Wisconsin Department of Revenue

# Tax Incremental Financing Manual

*(R. 11-20)*

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# I. General Background

## A. Tax Incremental Financing (TIF) Definition

### 1. TIF basic function

TIF is a financing option that allows a municipality (town, village or city) to fund infrastructure and other improvements, through property tax revenue on newly developed property. A municipality identifies an area, the Tax Incremental District (TID), as appropriate for a certain type of development. The municipality identifies projects to encourage and facilitate the desired development. Then as property values rise, the municipality uses the property tax paid on that development to pay for the projects. After the project costs are paid, the municipality closes the TID. The municipality, schools, county, and technical college are able to levy taxes on the value of the new development.

TIF use varies depending on the project and the municipality. In some cases, the municipality chooses an area it would like to develop or that is unlikely to develop without assistance. Then the municipality designs improvements (ex: roads, sidewalks, sewer systems) to attract growth. In other cases, a developer or company identifies a site where they might locate. A developer may also negotiate with the municipality to use TIF to fund some improvements (ex: demolition, soil clean up, roads, water) the developer needs. Either way, an area facing development challenges receives help to grow. This creates a larger tax base for the municipality and the overlying taxing jurisdictions (ex: schools, county, technical colleges). Generally, when the tax base grows and spending is stable, tax rates go down, decreasing property taxes for everyone.

**Important**

One key basis for the use of TIF is the "but for" requirement. As part of all creation resolutions, a municipality must affirm that the development would not happen "but for" the use of TIF. The municipality must believe that without TIF the development would never happen. This requirement is important to ensure TIF assists development projects needing help, but that it is not a gift of tax dollars to private developers or property owners. Review Considerations for the Municipality for more information.

### 2. TIF law background

Wisconsin adopted TIF legislation in 1975 to eliminate blighted areas in urban neighborhoods. Interest rates were high, making government borrowing expensive and municipal investment in infrastructure and redevelopment unattractive. In addition, the cost was high for redeveloping blighted areas compared to developing open areas. This was due to demolition, alteration, remodeling or repairing existing buildings, removing environmental contamination from soil or groundwater, or other site work. Before TIF law was enacted, if a municipality wanted to expand its local tax base, the municipality alone would pay the cost but the overlying taxing jurisdictions would also benefit from the growth. The legislature saw this situation as unfair and viewed TIF as a way to remedy the problem and encourage cooperation between local government.

Since TIF law was first adopted, changes have been made to expand the ways municipalities can use TIF and increase the involvement of the overlying taxing jurisdictions and local residents.

The chart below shows the law reference and creation year. Review Summary of TIF Law Changes for recent changes.

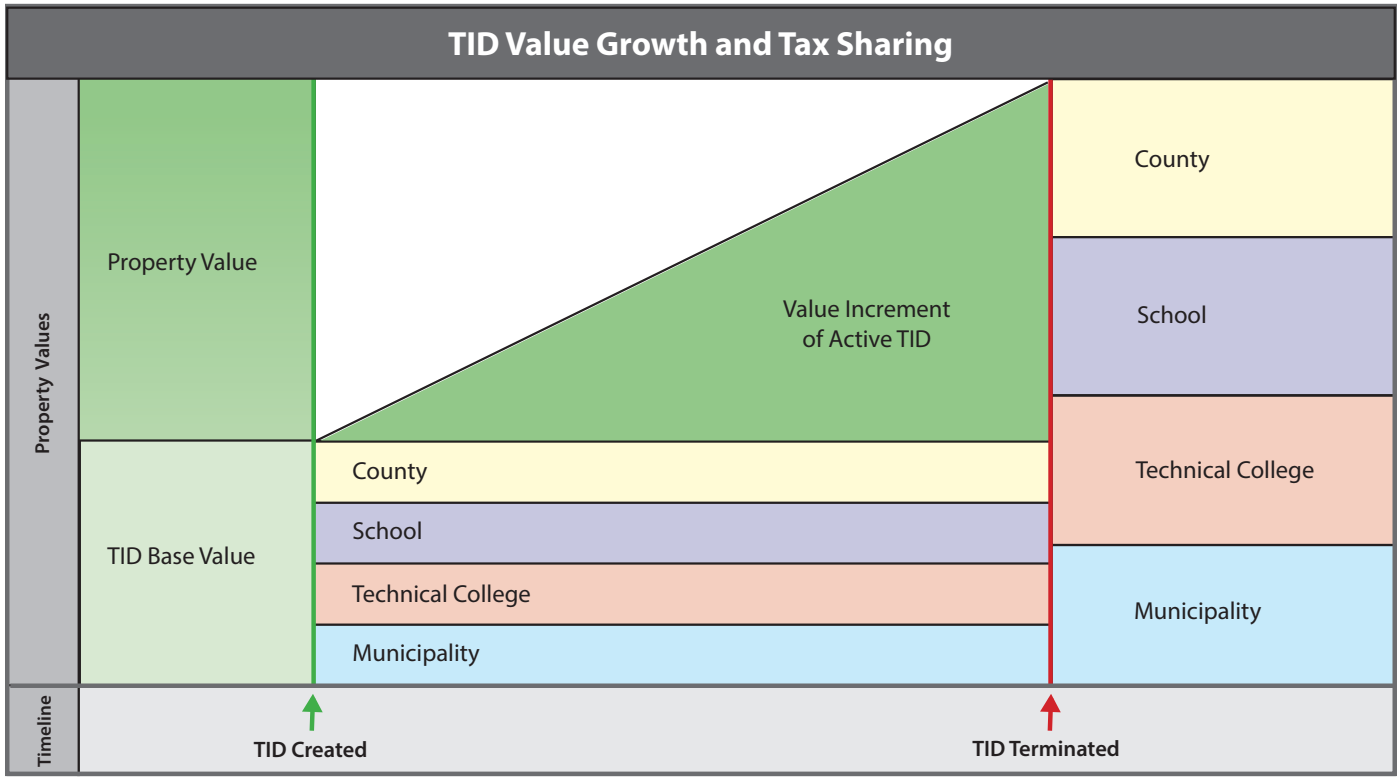
| Eligible Municipality | WI Statute | Year Statute Created | TID Type |
|---|---|---|---|
| City or Village | 66.1105 | 1975 | Blight, Rehabilitation or Conservation, Industrial |
| City or Village | 66.1105 | 2004 | Mixed-use |
| City or Village | 66.1105 | 2017 | Environmental Remediation |
| Town | 66.1105 | 2005 | Any of the above as part of an annexation/cooperation agreement |
| City, Village or County | 66.1106 | 1997 (ended 2017) | Environmental Remediation (now in 66.1105) |
| Town | 60.85 | 2004 | Agricultural, Forestry, Manufacturing, or Tourism |
| Town | 60.23 | 2014 | Same as created under 66.1105 |

Review Summary Statistics for more details on the trends in numbers and types of TIDs.

## B. How TIF Works

When a municipality creates a TID, the municipality and other taxing jurisdictions agree to support their operation from the existing tax base within the TID. They agree the municipality will use the taxes on the value increase in the TID to pay for the investment.

### 1. Sharing the tax base




#### a. TID creation

When the municipality creates a TID, it establishes the base value of all the taxable property within the defined boundaries. The county, school, technical college and municipality in the chart above, make up the overlying taxing jurisdictions for the property in the base value. The overlying taxing jurisdictions share the tax revenue

collected on this portion of the property value. After the TID is created, this tax revenue is allocated the same way as before the TID was created. In the chart, the county, school, technical college and municipality collect taxes on the property in the TID base. In areas with special taxing districts (ex: sanitary district or lake rehabilitation district), this district would appear in a row below the municipality.

Any new construction or investment in the TID property increases the value. The municipality collects the taxes on the growth in value of the property (the Value increment) as Tax increment revenue. The municipality can only use this revenue to pay for the improvements it made to the property in the TID according to the approved project plan.

### b. TID termination

The municipality must terminate the TID at the end of the maximum life, or when the tax increments collected exceed the approved project costs. At termination, the entire value of the property in the TID returns to the tax rolls of the overlying taxing jurisdictions. In the TID Value Growth and Tax Sharing chart on the previous page, the column on the right represents the increased property value subject to taxes. While the TID exists, tax revenue for each overlying jurisdiction is limited to the base value of the TID property. After terminating the TID, all the overlying taxing jurisdictions share the tax base; tax rates can be lowered to generate the same amount of revenue for the jurisdiction. Without the development encouraged by TIF, the base value would be the only value available for the jurisdictions to tax. Partnering to facilitate development helps all the overlying taxing jurisdictions increase their tax base. If the TID property value does not increase as expected, the municipality may not receive enough tax increment to pay its expenditures. In this case, when the TID terminates, the municipality is responsible for the unpaid debts.

### Important

At termination, if the tax increment revenue exceeds the project costs, the municipality must return the surplus revenue to the overlying taxing jurisdictions in proportion to overlying taxing jurisdictions' respective tax levy without TIF.

## 2. Tax increment calculation

The Tax Increment Worksheet (Form PC-202) calculates the amount of taxes for the TIF fund. The worksheet uses the apportionment of each overlying taxing jurisdiction to determine the share of each district's tax revenues that will be part of the municipality's tax increment.

### Example

This example shows how the county levy is apportioned and how the tax increment is calculated. The same process is used to determine the tax increment added to each of the other taxing jurisdictions' levies, including the levy for the municipality that created the TID.

### Assumptions

a) Entire county consists of four municipalities. Only Municipality "A" has a TID.

b) Equalized property value in the four municipalities, including the TID increment are:

| Municipal Values | | | | | | | | Total |
|---|---|---|---|---|---|---|---|---|
| A | $400,000,000* | B | 70,000,000 | C | 20,000,000 | D | 10,000,000 | $500,000,000 |
| ** Includes $30,000,000 value increment* | | | | | | | | |

c) Municipality "A" has a TID #1 with values of:

- Base value $20,000,000
- Current value 50,000,000
- Value increment 30,000,000

d) The county needs $1,500,000 from property taxes for its budget

**Note:** Values of the taxing entity and any municipality with one or more TIDs, are reduced by the value increment in any of the TIDs. This is referred to as TID/OUT in the upcoming charts.

| **Step 1** | **Formula to determine each municipality's percent of the county's value:** Municipality Value ÷ County Value = % of County's Value | | | | |
|---|---|---|---|---|---|
| Municipality | TID/Out Municipality Value | ÷ | TID/Out County Value | = | Percentage County Value |
| A | $ 370,000,000 | ÷ | $ 470,000,000 | = | .787234 |
| B | 70,000,000 | ÷ | 470,000,000 | = | .148936 |
| C | 20,000,000 | ÷ | 470,000,000 | = | .042553 |
| D | 10,000,000 | ÷ | 470,000,000 | = | .021277 |
| **Totals** | **$ 470,000,000** | | **n/a** | | **1.000000** |

| **Step 2** | **Formula to determine the county tax apportioned to each municipality:** Percentage County Value × County Levy = Apportioned Tax | | | | |
|---|---|---|---|---|---|
| Municipality | Percentage County Value | × | County Levy | = | Apportioned Taxes |
| A | .787234 | × | $ 1,500,000 | = | $ 1,180,850 |
| B | .148936 | × | 1,500,000 | = | 223,405 |
| C | .042553 | × | 1,500,000 | = | 63,830 |
| D | .021277 | × | 1,500,000 | = | 31,915 |
| **Totals** | **1.000000** | | **n/a** | | **$ 1,500,000** |

| **Step 3** | **Formula to determine the county tax rate each municipality will collect, including the tax increment:** County Apportioned Tax ÷ (Municipality Equalized Value - Increment) = County Tax Rate per Municipality | | | | |
|---|---|---|---|---|---|
| Municipality | Apportioned Municipality Taxes | ÷ | Municipality TID/Out Equalized Value | = | County Tax Rate for Each Municipality |
| A | $ 1,180,850 | ÷ | $ 370,000,000 | = | .0031915 |
| B | 223,405 | ÷ | 70,000,000 | = | .0031915 |
| C | 63,830 | ÷ | 20,000,000 | = | .0031915 |
| D | 31,915 | ÷ | 10,000,000 | = | .0031915 |
| **Totals** | **$ 1,500,000** | ÷ | **$ 470,000,000** | | **n/a** |

| **Step 4** | **Formula to determine the county tax rate for each municipality (referred to TID/IN below)** County Tax Rate × Total Equalized Value of all Municipal property = County Tax Collected (includes the tax increment for TID #1 in Municipality "A") | | | | |
|---|---|---|---|---|---|
| Municipality | Tax Rate | × | Total Equalized Value Municipality TID/IN | = | County Taxes Collected |
| A | .0031915 | × | $ 400,000,000 | = | $ 1,276,600 |
| B | .0031915 | × | 70,000,000 | = | 223,405 |
| C | .0031915 | × | 20,000,000 | = | 63,830 |
| D | .0031915 | × | 10,000,000 | = | 31,915 |
| **Totals** | **n/a** | | **$ 500,000,000** | | **$ 1,595,750** |

| | |
|---|---|
| Total County Taxes Collected from Municipality "A" | $ 1,276,600 |
| Total County Apportioned Taxes for Municipality "A" | $ 1,180,850 |
| **Tax Increment Received by Municipality "A"** | **$ 95,750** |

### Step 1-4 Explanation

- County tax collected is apportioned to individual property owners in each municipality based on the assessed value of each parcel
- Amount of the tax apportioned by the county is $1,500,000. Step 2 shows the amounts apportioned to each municipality.
- Tax increment of $95,750 is the difference between the amount Municipality "A" collected by the county ($1,276,600 shown in Step 4) and the amount apportioned for Municipality "A" ($1,118,850 shown in Step 2)
- $95,750 is the county portion of tax increment Municipality "A" receives and must deposit into the TID #1 fund for the TID's project costs

| Step 5 | Effect on the county tax rate if the TID in Municipality "A" terminates and the county's levy and each municipality's values remain the same | |
|---|---|---|
| County Levy | County Equalized Value | Tax Rate |
| $ 1,500,000 | $ 500,000,000* | .030000 |
| ** Includes TID value increment in TID #1, Municipality "A"* | | |

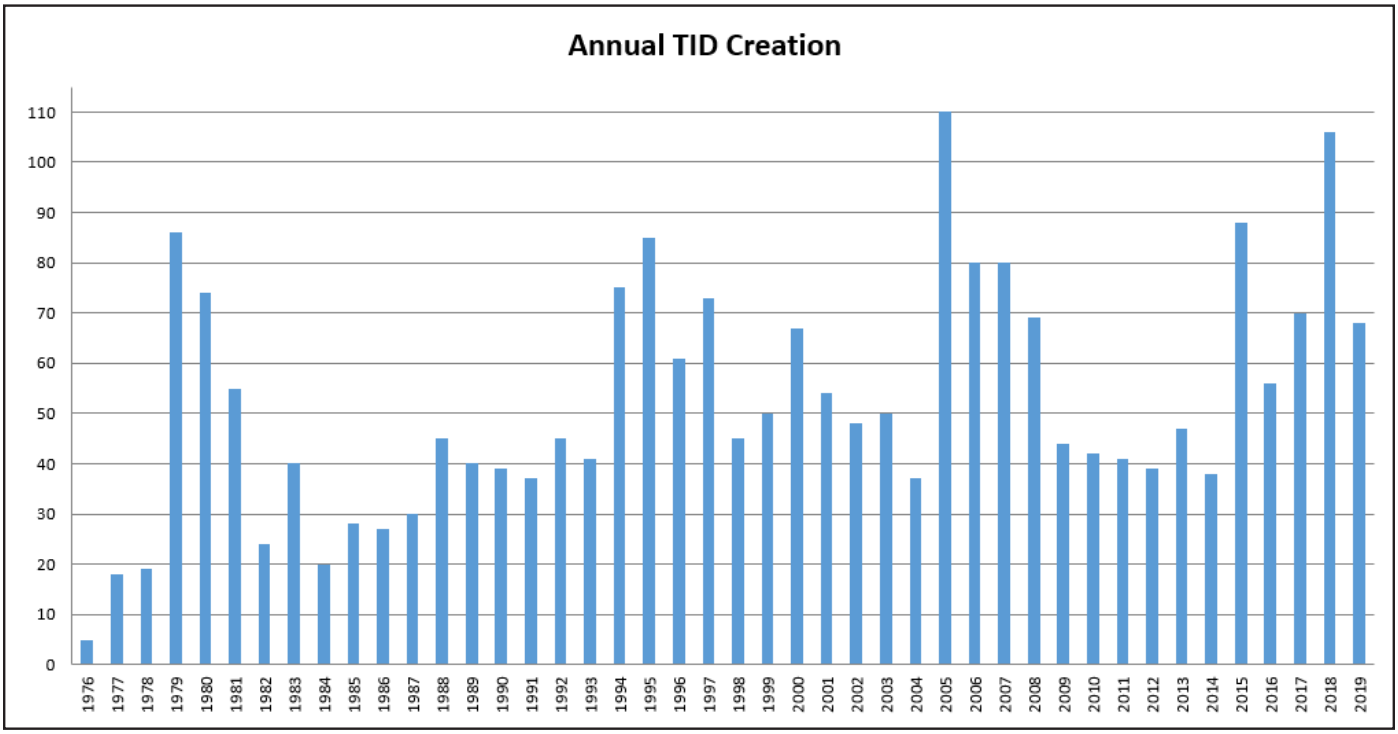
### Step 5 Explanation

- There is a difference in the tax rate of 19.15 cents per thousand dollars of equalized value without the TID in Municipality "A" (.0031915 shown in Step 3), compared to the rate with the TID (.0030000 shown in Step 5)
- This results in a $19.15 tax decrease for the county portion of taxes on a property valued at $100,000 when the TID terminates

When a municipality has no TIDs, the municipal apportioned levy is the same as the county taxes collected. If there are no TIDs in a county, the county tax rate is lower for everyone. However, if there are TIDs, every taxpayer in the county pays a higher rate to generate the increment paid to the municipality operating the TID. All taxpayers in the county share this cost because they will all share the expanded tax base once the TID terminates.

## C. Summary Statistics

The chart below shows TID creation by year. Overall, there has been steady growth since TIF was added to state law. There are a few noticeable spikes in creation activity due to law changes or economic trends.




### 1. Creation by TID type

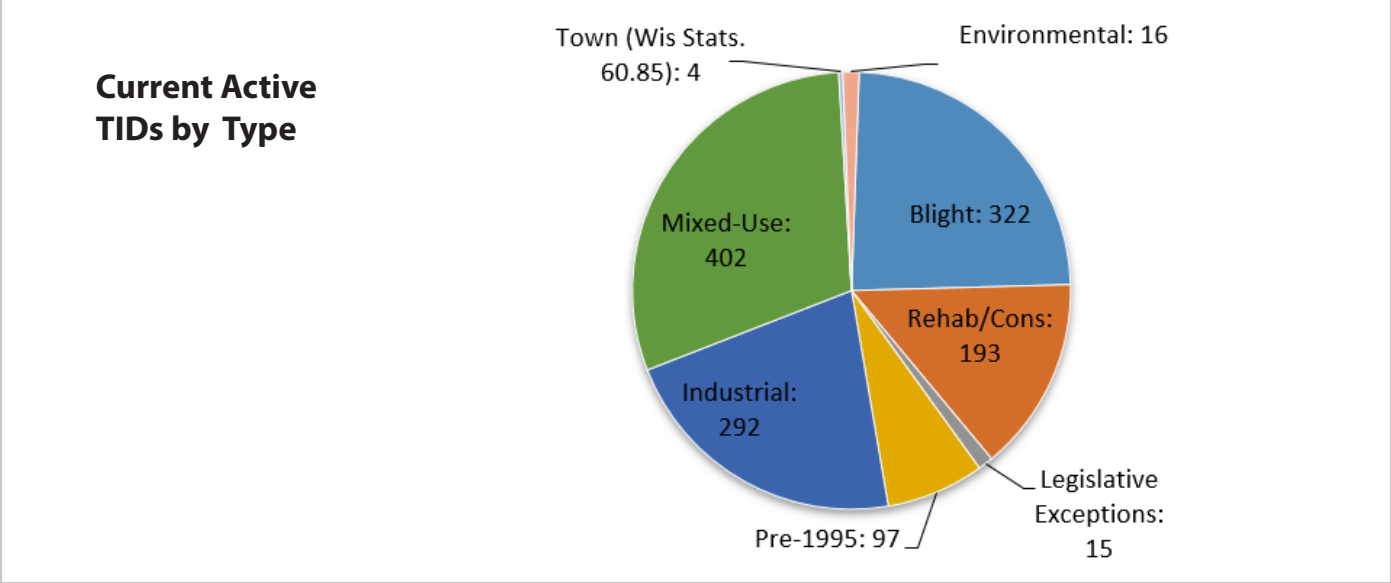
TIF law contains different rules based on TID type. The TID Criteria Matrix summarizes the rules governing the various TID types.

**In 2019, there were 68 new TIDs certified:**

- 24 mixed use
- 18 rehabilitation/conservation
- 14 blight elimination
- 10 industrial
- 1 environmental remediation
- 1 town (sec. 60.85, Wis. Stats.)

## 2. Active TIDs by type

Currently there are 1,341 active TIDs. The chart below shows a breakdown of the active TIDs by type.

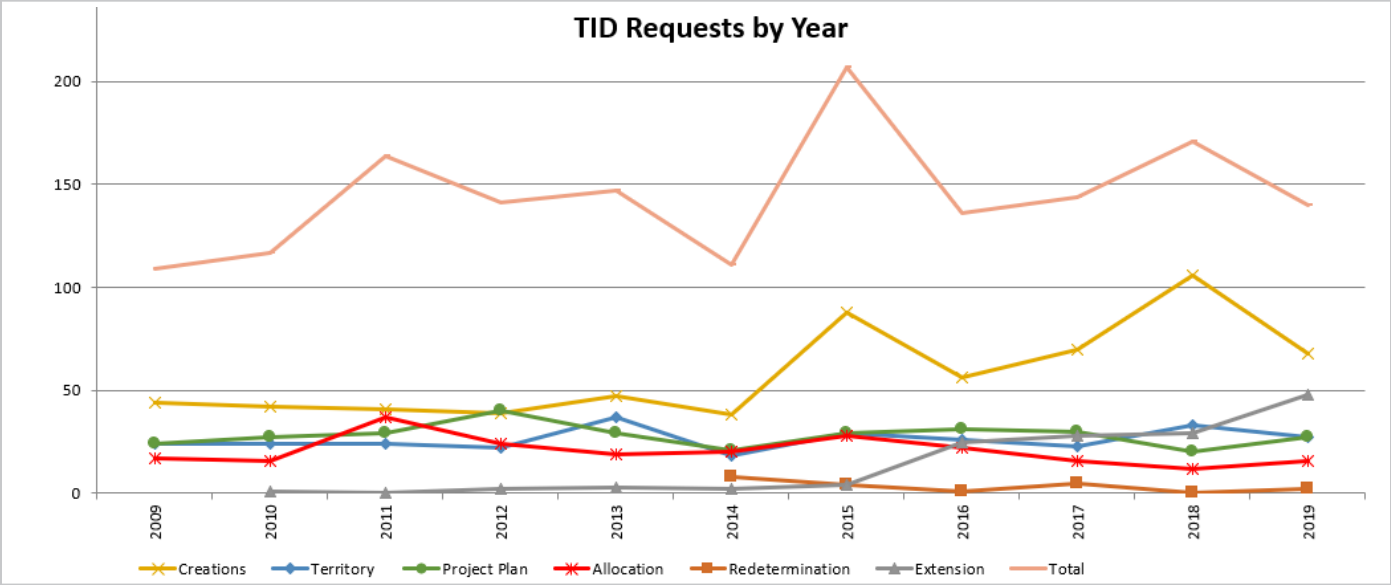



## 3. TID requests by year

TIF law allows municipalities to create TIDs and amend existing TIDs in different ways. In 2018, the Wisconsin Department of Revenue (DOR) approved these TID requests:

- 68 creations
- 27 territory amendments
- 27 project plan amendments
- 16 allocation amendments
- 2 base value redetermination amendments
- 48 extensions

The chart below shows the number of creations and amendment types requested by year.



Each municipality can add or subtract territory from an active TID up to four times during the life of the TID. Adding or subtracting parcels from an existing TID increases or decreases its base value.

Project plan amendments revise the planned development in the TID. An allocation amendment allows a municipality to transfer excess increment from one TID to another TID. There is no limit to the number of allocation or project plan amendments.

Base value redetermination amendments allow a municipality to reduce the base value of a TID in a decrement situation. One redetermination amendment is allowed during a TID's life.

A municipality may extend a TID's life to pay on existing debt and/or to use the last year of increment for affordable housing. There are three types of extensions available: standard extension, technical college extension and affordable housing extension.

Review TID Amendments and Extensions for more information.

### 4. TIF and property taxes in Wisconsin

The Legislative Fiscal Bureau publishes Informational Paper 17 on TIF every two years. It contains background, municipal authority information and statistics on TIF use.

## D. Summary of TIF Law Changes

## 2017 Acts 70, 15, 58

### Act 70

### 1. Environmental Remediation (ER) Tax Incremental Districts (TID)

- Effective date: November 29, 2017
- ER TIDs created by a municipal resolution:
  - » Before November 29, 2017 – must follow sec. 66.1106, Wis. Stats., and are not affected by 2017 Act 70
  - » On or after November 29, 2017 – must follow sec. 66.1105, Wis. Stats.
- All ER TIDs must now be created under sec. 66.1105, Wis. Stats.

### 2. Requirements/limits

- Maximum life is 27 years with a possible three-year standard extension
- Before creating an ER TID under sec. 66.1105, Wis. Stats., the municipality must obtain a certification of its site investigation report from the Wisconsin Department of Natural Resources (DNR) and email both the report and certification to DOR. To obtain this certification, a municipality must provide DNR the site investigation report including:
  - » Description of the environmental pollution in the proposed district
  - » Proposed remedial action plan
  - » Cost estimates for expected project costs
  - » Schedule for remediation (design, implementation, construction)
- At least 50 percent of the TID area has significant environmental pollution
- Project plan must specify either:
  - » All project costs will be paid within 90 percent of the TIDs remaining life
  - » Expenditures will only be made in the first half of the TID life; exception – expenditures for significant environmental pollution not identified in the certified site investigation report may continue for 22 years (5 years before the maximum life)
- May only allocate excess funds to other ER TIDs (created under sec. 66.1105 or 66.1106, Wis. Stats.)
- A municipality may designate only one ER TID created under sec. 66.1105 Wis. Stats., as excluded from the 12 percent value limit. Once the excluded TID is designated, it cannot be changed.

### 3. TID base value

- When an ER TID is created under sec 66.1105, Wis. Stats., DOR sets the base value to $1
- When the ER TID is amended to add territory, the full value of the additional parcels as of January 1 of the amendment year is added to the existing $1 base value

## Act 15

### 1. Termination and administrative certification fee deadline change

- Effective: January 1, 2018
- Changes the deadline for TID terminations from May 15 to April 15
  - » **Example 1:** If a termination resolution is adopted from May 16, 2017 to April 15, 2018, the termination year is 2018 and TID number is removed from the 2018 tax roll
  - » **Example 2:** If a termination resolution is adopted from April 16, 2018 to April 15, 2019, the termination year is 2019 and TID number is removed from 2019 tax roll
- Changes deadline for administrative certification fee ($150 per active TID) from May 15 to April 15

### 2. TID Annual Report changes

- Effective: January 1, 2018 (for 2017 reporting year)
- Sets maximum penalty of $6,000 for reports not filed timely – penalty for late filing remains $100 per TID per day (applied beginning 60 days after report is past due)
- DOR reduces shared revenue payments for any unpaid penalty
- Removes the extra 30-day extension when an estimated report is filed

### 3. Base value for town TIDs created under 60.85

- Effective date retroactive to October 1, 2015
- Excludes town-owned property from the TID base value calculation
- Town TIDs are now consistent with municipal TIDs as changed in 2015 Act 255

### 4. Notification to DOR of adopted amendments

- Effective: January 1, 2018
- Removes municipality's requirement to notify DOR of TID amendments during May 1 to May 21 each year
- Keeps requirement to notify DOR within 60 days after the amendment is adopted

## Act 58

### TIDs created in an electronics and information technology manufacturing (EITM) zone

- Effective: September 20, 2017
- Authorizes the creation of an electronics and information technology manufacturing zone and, in connection with that zone, creates special provisions for TIDs:
  - » Exception to 12 percent limit (no limit for these TIDs and not in the calculation for other municipal TIDs)
  - » 30-year life with expenditures allowed throughout life
  - » Mixed-use or industrial types
  - » Allows TID project costs throughout the county
  - » Allows police/fire costs (with some limitations)
- There are separate due dates/timeframes for these TIDs:
  - » Municipal resolution adopted January 1 to December 1 – if resolution states effective same year, then forms due to DOR December 31
  - » Municipal resolution adopted January 1 to December 1 – if resolution states effective the following year, then forms due to DOR November 30 of the following year

» Municipal resolution adopted December 2 to 31 – effective date is the following year with the forms due to DOR November 30 of the following year

## 2015 Acts 254, 255, 256, 257

### Act 254

#### 1. Three-year extension request

- Effective: March 3, 2016
- Allows municipality to amend the TID or request a three-year extension to a TIDs life through a Joint Review Board (JRB) resolution if tax increments are impacted by 2013 Act 145 that increased state aid to technical colleges

#### 2. DOR determination

- Effective: March 3, 2016
- Requires DOR to indicate in a fiscal estimate if a bill will increase or decrease the increment collection for TIDs or if the effect is indeterminate

### Act 255

#### 1. Removes vacant property restriction

- Effective for TIDs created or project plans amended on or after October 1, 2015
- Removes restriction that vacant property may not comprise more than 25 percent of TID for creations after effective date

#### 2. Excludes city-owned property

- Effective for TIDs created or project plans amended on or after October 1, 2015
- Revises TID base value calculation to exclude exempt city-owned property

### Act 256

#### 1. Increases JRB review time

- Effective: March 3, 2016
- Changes JRB review period from 30 to 45 days to approve municipality's TID resolution

#### 2. Changes levy limit calculation

- Effective: March 3, 2016
- Changes calculation of levy limit exception – a municipality's Equalized Value for preceding year excludes the value of any TID increments for the year a TID terminates

#### 3. Restricts industrial zoning

- Effective: March 3, 2016
- TID industrial zoning requirements only apply to industrial TIDs

#### 4. Changes public notice requirement on amendments

- Effective: March 3, 2016
- Changes Planning Commission Hearing Notice from Class 2 to Class 1 for TID amendments

#### 5. Adds one more year to TIDs created between September 30 and May 15

- Effective: March 3, 2016
- Adds one-year life and allocation extension for new TIDs when the municipality adopts the resolution between September 30 and May 15

## Act 257

### 1. Requires standing JRB

- Effective October 1, 2015 for 60.85 Town TIDs and October 1, 2016 for all TIDs
- Must meet July 1 annually or as soon as the annual report is available to review
- Remains in existence the entire time TID exists with same taxing jurisdictions
- May disband following termination of all existing TIDs
- Applies to all TID types, including industry-specific town TID and Environmental Remediation TID

### 2. Repeals DOR's review of industry-specific town TIDs

- Effective October 1, 2015 for 60.85 Town TIDs and October 1, 2016 for all TIDs
- Repeals DOR's review and determination whether the money expended, or debt incurred, by an industry-specific town TID complied with state law

### 3. Requires municipality to electronically submit annual TID Report

- Effective October 1, 2015 for 60.85 Town TIDs and October 1, 2016 for all TIDs
- Municipality must submit an electronic annual report for each existing TID to each overlying taxing jurisdiction. Annual reports are due to DOR starting July 1, 2016 for Town TIDs and July 1, 2017 for all other TIDs. The annual report must contain:
  - » Name assigned to the TID
  - » Developer named in agreement with municipality or receiving financial assistance
  - » Date municipality expects TID to terminate
  - » Tax increment amounts to be deposited into a special fund for the TID
  - » Contact person designated by municipality to respond to annual report
  - » Analysis of TID special fund:
    - Balance at beginning of the fiscal year
    - Amounts deposited by source, including amounts received from another TID
    - Special fund's expenditures by category of permissible project costs
    - Balance at end of fiscal year, including breakdown by source identifying portion of balance required for payment of anticipated project costs
    - Portion of ending balance not identified for payment of anticipated project costs designated as surplus

### 4. Requires DOR to develop annual report process

- Effective October 1, 2015 for 60.85 Town TIDs and October 1, 2016 for all TIDs
- Create format of annual reports in 2016
- Post reports no later than 45 days after receipt
- Determine whether to grant an extension if municipality provides evidence report is being completed
- Post on DOR website a list of extensions, period of extension and whether municipality filed annual report within extension period
- Notify municipality annual report is past due if municipality does not timely file
- Charge municipality $100 each day annual report is past due. Fees will be deposited in common school fund.

## 2013 Acts 183 and 193

### Act 183

**TIDs in a decrement situation**

- Effective: April 4, 2014
- Municipalities can request DOR redetermine the base value of a TID in a decrement situation
- TID's current year value – (review the TID Statement of Changes Report) must be at least 10 percent below the base value of the TID for two consecutive years (decrement)
- Municipality's resolution date stating a decrement exists determines the two consecutive years (ex: May 21, 2014 resolution date requires both the 2012 and 2013 TIDs to be 10 percent below the TID's current base value)
- TID must be created under state law (sec. 66.1105, Wis. Stats.)
- One base value redetermination is allowed during the life of a TID

### Act 193

**1. Creation of town TIDs under Sec. 66.1105, Wis. Stats.**

- Effective: April 6, 2014
- Expands the authority for certain towns to create TIDs
- When the town adopts a resolution, the following two criteria must be met:
  - » Prior year Equalized Value must be at least $500 Million
  - » Prior year population must be at least 3,500 – use the Population Estimates Summary
- Sewer service is or will be provided before use or operation of any improvements

**2. Allocation changes**

- Effective: April 6, 2014
- Allows a regular TID to allocate increments to an Environmental Remediation (ER) TID
- Allows an ER TID to allocate increments to a regular TID under state law (sec. 66.1106(7)(e) and 66.1105(6)(f), Wis. Stats.)

# II. Tax Incremental District (TID) Details

## A. TID Creation

Wisconsin's Tax Incremental Financing (TIF) law regulates the creation of TIDs. The law requires specific documentation and establishes the procedures a municipality must follow to create a new TID. The purpose of the requirements is to include the public in the decision-making process and make it easy for the public to obtain information. The project plan makes the TID information clear to the public. Mandatory notices, a public hearing, and waiting periods ensure the opportunity for public participation. The municipality must also create a Joint Review Board (JRB) to obtain approval from the overlying taxing jurisdictions. Having a JRB ensures all affected parties have a chance to understand and question the proposal.

**Follow these steps to create a TID under state law (sec. 66.1105, Wis. Stats.). The TID Checklist has additional details.**

**1. Prepare a proposed project plan describing the TID boundary, projects and costs (sec. 66.1105(4)(f), Wis. Stats.)**

- Review Guidelines for Project Plans for a list of all topics that must be covered in the Project Plan

- Projects impacting a TID, but not entirely in the TID's boundary, may have costs that are partly eligible (ex: if a water tower or sewer improvements serve the TID, the part of the total cost benefitting the TID can be paid with increment revenue). The municipality must determine how much of the cost is eligible and identify this cost in the plan.
- Wetlands can be within the TID's designated boundaries, but under state law cannot be included in a TID. To remove wetlands from the TID, include an explanation on the map stating all wetlands in the area are excluded from the TID. The exclusion of the wetlands must not eliminate the contiguity of the TID.
- When preparing the project plan for a TID creation or territory amendment, DOR recommends involving the municipal and state manufacturing assessors, and the county real property lister

**2. Prepare a notice –** indicating when the municipality will hold the public hearing on the proposed project plan, boundaries and creation of the district (sec. 66.1105(4)(e), Wis. Stats.). The notice:

- Must include the place, date and time of the hearing
- Must state that the municipality will provide a copy of the proposed plan on request
- Must include a statement about cash grants, if applicable
- Should include the location of the proposed district

**3. If the TID is a blight or rehabilitation/conservation type, identify the affected properties –** notify the owners of property identified as blighted or in need of rehabilitation/conservation at least 15 days before the public hearing (sec. 66.1105(4)(c), Wis. Stats.)

**4. Send a copy of the hearing notice to overlying taxing jurisdictions by first class mail, prior to publication** (sec. 66.1105(4)(a) and (e), Wis. Stats.)

- Request that the local governing jurisdictions designate a representative to serve on the Joint Review Board (JRB)
- **Overlying taxing jurisdictions** – include any governmental entity with the power to levy taxes on property located within the proposed TID boundaries (ex: county, school district(s), technical college district and any special taxing jurisdictions)
- **Special taxing jurisdictions** – are metro sewer districts, sanitary districts or lake rehabilitation/protection districts
- Municipality must notify any affected special districts of the public hearing, but these special districts do not have a representative on the JRB

**5. Publish two notices for the public hearing –** the first notice 14 days before the meeting and the second, seven days before, following Wis. Stats. Chapter 985 (sec. 66.1105(4)(e), and 66.1105(5)(d), Wis. Stats.)

**Notices must be published properly or DOR cannot certify the district. Before publishing, verify the notice:**

- Includes the place, date and time of the hearing
- States that the municipality will provide a copy of the project plan on request
- Includes a statement about cash grants, if it applies
- Includes the location of the proposed district

**6. Convene a JRB and publish a meeting notice –** at least five days before the first JRB meeting (sec. 66.1105(4m)(e), Wis. Stats.)

- School district, county, technical college district and the municipality each appoints a member of the JRB
- JRB also includes a public member appointed by the other members
- **First meeting** – JRB must hold its first meeting within 14 days of the first hearing notice publication, but before the public hearing. The representatives select the chairperson and public member at the first meeting.
- JRB must continue while any TID exists in the municipality (sec. 66.1105(4m)(a), Wis. Stats.)
- Review Joint Review Board for more information on JRB representatives

**7. Hold a public hearing** (sec. 66.1105(4)(a), (e) and (f), Wis. Stats.)

- Planning Commission (or the municipality's Development or Redevelopment Authority) conducts a hearing on the proposed TID boundaries and project plan
- These topics can be discussed in the same meeting or separate meetings
- The meeting gives residents an opportunity to express their views

**8. Adopt a Planning Commission resolution** (sec. 66.1105(4)(b) and 66.1105(4)(d), Wis. Stats.)

The meeting to adopt the resolution can immediately follow the public hearing. The Planning Commission adopts a resolution that covers these items:

- Boundaries of the TID
- Approval of the TID's project plan
- A statement that the TID promotes orderly development in the municipality
- After adoption, the Planning Commission submits its approval to the local legislative body

**9. Approve the plan; adopt a municipal resolution** (secs. 66.1105 (4)(g), (gm), (i) and 60.85(3)(h), Wis. Stats.)

- Municipal legislative body approves the project plan and adopts the creation resolution at least 15 days after the public hearing (30 days for a TID created under sec. 60.85, Wis. Stats.)
- Boundaries adopted by the municipal legislative body are the final boundaries and do not have to match those adopted by the Planning Commission
- Project plan must be adopted before (or when) the TID is created
- Review the Resolution Checklist for details on required wording in the municipal resolution
- After the municipality adopts the project plan and creates the district, it forward the documents to the JRB

**TID's official creation date is the date the municipality adopts the creation resolution. Creation date determines:**

- Start date for the TID maximum life and when expenditures (other than planning) begin and end
  - » **Note:** In 2015, Act 256 (effective March 3, 2016) added one year of life for new TIDs when the municipality adopts the resolution between September 30 and May 15
- Valuation date
- When the creation documents are due to DOR

**10. Approve the proposal; adopt a JRB resolution** (sec. 66.1105(4m)(b) and (c), Wis. Stats.)

- JRB reviews the public record, planning documents and the municipal resolution
- JRB must approve or deny the TID within 45 days after receiving the creation resolution. The JRB may hold additional public hearings.
- JRB's decision to approve or deny the proposal must be based on three criteria – whether the:
  - » Expected development would occur without using TIF
  - » Economic benefits are sufficient to compensate for the cost of improvements
  - » Benefits outweigh the anticipated tax increments to be paid by property owners in overlying districts
- JRB resolution must state its findings on these criteria. Review Joint Review Board for more information.
- Majority of the JRB must approve the TID or it cannot be created
  - » The JRB must submit its decision to the municipality within seven days of making the decision
  - » If the JRB rejects the proposal, the JRB must issue a written explanation to the municipality

**11. Notify DOR –** municipal clerk should email tif@wisconsin.gov to notify DOR of the creation resolution within 60 days of JRB approval

### 12. Email the required documents (sec. 66.1105(5)(b) and (c), Wis. Stats.)

After the municipality and the JRB approve the TID, the municipal clerk must provide all the required documents to DOR by October 31.

**Required documents are described in the TID Checklist:**

- Legal documents (including required form)
- Map and boundary description
  - » Parcel identification numbers (or tax key numbers) must match assessment roll
  - » Parcel numbers on the map and value forms must match
- Project plan with attorney opinion letter
- Value forms with clerk and assessor declarations

The municipal resolution adoption date determines the creation year. For more details on relevant creation dates, review the TID Creation Timeframes table. Review the Municipal TID creation or Town TID creation web page for required forms, publications, and more detailed information.

### 13. Pay TID creation fee of $1,000 – through My Tax Account by October 31 (sec. 66.1105(5)(a), Wis. Stats.)

### 14. DOR reviews and certifies (sec. 66.1105(5)(b) and 66.1105(5)(d), Wis. Stats.)

DOR verifies the above steps were followed before certifying the TID base value. DOR determines the full value of the taxable property within the district and emails a certification letter to the municipal clerk with the approved base value.

### 15. Identify the property on the assessment roll (sec. 66.1105(5)(f), Wis. Stats.)

The municipal assessor must identify property within a TID on the assessment roll. The clerk verifies the TID number is coded to the property on in the tax roll. Review the TID Creation Timeframes table to determine on which year's tax roll to include the TID number.

## B. TID Amendments

After a TID is created, the municipality may amend the TID.

### 1. Adopting a TID amendment

The process for adopting a TID amendment is similar to the process for creating the TID; however, there are two important differences. (sec. 66.1105(4)(h)(1), Wis. Stats.)

- Amendments require one notice (creations require two notices) prior to the public hearing
- There is no waiting period prior to the municipal resolution (creations require 14-30 days). The municipality may adopt the resolution any time after receiving the resolution from the Planning Commission.

**Amendment notice must state:**

- Amendment description, including purpose of the amendment and proposed projects
- Place, time and date of the hearing
- That copies of the project plan are available on request
- If applicable, that cash grants are part of the costs

Review the TID Checklist for details on the steps and documents required for each amendment type. For each amendment, the municipality must create an updated project plan detailing the changes.

## 2. TID amendment types

### a. Territory amendment (sec. 66.1105(4)(h)(2), Wis. Stats.)

A municipality may revise the boundaries of a TID up to four times during the TID's life.

#### 1) Adding parcels

**Parcels can only be added if the following are true:**

- Additional territory is contiguous to the TID
- Municipality's equalized TIF value limit is below:
  - » 12 percent for cities or villages
  - » 7 percent or 5 percent for towns
  - » For more information review TIF - Value Limit Common Questions

**See the TID Checklist for required documents:**

- Legal documents (including required form)
- Map and boundary description
  - » Map must identify added parcels but still show the entire TID boundary
  - » Parcel identification numbers (or tax key numbers) must reflect assessment roll
  - » Parcel numbers on the map and value forms must match
  - » Legal description must describe the full TID boundary updated to include the additional territory
- Project plan with attorney opinion letter
- TID Base Value Workbook with clerk and assessor declarations – only list the parcels that are being added to the TID

Review the Territory Amendment (adding parcels) web page for required forms, publications, and more detailed information.

#### 2) Subtracting parcels

- The process for subtracting territory parallels the process for adding territory, except the values used to subtract are based on the year when the parcel entered the TID
- Parcels can only be subtracted if the TID boundaries remain contiguous after the subtraction
- Municipalities exceeding the value limit can subtract parcels

**See the TID Checklist for required documents:**

- Legal documents (including required form)
- Map and boundary description
  - » Map must identify subtracted parcels but still show the entire TID boundary
  - » Parcel numbers on the map and value forms must match
  - » Legal description must describe the full TID boundary updated to remove the subtracted territory
- Project plan with attorney opinion letter
- TID Territory Subtraction Workbook with clerk and assessor declarations – list subtracted parcels and value based on the year the parcels entered the TID

Review the Territory Amendment (subtracting parcels) web page for required forms, publications, and more detailed information.

#### 3) Adding and subtracting parcels

- A municipality can add and subtract territory at the same time
- The process and requirements are the same as the addition and subtraction amendments; however, both amendments are completed simultaneously
- Addition and subtraction amendments completed at the same time are considered one amendment toward the limit of four
- A municipality may not subtract parcels and add them back into the TID in the same year

**Parcels can only be subtracted and added if:**

- TID boundaries remain contiguous after the subtraction and addition
- Municipality is below the 12 percent value limit and remains below the limit after the addition and subtraction amendment or the municipality is above the 12 percent limit, but the combined value of the addition and subtraction amendments results in a negative value

  **Note:** The added parcels use the current value and subtracted parcels use the value from the year they entered the TID.

**See the TID Checklist for required documents:**

- Legal documents (including required form)
- Map and boundary description
  - » Map must identify added and subtracted parcels but still show the entire TID boundary
  - » Parcel identification numbers (or tax key numbers) must reflect assessment roll
  - » Parcel numbers on the map and value forms must match
  - » Legal description must describe the full TID boundary updated to include the additional territory and remove the subtracted territory
- Project plan with attorney opinion letter
- TID Base Value Workbook with clerk and assessor declarations – only list the parcels that are being added to the TID
- TID Territory Subtraction Workbook with clerk and assessor declarations – list subtracted parcels and value based on the year the parcels entered the TID

See the Territory Amendment (adding parcels) and Territory Amendment (subtracting parcels) for required forms, publications, and more detailed information.

### b. Project plan amendment

A project plan amendment may revise any of the topics covered in the most recently approved project plan. The amended TID project plan must still cover the topics outlined in the Guidelines for Project Plans.

The most common project plan amendment changes the projects and their costs. After work in the TID begins, additional projects may be needed or the growth in the TID's value may generate a larger tax increment than expected and provide revenue to finance additional projects. If project costs are added to the plan, update the financial analysis. The increment must still be able to pay for the improvements within the life of the district because the project plan amendment does not alter the expenditure period or the TID maximum life.

There is no limit on the number of project plan amendments during a TID's life. Review the Project Plan and/or Allocation Amendments for required forms, publications, and more detailed information.

### c. Allocation amendment (sec. 66.1105(6)(d), Wis. Stats.)

An allocation amendment allows the municipality to redirect revenue from one TID (called the "Donor TID") to another TID (called the "Recipient TID"). This may be advantageous when one TID is generating more revenue than expected and another is performing below expectations.

Before an allocation amendment is adopted, the JRB members and the public must understand that it will direct more revenue than planned to the municipality's TIF fund. The increment revenue transferred from the donor TID to another TID postpones the date the donor TID can fully pay its costs and be terminated. This delays when the value of the tax increment is available to the overlying taxing jurisdictions.

**Allocation amendment requires:**

- Donor and Recipient TIDs have the same overlying taxing jurisdictions
- Donor TID demonstrates the current increment is sufficient to pay off all costs and provide enough surplus revenue to pay some of the costs for the recipient TID

- Resolutions adopted by the Planning Commission and the legislative body to state specifically from which TID the increments are coming and to which TID the surplus is going

Allocations are only allowed in specific scenarios, which are outlined in the Allocation Amendment Fact Sheet. Review the Project Plan and/or Allocation Amendments web page for required forms, publications, and more detailed information.

### d. Base value redetermination amendment

**A municipality can request a base value redetermination for a TID in a decrement situation if:**

- TID's current year value (review the TID Statement of Changes Report) is at least 10 percent below the base value of the TID for two consecutive years (decrement) (sec. 66.1105(5)(h) and (i), Wis. Stats.)
  - » Municipality's resolution date for the redetermination amendment determines the two consecutive years
  - » Example: a municipal resolution adopted May 21, 2021 must show that both the 2019 and 2020 values are 10 percent below the TID's base value)
- TID was created under state law sec. 66 .1105, Wis. Stats.
- TID had no previous redetermination. Only one redetermination amendment is allowed during a TID's life.

Complete the TID Base Redetermination Worksheet to confirm the TID qualifies. Review the Base Value Redetermination web page for required forms, publications, and more detailed information.

### e. Distressed/severely distressed amendment (sec. 66.1105(4e), Wis. Stats.)

From 2008 through 2015, a municipality could extend the life of a TID experiencing financial difficulty by adopting a resolution designating the TID as distressed or severely distressed. This allowed the TID additional time to pay off expenditures. The ability to use this designation ended on September 30, 2015. For more information, review the TIF Distressed/Severely Distressed web page.

### f. Amendment fees and due dates (sec. 66.1105(5)(a) and (b), Wis. Stats.)

Amendment fees are payable by using My Tax Account.

| Amendment Type | DOR Fee | Documents Due Date |
|---|---|---|
| Territory – Add parcels | $1,000 | October 31 |
| Territory – Subtract parcels | $1,000 | October 31 |
| Territory – Add and Subtract | $2,000 | October 31 |
| Project plan | 0 | December 31 |
| Allocation | 0 | December 31 |
| Base value redetermination | $1,000 | October 31 |

## C. TID Extensions

After a TID is created, the municipality may extend the TID's life in several ways. Review the Extensions web page for sample resolutions and more detailed information.

### Extension types:

**1) Affordable housing extension** (sec. 66.1105(6)(g), Wis. Stats.)

After a municipality pays off a TID's project costs, it may extend that TID's life by one year if the municipality adopts a resolution that:

- Extends the TID's life for a specified number of months (up to 12)
- Specifies how the municipality intends to improve housing stock

The municipality must use at least 75 percent of the increment received to benefit affordable housing. The municipality must also use the remaining portion to improve housing. The municipality must email a copy of the municipal resolution to tif@wisconsin.gov. DOR will then authorize the tax increment allocation for one additional year.

**2) Standard extension** (secs. 66.1105(7)(am)(1), (2), and (3), Wis. Stats.)
A municipality may extend a TID's maximum life through a request to the JRB. If the municipality provides an independent audit showing the TID cannot repay project costs within the maximum life, the JRB must approve the extension. Without an independent audit, it is at the discretion of the JRB whether to grant the extension.

The length of the standard extension varies based on the TID type and creation date. Not all TID types are eligible for the standard extension. For details on extension eligibility by TID type, review the row titled "Standard extension allowed" in the TID Criteria Matrix.

The municipality must email a copy of the JRB resolution to tif@wisconsin.gov. DOR will then approve the request and extend the TID's maximum life based on the TID type.

**3) Technical college extension** (sec. 66.1105(7)(am)(4), Wis. Stats.)
A municipality may extend a TID's maximum life by three years if 2013 Wisconsin Act 145 negatively affected the annual and total increment amounts. This act increased state aid to technical colleges and in some cases, decreased the tax levied and tax increment collected for the TID. This extension only applies to TIDs with a municipal resolution adopted by September 30, 2014. If the municipality provides an independent audit showing the TID cannot repay project costs within maximum life, the JRB must approve the extension. Without an independent audit, it is at the discretion of the JRB whether to grant the extension.

The municipality must email a copy of the JRB resolution to tif@wisconsin.gov. DOR will then approve the request and extend the TID's maximum life by three years.

## D. TID Maintenance

After a TID is created, municipal officials must maintain the TID in good standing with DOR and the overlying taxing jurisdictions that partnered to create the TID.

### 1. Annual filings with DOR

**a. Administrative certification fee** (sec. 66.1105(6)(ae), Wis. Stats.)
Each municipality must pay a fee of $150 for each active TID by April 15. During the first week of March, DOR sends each municipality a notification letter through My Tax Account listing the active TIDs and the total amount due from the municipality. The fee must be paid through My Tax Account. If the municipality does not pay the fee, DOR will not certify a value increment for that year.

Effective January 1, 2018, the Administrative certification fee deadline changed from May 15 to April 15 with 2017 Act 15.

**b. Municipal Assessment Report (MAR)** (sec. 66.1105(6)(a), Wis. Stats.)
On the MAR, the assessor identifies the current assessed value for each TID in the municipality. Assessors must electronically file (e-file) the MAR using My DOR Government Account (MyDORGov) by the second Monday in June. If final data is not available, the assessor must submit a best estimate. If the assessor does not file the MAR timely, DOR will use the previous years' non-manufacturing certified TID Equalized Value. As a result, any value increase will not be reflected in the value increment and the municipality cannot collect the associated tax increment funds.

**c. Annual reports** (sec. 66.1105(6m)(c), Wis. Stats.)

The municipality must complete an annual report for each TID describing the expenditures and revenues. By July 1 each year, the municipality must e-file this report using MyDORGov. See the DOR website for annual reports. DOR posts the reports the day after submission.

By law, DOR must charge a penalty for any report that is not filed within 60 days after the July 1 due date. The penalty is $100 per TID per day, after the 60-day grace period.

By July 1 or when the report is available, the municipality must provide a copy to the overlying taxing jurisdictions and hold a Joint Review Board to review the report. (sec. 66.1105(4m)(f), Wis. Stats.)

**d. Tax Incremental Worksheet**

The municipality must complete this form by the third Monday in December to calculate the amount added to the levy including the tax increment. The municipality must e-file this report using MyDORGov before calculating the tax rates.

## 2. Periodic TID audits (sec. 66.1105(6m)(a) and (b), Wis. Stats.)

At least three Certified Public Accountant (CPA) audits are required for each TID. The CPA must determine if the TID financial transactions are legal and comply with the project plan and TIF law. The cost of performing these audits is an eligible TIF project cost. Including the cost as part of the original project plan is advisable.

**Each audit is due within 12 months of:**

- When the first 30 percent of the project costs are spent
  - This audit may occur at different times for different TIDs depending on when project costs occur (ex: for a TID with $1 million in total project costs, conduct the audit after the year spending reaches $300,000, regardless of how much was spent that year or the age of the TID.)
  - Include the revenues and expenditures from the TID creation through the year of the audit
  - If the municipality adds projects as part of an approved project plan amendment, it must repeat the audit when the TID reaches 30 percent of the amended project costs
  - The municipality must save a copy of this audit in its TID records
- End of the expenditure period
  - Address the revenues and expenditures from the TID creation through the year of the audit
  - The TID account may be in debt at this point because the tax increment revenue collected is less than the total expenditures for the TID
  - Terminate the TID if increment revenue is greater than or equal to the total project costs
  - The municipality must save a copy of this audit in its TID records
- Termination – this audit accounts for all revenue and expenditures during the entire life of the TID, including any excess increment returned to the overlying taxing jurisdictions. Review TIF Termination for more information.

## 3. TID records

Every municipality with a TID must retain all records related to the TID including:

- Creations – project plan, legal documents, value forms, boundary legal description and map, DOR certification letter, developer agreement, if applicable
- Territory amendments – project plan, legal documents, value forms, boundary legal description and map, DOR recertification letter, developer agreement, if applicable
- Redetermination amendments – project plan, legal documents, decrement form, DOR redetermination letter
- Project plan and/or allocation amendments – project plan, legal documents, DOR approval letter, developer agreement
- Extensions – adopted resolution, meeting notice and minutes, DOR approval letter

- Annual reports – copy of reports, JRB meeting notices and minutes
- Audit reports
- Terminations – adopted resolution, TID Final Accounting Submission Date Agreement (Form PE-223), TID Final Accounting Report (Form PE-110)

## E. TID Termination

A TID's termination must be completed according to deadlines established by law.

### Follow these steps to terminate a TID:

#### 1. Adopt a termination resolution

- A municipality must adopt a termination resolution when either of these occur:
  - » TID reached its maximum life
  - » TID received tax increment payments that equal the project costs
- A municipality may also choose to terminate the TID for some other reason

| TID Maximum Life | |
|---|---|
| **TID Type** | **Max Life** |
| Any type created before October 1, 1995 | 27 years |
| Blight/Rehabilitation after October 1, 1995 | 27 years* |
| Industrial after October 1, 1995; before October 1, 2004 | 23 years* |
| Industrial or Mixed-use on or after October 1, 2004 | 20 years* |
| Environmental Remediation before November 29, 2017 | 23 years |
| Environmental Remediation on or after November 29, 2017 | 27 years* |
| **Maximum life may be extended. Review TID Extensions for details.* | |

A sample termination resolution is available on the Municipal TIF Termination web page.

If the municipality adopts the termination resolution by April 15 of any year, the effective date of termination is the current year. If the municipality adopts the resolution between April 16 and December 31, the effective date is the following year. Review TID Termination Timeframes table for additional information. For more details on the termination effective date, review sec. 66.1105(8)(b), Wis. Stats.

#### 2. Complete Form PE-223 and email documents to DOR (sec. 66.1105(8)(a), Wis. Stats.)

Within 60 days of adopting the termination resolution, the municipal clerk must email tif@wisconsin.gov a copy of the termination resolution and a completed Final Accounting Submission Date Agreement (PE-223). DOR recommends the municipality also notify its municipal assessor, county property lister, and overlying taxing jurisdictions.

#### 3. Complete the TID Final Audit

The municipality must have a Certified Public Accountant (CPA) complete the final audit for all revenue and expenditures during the TID life. The municipality must save a copy of the audit in its TID records and does not need to submit a copy to DOR.

#### 4. E-file the TID Final Accounting Report (PE-110)

Before the termination is final, the municipality must electronically file (e-file) the Final TID Accounting Report (PE-110) using MyDORGov. The TID Final Accounting Report (PE-110) is due to DOR based on the date agreed upon between the municipality and DOR on the Final Accounting Submission Date Agreement (PE-223). The PE-110 form includes total expenditures and revenue during the TID life based on the final audit.

If a municipality does not e-file this report within the specified timeframe, it will delay the certification of future TIDs. For more details on termination reporting, review (sec. 66 .1105(8)(c), Wis. Stats.).

### Final Accounting Report must show either:

- Increment revenue paid all project costs and the TID account has a surplus. The municipality must return the excess increments to the overlying taxing jurisdictions in proportion to the amounts that belong to each taxing jurisdiction.
- Increment revenue did not cover the project costs and the TID account has a deficit. The municipality is responsible for paying the remaining debt.

The final TID account balance must be zero either after the surplus is distributed or after the municipality pays the remaining debt.

# III. Joint Review Board (JRB)

## A. JRB Purpose

State law provides for a JRB and defines its members and responsibilities. JRB members represent a taxing jurisdiction (municipality, county, school, technical college). It is the JRB's responsibility to approve or deny the creation or amendment of a Tax Incremental District (TID). If the JRB approves the TID, it viewed or heard convincing evidence of the need for Tax Incremental Financing (TIF) assistance to make the development a reality. The JRB jurisdictions agree to sacrifice some amount of tax revenue for many years into the future expecting the tax base will ultimately increase.

## B. JRB Members

The JRB consists of one representative from each taxation jurisdiction (school district, technical college, county, municipality), and one public member.

### District representatives

- **School –** the school board president, or their designee with preference to the school district's finance director. If the TID is located in a union high school district, the school seat is shared by the union high school representative and school district representative; each having one-half vote.
- **Technical college –** the technical college district director, or their designee with preference to the district's chief financial officer
- **County –** the county executive or the county board chairperson, or this person's designee with preference to the county treasurer
- **City/village/town –** the mayor or city manager, the village board president, town board chairperson or their designee with preference to the person who administers the economic development programs, the municipal treasurer or another person with knowledge of local government finances
- **Public member –** a majority of the other members chooses the public member at the JRB's first meeting. State law has no requirements for the public member. A public member can be appointed as chairperson. For a multijurisdictional TID, each participating municipality may appoint one public member.

If more than one school, union high school, technical college or county district has the power to levy taxes on the property within the TID, the district with the greatest **value** chooses the representative to the JRB.

**Examples:**

- School District "A" serves 75 percent of the area in the TID, but only has 40 percent of the TID value. School District "B" serves 25 percent of the area in the TID but has 60 percent of the TID value. District "B" chooses the JRB member.

- In the case of a territory amendment, if adding property from one county to an existing TID in a different county, the county with the majority value chooses the JRB member. The calculation to determine majority value is the existing base value plus the additional parcels' current value.

## C. JRB Procedures

### 1. Organize the JRB

- When creating a TID, the municipality must send the overlying taxing districts a letter with a copy of the public hearing notice (by first class mail before the notice is published) to request a representative to serve on the JRB for that TID
- Within 14 days after the public hearing notice is published and before the public hearing for a TID creation, all JRB members must be appointed and the first organizational meeting held. At the organizational meeting, the members must select a public member and chairperson by majority vote. They may also review details of the new TID.
- Any JRB member may request additional JRB meetings or public hearings
- At all JRB meetings, one of the members must take minutes and record votes. The municipality is responsible for keeping these TID records.
- The municipality must publish a notice for any JRB meeting at least five days before the meeting, under state law (ch. 985 and sec. 66.1105(4m)(e), Wis. Stats.). This does not apply to town TIDs created under sec. 60.85, Wis. Stats. or Environmental Remediation TIDs created under sec. 66.1106, Wis. Stats.

### 2. The JRB must approve or deny the resolution

- After receiving the municipal resolution, the JRB must meet again to vote on the resolution:
  - **Within 45 days –** City/Village TIDs created under sec. 66.1105, Wis. Stats.
  - **Between 10 days and 45 days –** Town TIDs created under sec. 60.85, Wis. Stats. or Environmental Remediation TIDs created under sec. 66.1106, Wis. Stats.
- The JRB adopts its own resolution to document its decision based on the three criteria required in state law

### 3. After the JRB resolution is adopted

- JRB must respond to municipal officials within seven days of its decision
- If the JRB rejects a resolution, the JRB must explain in writing why the proposal did not meet the decision criteria

## D. JRB Document Review

The municipality must provide the JRB with specific information under state law (secs. 66.1105(4)(i), 60.85(3)(k), and 66.1106(3)(b), Wis. Stats.). JRB members may request missing or additional information.

### 1. Required information the municipality must provide

- Specific projects and costs, including the amounts expected to be paid by tax increments and the estimated tax increments over the life of the TID
- Value increment after project costs are paid and the TID terminates
- Reasons why the property owners benefitting from the improvements within the TID should not pay the project costs
- Share of the projected tax increments estimated to be paid by the property owners in each of the overlying taxing jurisdictions
- Benefits the taxpayers will receive to compensate for their share of the projected tax increments

### 2. Additional information the JRB must review (sec. 66.1105(4m)(b)1., Wis. Stats.)

- **Public records –** copies of the public hearing minutes and notices
- **Planning documents –** copies of the project plan and signed development agreement, if applicable
- **Resolutions –** copies of the Planning Commission and municipal resolutions

### 3. Additional information the JRB may request

- **Economic feasibility study –** detailing the projected tax increments and estimates of increased property values
- **For multijurisdictional TIDs –** copy of the signed intergovernmental agreement created under state law (sec. 66.0301, Wis. Stats.). The agreement must provide the specific information listed in sec. 66.1105(18)(b), Wis. Stats.

## E. JRB Decision Criteria

The JRB must make a decision based on the documents and information provided by the municipality and three criteria found in state law (secs. 66.1105(4m)(c), 66.1106(3)(c), and 60.85(4)(c), Wis. Stats.). The JRB must determine whether the:

1. Development expected in the TID would occur without the use of TIF ("but for" requirement)
2. Economic benefits of the TID, as measured by increased employment, business and personal income and property value, are sufficient to compensate for the cost of the improvements
3. Benefits of the proposal outweigh the anticipated tax increments to be paid by the property owners in the overlying taxing jurisdictions

Each criterion is important to ensure the TIF project is beneficial for all taxpayers in the overlying taxing jurisdictions. Many consider the first criterion, the "but for" requirement, the most important. "But for" gets its name from the phrase, "This development would not happen but for the financial support of TIF." This means the project is not economically viable without the use of TIF to pay for the infrastructure improvements. Review But for Requirement for more information.

### Questions to consider

1. Would the expected development occur without ("but for") the use of TIF? Would the development occur if the project was scaled back or the timeframe pushed out? Did similar projects proceed without the use of TIF?
2. Will the development's economic benefits measured by increased employment, business and personal income and property value, compensate for the cost of the improvements?
3. Do the benefits outweigh the taxes residents of overlying districts are expected to pay?
4. How does the planned development fit into the overall economic picture in the district? How does the development fit with other development in the district? Will the potential businesses benefit the district in the long term? How many and what type of jobs will this development create?
5. How does the TID benefit taxpayers in my district? Is the total expenditure for eligible project costs feasible?
6. Is there a better use for the development site, the tax revenue and the limited TIF capacity?
7. What is the general opinion of my district's residents on this TID?
8. How will the planned development affect the demand for services in my district? Consider items such as: increased population, traffic impact, fire and police protection, emergency medical services, water, sewer, administrative services, increased student population, demand for training or housing.
9. Is the developer receiving a subsidy, such as a cash grant, incentive or forgivable loan? If so, how was the need and benefit analyzed? Is there a written developer's agreement? Was the public informed of the developer's subsidy in the published hearing notice?
10. What guarantees are in place to ensure the development will occur as anticipated and the property value will increase as expected?

## F. DOR Review Procedure

Under state law (sec. 66.1105(4m)(b)4, Wis. Stats.), the JRB may request DOR review the facts contained in the documents listed in Additional information the JRB must review.

### 1. To request a DOR review

- Majority of the JRB members must support the request
- JRB must submit a written request to DOR and must specify which fact or item the members believe is inaccurate or incomplete
- Within 10 working days of receiving a request for review that complies with the filing requirements, DOR will investigate the issues raised and send a written response to the JRB
- Review JRB Request for DOR Review for more information

### 2. DOR review

- If DOR determines the information does not comply with state law or contains a factual inaccuracy, the JRB may request (but may not require) that the municipality correct and resubmit the proposal for review
  - » **If the municipality resubmits the proposal –** the JRB must vote to approve or reject under state law. The JRB must submit its decision to the municipality within 10 working days after receiving the resubmitted proposal.
  - » **If the municipality does not resubmit the proposal –** the TID is not certified
- If DOR does not identify any factual inaccuracies, the JRB must vote to approve or reject as otherwise specified in state law. The JRB must submit its decision to the municipality within 10 working days of receiving DOR's written response.

## G. After the JRB approves a TID

- Municipality sends DOR a request to certify the TID and includes all the required documents. If DOR determines procedures were followed, DOR will email the municipality a certification letter.
- While the TID is active, the JRB must meet yearly to review the annual performance and status of the TID based on the annual report (sec. 66.1105(4m)(f), Wis. Stats.)

# IV. Wisconsin Department of Revenue Responsibilities

## A. Statutory Responsibilities

The Wisconsin Department of Revenue (DOR) has multiple responsibilities assigned by state law in administering Tax Incremental Districts (TIDs). These duties, include:

### 1. Determine property values

Establishing the Equalized Value of property throughout the state is one of DOR's primary responsibilities. Equalized Value is an estimate of the total value subject to property tax in a district. DOR calculates the Equalized Value independently of the value estimate by the local assessor. DOR uses Equalized Values to calculate a TID's base value when it is created and to adjust the base value due to a territory addition or subtraction. For more details on determining a Tax Incremental Base, review sec. 66.1105(2)(j), Wis. Stats.

When certifying a new TID, state law requires DOR to use the most recent Equalized Values as of the creation year. Based on the documents provided by the municipality, DOR determines the total Equalized Value of the taxable property in the TID. This valuation sets the district's tax incremental base. DOR provides the municipal clerk the certification letter with the base value. For more details on TID base certification, review sec. 66 .1105(5)(b), Wis. Stats.

For a territory amendment, DOR revises the base value according to the value of the territory added or subtracted. When adding territory, DOR uses the Equalized Values as of the amendment year. When subtracting territory, DOR uses the Equalized Values from the year the property was added to the TID.

DOR also uses Equalized Values to establish the value increment in each subsequent year. For more information on establishing a value Increment, review sec. 66.1105(2)(m), Wis. Stats.

State law limits municipalities' use of TIF based on the Equalized Value. The Equalized Value of taxable property of the new or amended district, plus the value increment of all existing districts cannot exceed 12 percent of the total Equalized Value of taxable property within the municipality. This is called the "12 percent value limit." DOR posts the TIF Value Limitation Report yearly showing the existing limit calculation for each municipality based on existing TID's value increment and municipal Equalized Value. Before adopting a resolution to create or add to a district, the local legislative body must calculate the limit percentage using the new or amended TID's value plus the most recently reported Equalized Value increment and municipal value.

For more details on the 12 percent value limit, review sec. 66.1105(4)(gm)4.c., Wis. Stats.

## 2. Approve TID actions

DOR reviews all TID creation and amendment documents to confirm the municipality followed procedures described in state law. This includes publishing notices, holding a public hearing, designating boundaries and adopting municipal and Joint Review Board (JRB) resolutions. DOR may not certify the base value of a new or amended TID if a municipality does not email DOR all required documents by the deadline. Also, DOR cannot certify the base until it confirms the municipality is within the 12 percent value limit. Review the TID Checklist and sec. 66.1105(4), Wis. Stats. for more information. **Note:** DOR does not review the facts supporting any project plan adopted.

## 3. Collect fees

DOR collects a $1,000 fee from municipalities for each resolution adopted to create or amend a TID's boundaries. For a territory amendment that both adds and subtracts property, the base value is recalculated twice and DOR collects a $2,000 fee. For more information on TID fees, review sec. 66 .1105(5)(a), Wis. Stats.

## 4. Calculate annual increment

After the TID number is added to the property on the tax roll, DOR authorizes the allocation of tax increments each year. By April 15 each year, the municipal clerk must pay the administrative certification fee ($150 per TID). When the municipality pays this fee, the TID is considered active and DOR calculates the increment for that year. For DOR to calculate the increment, the assessor must also e-file the Municipal Assessment Report (MAR) before the second Monday in June.

## 5. Track notification from municipality

TIF law requires the municipality to notify DOR about TID amendments and terminations within 60 days of the adopting the municipal resolution.

**For more information on:**

- Amendment notification – review (sec. 66 .1105(5)(cm), Wis. Stats.), and TID Amendments for the amendment process
- Termination notification – review (sec. 66 .1105(8)(a), Wis. Stats.), TID Termination and TIF Termination web page for the termination process

## 6. Review requests for substantial compliance

DOR determines, on case-by-case basis, whether a municipality met substantial compliance when creating or amending a TID. Review Substantial Compliance for more information.

### 7. Review requests by the JRB

DOR may review specific documents or facts if requested by the JRB. Review JRB Request for DOR Review for more information.

### 8. Generate reports

Each year DOR must provide the Equalized Value of property in the TID to the officials for the overlying taxing jurisdictions. DOR posts this notice annually (approximately September 1) on the TID Certification Report web page. DOR also generates other reports to share TID information, including:

- TID Statement of Changes
- Apportionment of County Levy
- Reports – select category "Tax Incremental Financing" for active TIDs, created TIDs, terminated TIDs, and amended TIDs

### 9. Create TIF Manual and forms

Under state law, DOR creates and updates a TIF Manual to explain the TIF rules and processes. TIF staff revises the documents and forms as new legislation is enacted. For more information on the TIF Manual, review sec. 73.03(57), Wis. Stats.

### 10. Provide training and education

In addition to providing formal documents and publications, TIF staff is available to answer any questions; email questions to tif@wisconsin.gov. Also, use this email address to attach TID documents for new creations and amendments. TIF staff also provides information at workshops and conferences. Consultants and professional associations may also offer training workshops for TIF users.

DOR uses email to communicate TIF updates, announce updated reports and resources, and provide reminders on upcoming deadlines. Subscription to the TID/TIF email list is free and voluntary. Sign up on DOR's website by selecting the TID/TIF list and entering your email address. The addresses are only used by DOR to send these emails. Users may unsubscribe at any time by following the instructions in each message.

## B. JRB Request for DOR Review

Before the JRB approves a TID creation or amendment, a majority of the JRB members can request that the DOR review details from documents the JRB received from the local legislative body (city council, village board or town board). There are limited items subject to this review, and a strict timeline for making decisions. DOR's review can provide the JRB with an objective assessment of the facts and documents presented by municipal officials.

**Note:** DOR only reviews objective facts in hearing documents or resolutions for inconsistencies or factual inaccuracies. DOR does not review economic assumptions, eligible project costs, non-project costs, forecasts, projections, development estimates or other non-factual items.

### Review steps and timeline

After the local legislative body adopts the TID creation or amendment resolution, it forwards the resolution to the JRB for consideration. Once received, the JRB must approve or deny the resolution within 45 days. During its deliberations, a majority of members may request a formal DOR review under state law (sec. 66.1105(4m)(b)4, Wis. Stats.).

**1. JRB request –** to begin the review process, the JRB must submit a formal request to DOR before the deadline for JRB action (45 days after receipt of resolution). The request must be in writing and include the following:

- Municipality's name and TID number
- List of JRB members, meeting date, and a record of the vote requesting DOR review (majority of the members must support the request)

- Copy of the documents subject to the review
- Specifics for DOR to review:
  - » Items for completeness
  - » Facts for accuracy

Because of the tight deadlines imposed by law, the JRB must provide all documentation with the request that impacts the proposal. This ensures DOR has all documents to complete the review. The submission should include any information that provides insight into the accuracy of the reviewed document.

**2. DOR review –** within 10 working days after receiving the request, DOR will investigate the issues raised and will send the JRB a written response

- **If DOR does not identify any inaccuracies during the review –** DOR will send its response to the JRB. The JRB then has 10 days to submit its decision (approving or denying the TID) to the local legislative body. The JRB must make a decision to approve or deny based on the same criteria as if no review was requested.
- **If DOR finds a factual inaccuracy or the proposal does not comply with the statutes –** DOR will respond to the local legislative body, not to the JRB. The letter will describe the inaccuracy and direct the municipality on how to correct the error. The JRB may request, but not require, the municipality to correct the errors and resubmit the proposal.
  - » **If the legislative body decides to resubmit the proposal**
    - It must do so within 10 days of receiving DOR's letter
    - JRB must then act to approve or deny the TID resolution within 10 days of receiving the resubmitted proposal
  - » **If the legislative body decides not to resubmit the proposal**
    - DOR will not certify the new TID. Any costs already incurred in the TID creation, become the responsibility of the municipality.
    - DOR will not approve a TID amendment and the municipality cannot proceed with any action based on the amendment

## C. Substantial Compliance

DOR follows specific requirements in TIF law to approve or deny TID creations or amendments. If a municipality meets the essential statutory requirements for creating or amending a TID, but missed a certain requirement, then the municipality may use the substantial compliance process.

If the municipality did not meet a requirement, it must send a letter to DOR requesting a finding of substantial compliance. For DOR to approve the request of substantial compliance, the municipality must show the missed requirement does not affect the fairness of the process or the public's ability to participate in the process. Once received, DOR reviews the request and decides whether substantial compliance is met. If it is, DOR sends an approval letter and the municipality may create or amend the TID as if the law had been followed. For more information on substantial compliance, review sec. 66.1105(15), Wis. Stats.

### 1. TIF laws allow a municipality to request a finding of substantial compliance on:

- **Public hearing notices including, failure to:**
  - » Publish the required notices timely or correctly
  - » Include required wording on cash grants or that the project plan is available upon request
- **Failure to:**
  - » Notify the overlying taxing jurisdictions
  - » Notify property owners of a blight or rehabilitation/conservation TID
  - » Include all necessary information in the project plan
  - » Provide DOR all required documents

### 2. These requirements are not eligible for a finding of substantial compliance

- Planning Commission, Municipality or Joint Review Board fails to approve the resolution
- Required TID documents are not submitted to DOR timely, by:
  - October 31 – creation, territory amendments, or base value redeterminations
  - December 31 – project or allocation amendments

### 3. Head of government must submit a formal letter to DOR

**Request must include:**

- Details of the error, including the specific section of the law not followed
- Explanation of why the error occurred and how the interests of the public were not affected
- Request for a finding of substantial compliance
- Description of actions taken to ensure the error does not reoccur

If DOR determines the municipality complied with the law in a way that does not significantly affect the fairness of the TID process, then DOR approves the request. The TID approval proceeds as usual. DOR administers a new or amended TID certified under the substantial compliance provision in the same way it administers other new or amended TIDs.

If DOR determines the error did substantially affect the public, DOR must deny the request. The TID creation or amendment cannot proceed.

# V. Considerations for the Municipality

## A. "But For" Requirement

TIF benefits municipalities by encouraging development that would not occur without TIF assistance. This standard is called the "but for" requirement. The name comes from the assertion, "The development would not occur but for the use of TIF." In other words, the proposed development would not happen without financial support from TIF. For example, a development may not occur in a certain area because there are not enough streets, sidewalks, sewer lines or other types of physical infrastructure. After using TIF to build these improvements, the development becomes cost effective and proceeds.

### 1. Meeting the "but for" requirement

It is important all local officials understand and can justify the "but for" requirement. When the Planning Commission and local legislative body review new developments requesting TIF, they should consider how the development could help their municipality and the effect on projected profits for the developer. Review Questions to consider for more information.

The JRB must consider the "but for" requirement before approving a TID creation or amendment. According to TIF law, the JRB must base its approval on three criteria listed in state law (sec. 66.1105 (4m)(c), Wis. Stats.), whether the:

a. Development expected in the TID would occur without the use of TIF

b. Economic benefits of the TID, as measured by increased employment, business and personal income and property value, are sufficient to compensate for the cost of the improvements

c. Benefits outweigh the anticipated tax increments to be paid by the owners of the property in the overlying taxing districts

The second and third criteria work with the "but for" requirement. Meeting these criteria demonstrate that using TIF is justified. JRB members should ask relevant questions and request documentation to confirm claims related to the "but for" requirement. They can hold additional public hearings if needed.

Before JRB members agree to the "but for" criterion, they must have convincing evidence showing the TIF is necessary to make the development possible. The members sacrifice some tax revenue for the taxing jurisdiction they represent many years into the future. If TIF assistance is not needed before a development proceeds, the JRB members should not agree to the "but for" criterion.

## 2. What "but for" means

When considering a new development project, there is often considerable risk involved for the developer. As a reward for taking the risk, the developer must make a certain profit. Even if the developer expects a profit, it may not be large enough to compensate for the risk; therefore, the project may not be worthwhile.

TIF can alter the profit picture by shifting some of the development costs from the developer to the taxpayer (ex: a site may require environmental cleanup, which can be costly. If a municipality cleans up the site and pays for it with TIF, the developer does not take on this cost).

Why would a municipality take on expenses and risks to increase the profits of a private developer? The basic concept of TIF is that there are some projects the municipality finds desirable, but are not profitable enough for private developers. By accepting increased risk and paying for physical improvements in the short-run, the municipality will benefit from an increased tax base once the TID terminates. The municipality must evaluate the short-term risks and the long-term benefits to determine whether a TIF project is worthwhile. The JRB must also agree the long-term benefit is worth the short-term cost.

### Examples and why the "but for" requirement is important

1. A developer would like to build a strip mall on vacant land near a freeway interchange. The developer requests TIF assistance to pay for roads and sewer line connections. The municipality decides not to use TIF, but the developer builds the mall anyway. The developer pays for the roads and sewer lines in addition to the cost of constructing the building. The property value increases due to the site improvements. This results in increased tax revenue for the taxing jurisdictions without using TIF.
2. The same scenario but after the municipality decides against using TIF, the developer decides not to proceed with the project; the property is not developed and remains vacant. The small tax revenue from the vacant land continues to be collected.
3. The same scenario but this time the municipal government negotiates with the developer. After the developer shows how public funding of some infrastructure will make the project feasible, the municipality approves TIF. The vacant land value establishes the TID's base value. Later improvements (ex: construction of the mall) increase the value and create the value increment. The tax revenue on the value increment funds the roads and sewer lines.

In the first example, the municipality's tax base grows due to private investment. Growth usually occurs this way. Due to the growth, the tax levy is distributed over more property value. In the second example, the development does not happen because the project is not profitable. The tax base does not grow and the tax levy stays the same. In the third example, the development happens using TIF. The municipal taxpayers pay for the infrastructure improvements. In the end, the tax base grows, but at the cost of higher tax levies during the TID life.

If a proposed development would occur without TIF, TIF should not be used because it will cost taxpayers more than it should for the resulting growth. However, if TIF is used to encourage a development that would not otherwise happen, the tax base can be increased. A larger tax base may reduce tax bills. The "but for" requirement is critical to this distinction. The "but for" finding means the JRB believes the development will not occur without some public assistance. The JRB is approving the use of property tax money, which would otherwise fund its taxing district, to generate growth. By encouraging growth, TIF can be a useful tool to increase the tax base and control taxes.

## B. Risk Factors to Recognize

TIF is one of the most powerful tools available to local governments for encouraging development. Using tax revenues to finance certain site improvements encourages growth by attracting development; however, using TIF has risks, which include:

### 1. Over-investment

One of the most common TIF uses is to fund infrastructure improvements (ex: sewer lines, roads, curbs and gutters) that make a site more attractive to business. By enhancing the site with physical improvements, there may be fewer costs to locate and start a business. Municipalities are willing to make these investments because the private development should expand its tax base. When TIF is used, this growth pays for the infrastructure investments that encouraged it.

Municipalities can invest significant amounts of money in infrastructure improvements, hoping growth will follow. However, if little or no private development occurs, there may be no tax increment revenue to pay for those improvements. If there is no increment revenue, the municipality must use general tax revenue to finance improvements. Paying for these costs without a larger tax base, results in higher taxes.

Another risk of over-investing occurs when the site improvements prevent some development types from using the site. For example, roads, sewer lines, sidewalks and curbs installed in a TID allow almost any use of available land (ex: commercial, residential, industrial). New buildings; however, may limit the potential uses. In this case, the improvements meant to attract development could actually prevent it.

Municipalities can avoid over-investing by planning improvements in stages based on the TID's location or the amount of money they wish to invest. When using this approach, one area is improved and development occurs before moving to the next phase. Part of the TID grows before all the improvements are made. Each phase's development generates value increment, resulting in tax dollars to pay for the next phase of improvements. The phased approach encourages a steady growth rate and prevents the municipality from spending too much money before it is certain the development will occur.

**Important**

TID project plans can be amended unlimited times during the TID's expenditure period. The TID boundaries can be changed up to four times. Using these amendments allow for flexibility in planning, which can reduce development risks. Review TID Amendments for more information on the amendment process.

### 2. Under-investment

The opposite of over-investing is not improving the site enough to attract development. If a site does not have any improvements, businesses may not find it attractive to locate there. If a municipality is too cautious using TIF to finance improvements, the expected development may not occur.

A coordinated approach may reduce this risk. Rather than waiting for large growth to ensure payment for the site improvements, coordinating important investments with sizable development ensures the growth and investment happen together. A well-written project plan and a phased approach to development help make a TID successful.

### 3. Dislocation

Municipalities might create TIDs to encourage the growth of a new retail or commercial district. These TIDs can use large sections of vacant land near the edge of town or highway intersections. This may be a good way to add to the non-residential tax base.

When a municipality already has a large retail area, it must consider how a new commercial development will affect existing businesses. For example, a new strip mall along a major highway may increase tax revenues and take advantage of a prime location. However, if the municipality has a downtown or main street corridor, the new

development could reduce the retail business there. If using TIF damages existing businesses, the property value decreases may offset the property increases in the TID resulting in no net growth for the municipality.

A municipality must also consider the impact of its new development on neighboring communities. Individual municipalities create their own TIDs, but their decisions may affect surrounding communities. Municipalities should work together to increase growth and development. JRBs which include county, school, technical college and other representatives, should share concerns on how using TIF may impact each jurisdiction.

### 4. Excess growth

State law limits how much property municipalities can have in TIDs at one time. This restriction is the "12 percent value limit." The total value increment for all existing TIDs divided by the total Equalized Value of the municipality cannot exceed 12 percent. When a municipality reaches this limit, it cannot create any new TIDs and cannot add property to any existing TIDs.

A well-planned TID may create significant new growth, which results in substantial increment revenue, allowing many projects or making costly projects feasible. The risk for a successful TID is having so much growth in the TID that the municipality exceeds the 12 percent limit. A fast growing TID in a small community could contain over 12 percent of the municipality's value after just a few years.

**Example:** Village of Beta has a total Equalized Value of $1,000,000. To encourage growth, it creates an industrial TID made up of vacant land. As growth begins, the property value increases. When the TID's value increment exceeds $120,000, the Village will pass the 12 percent limit.

Once the municipality reaches the limit, it cannot create any new TIDs until it terminates a TID or subtracts some property to reduce the value increment.

To avoid this risk, a municipality may plan a smaller TID, resulting in smaller value increment. The municipality can also create TIDs likely to generate development outside the TID. That way property values grow both inside and outside the TID, maintaining stable TIF capacity. The municipality can also remove some land from a TID to reduce the municipality's TIF usage. Using other incentives to encourage growth outside of TIDs can also help avoid this risk.

### 5. Impacts of growth

Using TIF to attract development can be a powerful way to expand the tax base. Municipalities must plan TIF development carefully to ensure it fits the community's overall composition. In Wisconsin, communities create "comprehensive plans" which describe growth expectations. TIF can help generate growth, but without careful preparation, TIF may actually work against the comprehensive plan. For example, a municipality designates an area for residential development; however, an industry wants to use TIF to expand in that area. Expanding industrial use may make the area less attractive for residential development. Municipalities should anticipate these effects when creating TIDs.

Another impact of growth municipalities must consider is increased demand on services (ex: emergency responders, police and fire protection, traffic, trash, water, schools and housing). The comprehensive plan should address these development impacts. For example, if the plan includes a large residential development, it must also address the increased demands on public schools as more families move into the district. Jobs are also an important factor to consider. New residents will not move to a new residential development without jobs in the area. Therefore, municipalities must consider the growth within the TID and outside the TID as a whole.

### 6. Political risks

The municipality's elected officials are responsible for creating TIDs, so the public may hold them accountable for any unfavorable outcomes. This makes planning the TID particularly important. TIF law requires one public hearing, but with a controversial proposal, additional hearings may be worthwhile. The Planning Commission, local legislative body, or JRB can hold hearings. These hearings allow additional opportunities for public input and

for those opposed to make their case. Ultimately, the elected leaders decide what action to take, but hearing from their constituents may help them make a better decision.

### 7. Development risks

A TID's success depends on the amount of growth and private development. When the expected growth does not occur, the municipality must pay for the improvements with general-purpose tax revenue. This may result in a higher tax levy.

Municipalities can use development agreements to reduce risk. These agreements establish the municipality's and developer's expectations for the development itself and the timeframe. Some development agreements include a "look back" clause requiring periodic review of the developer's progress compared to specific project requirements. These clauses may require assessment of the development generated compared to TIF costs spent. Other provisions can:

- Limit the profit a developer makes on the subsidized development (with surplus profits going to the municipality)
- Require specific property uses within the TID
- Require a minimum property value
- Require the developer pay some project costs if the development does not proceed as expected

If both parties agree to the development terms in advance, it decreases the chance of a conflict later.

## C. Intergovernmental Agreements

### 1. Boundary agreements

Growth near municipal borders can strain relations between municipalities because development affects surrounding areas. Issues including, cost of servicing the new growth, increased pollution or traffic, effects on the housing market and on public schools, and other complicated matters can create problems.

Municipalities can use boundary agreements to manage their growth in cooperation with each other. Two or more neighboring municipalities may use a boundary agreement to arrange for providing services, plan for a future annexation, or document a tax sharing agreement.

By partnering to address issues in a boundary agreement, local leaders may be able to prevent problems. Solutions, such as collaborative services (where one municipality provides services to another at a negotiated price), tax sharing, annexation agreements, border freezes, and cooperative development can be explored.

Each solution is unique to the issue facing the specific municipalities. Municipalities interested in using boundary agreements can consult the Wisconsin Department of Administration or the University of Wisconsin Cooperative Extension.

**There are two types of TIDs that require special agreements:**

- Cooperative TIDs – require municipal officials to sign a boundary agreement
- Multijurisdictional TIDs – allow two or more cities to enter into an intergovernmental cooperation agreement under state law (sec. 66 .0301, Wis. Stats.), to create a TID

### 2. Cooperative TIDs

State law (sec. 66.1105(16), Wis. Stats.), governs Cooperative TIDs. These TIDs are meant for towns with development needs more like those of a city. A Cooperative TID allows a town that signs a boundary agreement with a neighboring city or village to exercise City/Village TIF powers following sec. 66.1105, Wis. Stats. This means the town can create additional TID types not usually available to towns, including industrial, mixed-use, rehabilitation/conservation, blight and environmental remediation. The same rules and timelines required to create a TID under sec. 66 .1105, Wis. Stats., apply to a Cooperative TID.

**Note:** A cooperative TID can only be created in a town that shares a border with a city or village. Without that common border, a boundary agreement cannot be signed.

**Along with the other forms, hearings and resolutions, a Cooperative TID also requires the:**

- Town to enter into a cooperative plan with a city/village, under sec. 66.0307, Wis. Stats. In this plan the city/village agrees to annex all or part of the town in the future.
- City/village that is annexing the town to adopt a resolution approving the creation of the Cooperative TID
- Cooperative TID to be completely within the territory that will be annexed by the city or village

Cooperative TIDs have the same lifetime, expenditure period, reporting requirements and audits as other TIDs created in a city/village under sec. 66 .1105, Wis. Stats. Review TID Details for more information.

**After the city/village annexes the land in a Cooperative TID, the city/village must administer the TID according to the requirements in sec. 66.1105, Wis. Stats.**

The TID also has these conditions (sec. 66.1105(6), Wis. Stats.):

- Creation date is the date the town originally adopted the resolution creating the TID
- Project plan is the plan approved by the town when the TID was created

## 3. Multijurisdictional TIDs

State law (sec. 66.1105(18), Wis. Stats.), governs Multijurisdictional TIDs. The TIDs created under this section are the only ones that can be created in more than one municipality. Some cities would be better able to meet development needs if they could collaborate with other cities. A Multijurisdictional TID allows two or more cities that enter into an intergovernmental cooperative agreement to create a joint TID.

**The same rules/timelines for a TID created under sec. 66.1105, Wis. Stats., apply to a Multijurisdictional TID.**

Multijurisdictional TID must also follow these requirements:

- Two or more cities must enter into an intergovernmental cooperation agreement under sec. 66.0301, Wis. Stats. Each city participating in the agreement must border at least one parcel in one of the other cities.
- TID's borders must contain territory in all of the cities that are part of the agreement
- District's area must be contiguous

### a. Intergovernmental cooperation agreement must contain:

1. Description of how the participating cities will meet the requirements of sec. 66.1105, Wis. Stats., and exercise the authorized powers
2. Description of how decisions will be made related to incurring debt, spending funds for project costs, and distributing positive tax increments allocated by the Wisconsin Department of Revenue (DOR)
3. Description of which city will be authorized by the other participating cities to act on behalf of the other cities on some or all matters relating to the district
4. Binding dispute resolution procedure  the cities will use to resolve any disputes, including provisions allowing the cities to dissolve the district
5. Description of the proposed membership for the Joint Review Board
6. Description of the responsibilities for each city's Planning Commission, the membership and authority of the TID's Planning Commission, and the operating procedures of the TID's Planning Commission
7. Description of the responsibilities for each city's clerk, treasurer, assessor, and any other official carrying out the TIF law requirements, and which clerk, treasurer, assessor, or official will be responsible for each task specified in the law
8. Agreement on which city will be the lead city responsible for completing any documents or tasks
9. Agreement that the lead city will submit all the TID's documents at one time

10. Statement that the entire TID will terminate at one time (as a single entity) and that the lead city will submit all necessary termination notices and reports to DOR
11. Detailed description of the procedures participating cities will follow to determine:
    a. When the TID's life may be extended
    b. How the project plan or boundaries can be amended
    c. How any annexation costs incurred will be shared

**b. Limitations – Multijurisdictional TID may not:**

- Become a donor district or receive tax increments from a donor district
- Incur project costs for any area outside the TID's boundaries
- Cause any participating municipality to exceed the 12 percent value limit. The 12 percent limit applies to all cities that are part of a Multijurisdictional TID. The total base value of the Multijurisdictional TID plus the existing value increment for TIDs in an individual municipality divided by that municipality's Equalized Value equals the value limit percent.
  - » Exception – when an individual municipality exceeds the 12 percent limit, if the governing bodies of all overlying taxation districts for that municipality each adopt a resolution approving the TID's creation even though that city exceeds the 12 percent limit, the TID may be created under sec. 66.1105(18)(c)3., Wis. Stats.

Multijurisdictional TIDs have the same lifetime, expenditure period, reporting, and audit requirements as TIDs created under sec. 66.1105, Wis. Stats. Review TID Details for more information.

### 4. Comprehensive plan

Long-term growth in a community is often facilitated by creating a comprehensive plan. Growing communities should consider the need for a comprehensive plan to help direct growth. State law outlines the necessary parts of a comprehensive plan in sec. 66.1001(2), Wis. Stats. These include housing, transportation, economic development and intergovernmental cooperation.

## D. Effects on Overlying Taxing Jurisdictions

Although cities, villages and towns create TIDs, other overlying taxing jurisdictions participate in financing a TID. Counties, school districts, technical college districts, metropolitan sewer/town sanitary districts and lake protection/rehabilitation districts all provide TIF through their property taxes. Officials in these districts should understand how the use of TIF in their districts affect tax collections. Review How TIF Works for more information.

### 1. Effects on all overlying taxing jurisdictions

- Creating a TID may result in larger levies in the short term due to the tax increment
- The TID's property value increase is removed from the Equalized Value of the district for tax apportionment purposes
  - » As a result, the tax rate for all residents of the district is the same
  - » This also contributes to replacing the revenue that would have been generated by that portion of the property value
- The TID's value increment is used to calculate the tax increment and pay for TID improvements
- The tax levy may be reduced over the long term if the TID creates development that would not have happened without using TIF
- When the TID closes, the larger tax base may reduce taxes on residents of the overlying taxing jurisdictions

### 2. District specific information

- A large part of tax increment revenue comes from the school levy. In most areas, the school levy represents the largest portion of the property tax bill.
- School districts, technical colleges and county governments receive property taxes and state aid

- Special taxing jurisdictions created for certain purposes, such as lake protection and rehabilitation, sewer management, and sanitary services do not receive state aid and depend entirely on their taxable property to generate revenue

  **Note:** Although the municipality creating a TID must notify any affected special districts, these special districts do not have a representative on the Joint Review Board.

# VI. Tax Incremental Financing (TIF) Glossary

## A. TIF vs. TID

It is important to understand the difference between these two terms:

**TIF –** Tax Incremental Financing; an economic development technique available for municipalities to expand its property tax base, where the development would not occur without public assistance

**TID –** Tax Increment District; the contiguous geographical area within a municipality identified for development using Tax Incremental Financing. A TID consists of whole units of property assessed for general property tax purposes not including railroad right of ways, rivers or highways, or wetlands (sec. 23.32, Wis. Stats.).

## B. Other Terms and Concepts

**Affordable housing –** housing that costs a household no more than 30 percent of the household's gross income. A municipality may extend the life of a TID which has paid project costs up to one year if it uses 75 percent of the final increment on affordable housing.

**Amendment –** general category for types of changes to a TID. All amendments must be submitted to the Wisconsin Department of Revenue (DOR) for approval. Review TID Amendments for details.

- **Allocation –** transferring an identified amount of increment funds from one TID (donor TID) to help pay the costs of another TID (recipient TID).
- **Project plan –** a change to the TID project plan. The change may add projects, modify eligible costs, change financial plans, add cash grants, or half-mile radius option.
- **Territory –** a change to the area or boundary of a TID. Territory may be added or subtracted up to four times during the life of a TID. The TID boundaries must remain contiguous.
- **Base value redetermination –** a reduction of the TID's base value. To qualify, the TID's Equalized Value must be at least 10 percent below the current base value of the TID for two consecutive years.

**Annexation –** the transition of land from the control of one entity to another. In relation to TIF law, this usually refers to town territory annexed by a city or village. After January 1, 2004, annexed land cannot be included in a new TID or added to an existing TID, unless one of the following applies:

- At least three years passed since the annexation occurred
- City/village enters into a cooperative boundary agreement with the town
- City/village and town enter into an agreement where the city/village pledges to pay the town an amount equal to the property taxes levied on the annexed territory for each of the next five years

**Base value –** the total value, as equalized by DOR, of the real and personal property located within the TID as of the valuation date.

**Blighted area –** areas in a damaged condition. TIF Law provides two specific meanings for the designation of blight. Neither definition includes any open land developed only for agricultural purposes:

- **Definition 1:** An area in which the structures, buildings or improvements contribute to ill health, transmission of disease, infant mortality, juvenile delinquency, or crime and are detrimental to the public health, safety, morals or welfare, due to dilapidation, deterioration, age or obsolescence, inadequate provision for ventilation, light air, sanitation or open spaces, high density population and overcrowding, or the existence of conditions which endanger life or property by fire and other causes
- **Definition 2:** An area which is predominantly open and which consists primarily of an abandoned highway corridor as defined in sec. 66.1333(2m)(a), Wis. Stats. or that consists of land on which buildings or structures have been demolished and because of obsolete platting, diversity of ownership, deterioration of structures or of site improvements, substantially impairs the sound growth of the community

**Boundary agreement –** an agreement between two adjoining municipalities about their cooperation regarding issues such as land use, services, revenues, or boundaries. This type of agreement allows territory annexed from a town after January 1, 2004 to be included in a TID even if three years have not passed since the annexation. Sec. 66.0307, Wis. Stats., provides for the boundary agreement mentioned in TIF Law. Review Intergovernmental Agreements for more information.

**Cash grants –** payments made from tax increments to owners, lessees or developers of property included in a signed development agreement.

**Class 1 notice –** legal announcement of a meeting or hearing following ch. 985, Wis. Stats. This notice requires one publication at least seven days before the event. The public notice must be published in a newspaper likely to notify the people or place affected by the TID. The notice must say when, where and for what purpose the meeting or hearing is being held. Public hearings regarding any type of TID amendment require a Class 1 Notice; however, all Joint Review Board (JRB) meetings regarding the TID require notice at least five days before the meeting.

**Class 2 notice –** legal announcement of a meeting or hearing following ch. 985, Wis. Stats. This notice requires two publications, one in each of two consecutive weeks with the last published at least seven days before the event. The public notice must be published in a newspaper likely to notify the people or place affected by the TID. The notice must say when, where and for what purpose the meeting or hearing will be held. Public hearings regarding the creation of a TID require a Class 2 Notice.

**Contiguous –** geographically connected or sharing a border. All parcels in a TID must be contiguous.

**Creation –** the process of identifying a contiguous geographic area targeted for development and submitting an application requesting DOR designate it as a TID.

**Creation date –** the date the municipality adopts the creation resolution for the TID. The creation date determines the maximum life and the beginning of the expenditure period. Only costs related to planning for the TID can be incurred before the creation date.

**Creation resolution –** the municipality's formal document approving the TID. This document must contain specific information about the TID. Review the Resolution Checklist for details on content.

**Current value –** the total equalized value of the real and personal property in the TID as of January 1 of the current year, certified annually on approximately September 1.

**Decrement situation –** when the aggregate value, as equalized by DOR, of all taxable property within the TID is at least 10 percent less than the base value for two consecutive years.

**Distressed TID –** designation in the TIF law that allowed a TID more time to pay off project costs. This designation ended September 30, 2015. Distressed TIDs added 10 years to their maximum life.

**District type –** one of five categories of TIDs. The creation resolution must declare the TID type. The five TID types include: blighted, rehabilitation or conservation, industrial, mixed-use, and environmental remediation. The declaration is based on the type of land that makes up 50 percent of the area in the TID.

**Environmental pollution –** the contaminating or rendering unclean or impure the air, land or waters, or causing damage or harm to public health, fish, bird, animal or plant life, or harmful for commercial or recreational use. (sec. 299.01(4), Wis. Stats.)

**Environmental Remediation district –** a TID with significant environmental pollution. Before creating an Environmental Remediation TID, the municipality must obtain certification of the site investigation report by the Wisconsin Department of Natural Resources. In the report, the municipality must describe the pollution, how it will be cleaned up, costs and a timeframe for the clean-up.

**Equalized value –** the DOR process of creating a uniform value for all general property in the state. Equalized property value is based on 100 percent of market value.

**Expenditure –** the exchange of money for the delivery of goods or services. No TID expenditures may be made before the adoption of the municipal resolution, except for costs directly related to planning for the TID. TIF law lists eligible expenditures:

a. **Capital costs –** such as public works; new buildings or structures; demolition, remodeling, repair or reconstruction of existing buildings; environmental remediation; and the clearing of land
b. **Financing costs –** including interest paid to bond holders and premiums paid for early redemption of bonds
c. **Property assembly costs –** meaning a deficit incurred due to the sale or lease of land within a TID for less than its cost to the municipality
d. **Professional services –** such as planning, architectural, engineering, accounting, consulting, legal advice and services
e. **Administrative costs –** for municipal employees' time directly related to creating the TID or time spent implementing the TID project plan
f. **Relocation costs –** including relocation payments made following condemnation under sec. 32.19, Wis. Stats.
g. **Organizational costs –** related to environmental impact statements and public notices
h. **Payments –** to a town for property taxes on annexed land included in a TID
i. **Portion of major infrastructure projects –** inside or outside the TID that will serve the land in the TID (ex: water tower, sewer or water treatment plant)
j. **Removal or containment of lead contamination –** in buildings or infrastructure that the municipality declares a public health concern
k. **Developing newly-platted residential areas in a mixed-use TID –** when the residential development meets certain qualifications
l. **Cash grants –** if a development agreement is signed
m. **Fees to DOR –** to certify the base or value increment of a TID

**Expenditure period –** the time during the life of the TID when expenses may be incurred to implement the approved projects. The maximum expenditure period for all districts (except Environmental Remediation districts created before November 29, 2017) ends five years before the unextended maximum life of the TID. Environmental Remediation TIDs created before November 29, 2017, have a 15-year expenditure period.

| TID Expenditure Period | |
|---|---|
| **TID Type** | **Maximum Expenditure Period** |
| Any before October 1, 1995 | 22 years |
| Blight or Rehabilitation/Conservation after October 1, 1995 | 22 years |
| Industrial after October 1, 1995 but before October 1, 2004 | 18 years |
| Industrial or mixed-use on or after October 1, 2004 | 15 years |
| Environmental Remediation before November 29, 2017 | 15 years |
| Environmental Remediation on or after November 29, 2017 | 22 years |

**Extension –** requesting extra time for the TID. This extends the TID maximum life. Review TID Extensions for details on obtaining an extension.

### Three extension types:

1. **Affordable housing extension –** an extension of up to 12 months to the TID maximum life when the final increment is used to improve housing. The municipality must use 75 percent of the increment to improve affordable housing. The municipality must adopt a resolution approving the extension and email a copy to DOR.
2. **Standard extension –** a non-specific statutory extension. The length of the extension depends on the type of district (review TID Criteria Matrix for details). The JRB must approve this extension and the municipality must email a copy of the approval to DOR.
3. **Technical college extension –** a three-year extension to the TID maximum life when the TID's increment was negatively impacted by 2013 Wisconsin Act 145. The JRB must approve this extension and the municipality must email a copy of the approval to DOR.

**Increment –** see Tax increment or Value increment

**Industrial district –** TID with more than 50 percent of land suitable for industrial sites. Any real property within an industrial type TID that is zoned for industrial use must remain zoned for industrial use for the life of the TID.

**Ineligible project costs –** expenses that may not be paid for with the tax increment revenue. TIF law identifies the following ineligible project costs:

- Constructing or expanding administrative, police and fire buildings, libraries, schools, recreation and community buildings, unless they were destroyed before January 1, 1997 by a natural disaster
- Constructing any building or facility if the municipality generally finances similar facilities only with utility user fees
- General government operating expenses unrelated to the planning or implementation of the project plan
- Cash grants made by the municipality to owners, lessees, or developers of land within the TID, unless the recipient has signed a development agreement with the municipality. The muncipality must send a copy of the agreement to the JRB or, if the TID terminated, retain the agreement in the official records of the TID.

**Joint Review Board (JRB) –** a committee with members representing the overlying taxing jurisdictions responsible for approving or denying the creation or amendment of a TID. When creating a TID the municipality must create a standing JRB to vote on all TID actions and review the TID Annual Report. The standing JRB must continue until all the TIDs within the municipality terminate. Review Joint Review Board for more information.

**Lands proposed for newly platted residential use –** state law does not define the phrase "lands proposed for newly platted residential use." A "plat" is a map of a subdivision. "Newly platted" refers to land that has not been previously subdivided or is currently subject to a replat as defined in sec. 236.02(11), Wis. Stats. The word "residential" commonly means relating to a place where people live. When reviewing a project plan, DOR considers the current use, or zoning, and the future use, or zoning, as indicators of whether an area consists of "lands proposed for newly platted residential use." An example of "lands proposed for newly platted residential use" would be subdividing a farm field for housing. Under state law, increment revenue may only be spent on newly platted residential development in a mixed-use TID if the TID includes less than 35 percent of lands proposed for newly platted residential use and if one of the following applies:

- Density of the residential housing is at least three units per acre
- Residential housing is located in a conservation subdivision, as defined in sec. 66.1027(1)(a), Wis. Stats.
- Residential housing is located in a traditional neighborhood development, as defined in sec. 66.1027(1)(c), Wis. Stats.

**Local legislative body –** municipal governing body responsible for administering local government (ex: the village/town board, city council or common council). This body must adopt a resolution to create, amend, or terminate a TID; or extend the TID's life for affordable housing.

**Mixed-use district –** TID with a combination of residential, commercial, and industrial uses. Mixed-use TIDs can only include lands proposed for newly platted residential use if they do not exceed 35 percent, by area, of the real property in the TID and the residential development meets other qualifications.

**Multijurisdictional district –** TID created by two or more cities that have entered into an intergovernmental cooperation agreement under sec. 66.0301, Wis. Stats., which addresses the provisions required by sec. 66.1105(18)(b), Wis. Stats.

**Municipality –** a city, village or town.

**Non-project costs –** project expenses that are not eligible for TIF increment funds or that are paid for with other types of revenue, such as a grant. Any non-project costs in the TID must be detailed in the project plan.

**Overlap –** when the boundary of one TID covers another existing TID's boundaries.

**Overlying taxing jurisdiction –** school districts, county governments, technical college districts and other special districts (ex: sanitary districts, sewer districts or lake rehabilitation districts). The tax increment generated by the levies of each of these jurisdictions is collected by the municipality that manages the TID to pay for the approved project costs. A representative from the county, municipality, school and technical college districts serves on the JRB.

**Planning Commission –** a committee that creates and adopts a master plan for physical development of the municipality as specified in sec. 62.23, Wis. Stats. If a municipality does not have a Planning Commission, a board of public land commissioners or the planning committee may serve this role. Steps assigned to the Planning Commission under TIF law may be carried out by the Redevelopment or Community Development Authority of the municipality.

**Project costs –** any expenditure planned or made that can be paid for with tax increment revenue. DOR does not make decisions on the eligibility of specific project costs. Each municipality must consult with its legal and accounting advisors to decide whether a project or specific cost is eligible under TIF law.

**Project plan –** a document explaining the financial details and development plans for the TID.

**Public hearing –** the presentation of the TID project plan before the Planning Commission where the community may voice its opinion on the TID. As part of creating or amending a TID, the Planning Commission must hold a public hearing and make copies of the project plan available.

**Rehabilitation or conservation work –** to restore, preserve or repair. Defined for the purposes of TIF law in sec. 66.1337, Wis. Stats., rehabilitation and conservation includes any of the following (these descriptions do not override the restrictions on project costs defined above):

- Operating a program of voluntary or compulsory repair and rehabilitation of buildings or other improvements
- Acquisition of real property and demolition; removal or rehabilitation of buildings and improvements on the property to eliminate unhealthful, unsanitary or unsafe conditions, lessen density, reduce traffic hazards, eliminate uses detrimental to the public welfare, remove or prevent the spread of blight or deterioration, or provide land for needed public facilities
- Installation, construction or reconstruction of streets, utilities, parks, playgrounds, and other improvements necessary for the objectives of an urban renewal project
- The disposition of any property acquired in the area of the project for uses meeting the objectives of the urban renewal project

**Severely distressed TID –** designation in the TIF law that allowed a TID more time to pay off project costs. This designation ended September 30, 2015. Severely Distressed TIDs were allowed a maximum life of 40 years from the creation date.

**Substantial compliance –** when the essential (substantial) requirements of the statutes are met even though the formal requirements were not. When creating or amending a TID, if the municipality does not meet certain requirements, the municipality may submit a written request asking DOR to find substantial compliance. This means that despite certain errors, a TID may be created because the error did not affect the fairness of the process or the public's ability to participate in the process. This process allows DOR more flexibility when approving TIDs.

**Tax base –** the total of all equalized real and personal property in an entire municipality or taxing jurisdiction on which property taxes are levied.

**Tax increment –** the taxes levied by all overlying taxing jurisdictions on the value between the base value and the current value of the TID. The municipality that manages the TID uses these taxes to pay for the approved project costs. Review the TID Creation Timeframes for information on when increments begin for a new creation. Review TID Termination Timeframes for information on when increments end for a termination.

**Termination –** the process of ending a TID. This process includes adopting a resolution, notifying DOR, completing the final audit and filing the appropriate documents with DOR. After the tax increments collected exceed project costs or the TID reaches its maximum life, it must terminate. If the municipality terminates a TID and there is remaining debt then it becomes the municipality's responsibility. Review TID Termination and TID Termination Timeframes for more information.

**Valuation date –** January 1 of the year the TID is created or amended. The valuation year is the same as the creation year. The date the municipality adopts the creation or amendment resolution determines the valuation/creation year. Review the TID Creation Timeframes to determine the creation year.

**Value increment –** the difference in value between the base value and the current value of the TID. This is the amount of property value that can be attributed to the TIF investment used to generate the tax increment that pays for the investment.

**Value limit –** a way to determine if the municipality can create a TID. The value of taxable property in the new TID plus the value increment of existing TIDs divided by the total municipal equalized value cannot exceed 12 percent. This limit also applies when adding territory.

## VII. Resources/Contact Information

**For more Tax Incremental Financing (TIF) information:**

- Visit TIF Information on our website
- Contact us at tif@wisconsin.gov or (608) 266-7750