subtracting the “old revenues” (annual amount of taxes generated within the area prior to the creation of the TIF district) from the “new revenues” (annual amount of taxes generated within the area after activation of the TIF).
- When a TIF district is established, the “old revenues” or “baseline” is determined by calculating the tax revenues from within the area for the last calendar year before the effective date (“commencement date”) of the TIF ordinance and agreement.

Impact on Taxes and Property

- TIF does not change the way property or businesses are taxed, or how taxes are collected.
- TIF does not create any tax exemptions.
- TIF does not create any restrictions on property within the TIF district.
- TIF is simply a way to capture the incremental increase in future tax collections created by new development, and to use a portion of those taxes to promote development within the TIF district.

Use of TIF Revenues

- Incremental revenues may be used to promote one or more projects within a development area.
- Pledged incremental revenues may be used to pay for eligible costs, including reimbursing eligible costs advanced by a developer, as incremental revenues are generated.
- Local incremental revenues generated within a development area may be used to pay for “project” costs and/or “redevelopment assistance” within the development area. Redevelopment assistance is defined broadly and includes services to the development area, in addition to capital investments.
- Note: for projects eligible for a pledge of State participation, the use of State incremental revenues is primarily limited to paying for public infrastructure costs.

State Taxes Eligible to be Pledged

- Generally, up to 80% of the following State taxes are eligible to be pledged, depending on the State TIF program:
 - Ad Valorem (real property) tax
 - Sales tax
 - Individual Income (withholding) tax
 - Corporate / LLET tax
- State incremental revenues may be pledged for up to 30 years, depending on the State TIF program

Local Taxes Eligible to be Pledged

- Up to 100% of a city's and/or county's incremental real estate taxes and/or occupational license fees – commonly 80%.
- Up to 100% of incremental real estate taxes from special districts (excluding school districts and fire districts) – commonly 80%.
- Local incremental revenues may be pledged for up to 20 years, or if there is State participation, a longer term not to exceed the end of the State agreement.

TIF Ordinance and Agreement

- A city or county must establish a TIF district by ordinance:
 - Establishes boundaries; approves the participation agreement; approves the development plan (required for development areas); designates the agency to administer and implement the TIF ordinance; makes certain required findings.
- As part of the establishment of the TIF district, the participating local taxing districts agree to a pledge of incremental revenues and execute a local participation agreement or a local area development agreement depending upon the type of TIF district.
- No taxing district may act to affect another taxing district's tax revenues as each taxing district must affirmatively vote to participate.
- In the pledge agreement, the amount of the pledge of incremental revenues may differ among the participating taxing districts.

Activation of TIF

- After a TIF district is established, the incremental revenues are held by the local government in a special fund until the TIF is “activated”, which should be within two years of the establishment of the TIF district, but no more than four year from its establishment.
- This time lag between the establishment of a TIF and the activation of the TIF allows time for a developer or local government to implement the development plan and substantially complete construction on the project/s within the TIF district.
- This in turn allows the full term of the TIF agreement, once the project/s is complete, to recover the eligible costs expended on the project/s.

Development Area Conditions

- Except for certain mixed-use projects, the area must meet two of the following conditions:
 - Substantial loss of residential, commercial or industrial activity or use
 - 40% or more of households are low income
 - 50% or more of structures are deteriorated or deteriorating
 - Substantial abandonment of residential, commercial, or industrial structures
 - Substantial presence of environmentally contaminated land
 - Inadequate public improvements or substantial deterioration of public infrastructure
 - Any combination of factors that substantially impairs or arrests the economic development of the city or county: ... due to the development area's present condition and use

State Participation Programs

- After the establishment of a **development area** TIF district, specific projects may qualify for a pledge of State incremental revenues under one of the three state participation programs as follows:
 - Commonwealth Participation Program for Real Property Ad Valorem Tax Revenues (Real Property Tax Program)
 - Commonwealth Participation program for Mixed-Use Redevelopment in Blighted Urban Area (Mixed-Use Program)
 - Signature Project Program

Mixed-Use Program

- Area must meet 3 of 7 requirements of blight
- Project must have a minimum capital investment between \$20M - \$200M
- Must represent new economic activity for the State
- Net State tax impact must be determined by independent consultant
- Must be a mixed-use project (2 or more uses)
- No one retail establishment may exceed 20k square feet
- Must include pedestrian amenities and public spaces
- 80% of full gamut of State incremental revenues (sales, income, corporate, property) may be pledged for up to a 20 year period to pay for:
 - Up to 100% of approved public infrastructure costs
 - Up to 100% of expenses for land preparation, demolition, and clearance necessary for the development to occur
- Projects have been approved for this program across the state (Louisville, Lexington, Ft. Mitchell, Owensboro, others)

Application for State Participation

- Applications for any of the 3 State participation programs must be submitted on the required application form to the Cabinet for Economic Development.
- State applications cannot be submitted until all local approvals have been granted.
- State assistance must be approved by the Kentucky Economic Development Finance Authority – KEDFA.
- Approval of Mixed-Use and Signature Project applications will require an independent financial study to be conducted.
- State will not permit recovery of State incremental revenues for project costs incurred before preliminary approval by KEDFA.
- Full process for final State approval will take approximately 9 – 12 months
- For Mixed-Use and Signature Project programs, out of pocket fees and expenses to the State generally run \$75,000 to \$100,000.

Tax Incentive Agreement

- The pledge of State revenues, the use of the revenues, the approved footprint, the capital costs approved for recovery, and the conditions for release of the pledged revenues will be set forth in a “tax incentive agreement” between KEDFA and the City.
- State incremental revenues may not be released until the minimum capital investment for the respective State program has been achieved.
- If the minimum capital investment is not achieved by a certain date, the State pledge will be terminated.

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