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PRESENTATION TO CITY OF COLUMBUS

Indiana TIF: Basics and Best Practices

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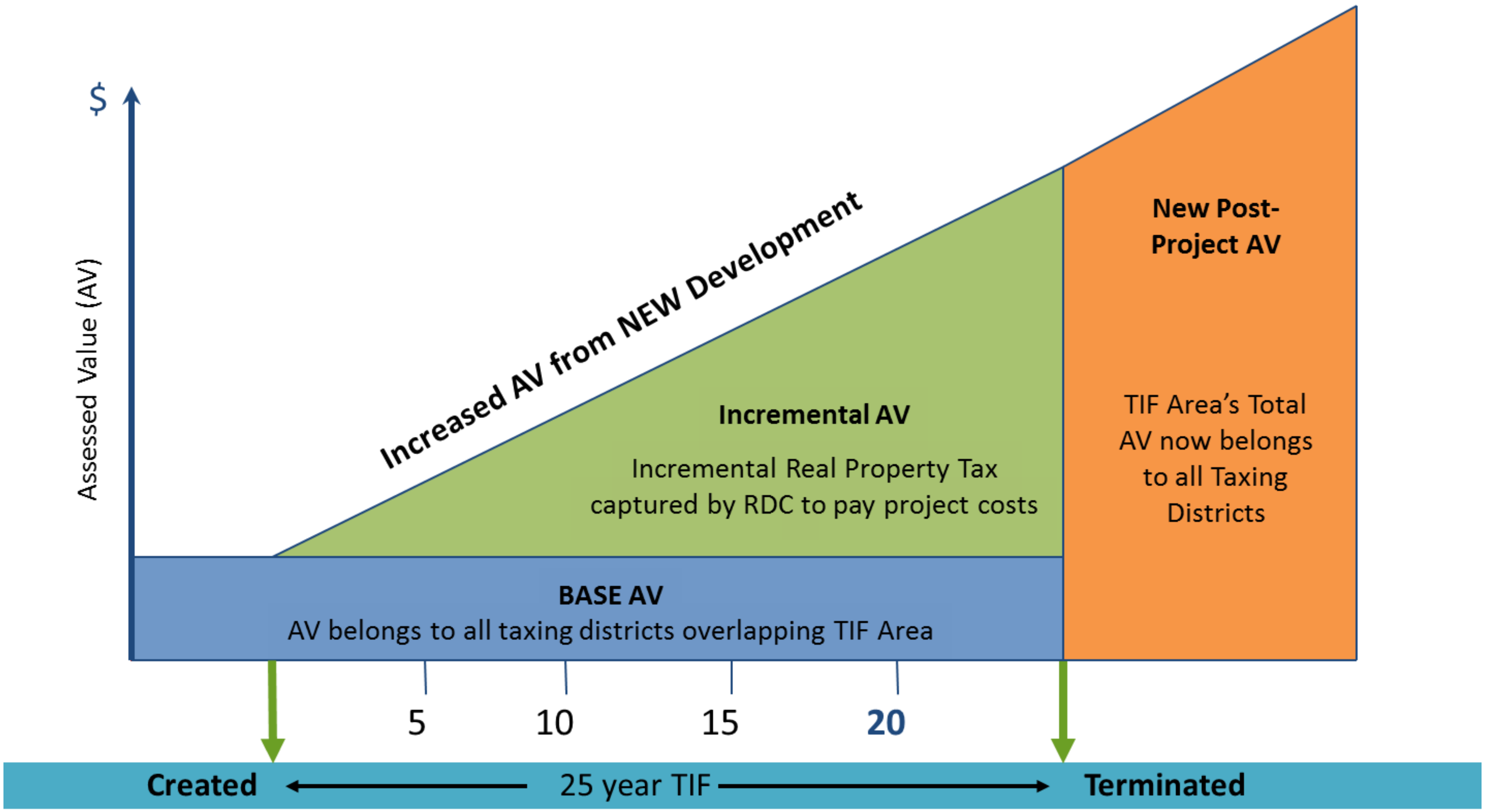
TIF Theory

- Problem: there exist obstacles to redevelopment or economic development that have not been and are not likely to be overcome by "the ordinary operations of private enterprise" (the "but for" test).
- Solution: use the new property taxes generated by a redevelopment project or economic development project to pay for the cost of removing the identified obstacles.

TIF Theory (con't.)

- Examples of obstacles:
  - Lack of needed public infrastructure
  - High cost of land
  - High cost of structured parking
  - Environmental contamination
  - Incentive competition from other states and communities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Assessed Value (AV)
Increased AV from NEW Development
Incremental AV
Incremental Real Property Tax
captured by RDC to pay project costs
New Post-
Project AV
TIF Area's Total
AV now belongs
to all Taxing
Districts
BASE AV
AV belongs to all taxing districts overlapping TIF Area
5
10
15
20
Created
25 year TIF
Terminated

Basic Concepts and Definitions

- City, town or county legislative body may adopt an ordinance creating a **redevelopment commission** of the unit comprised of five (5) members, three (3) appointed by the executive and two (2) appointed by the legislative body or fiscal body of the unit.
- The executive of the unit also appoints a non-voting advisory member representing the local school board.
- The redevelopment commission has jurisdiction over the **redevelopment district** of the unit, which is a special taxing district having the same boundaries as the unit (except for certain counties).

Basic Concepts and Definitions (con't.)

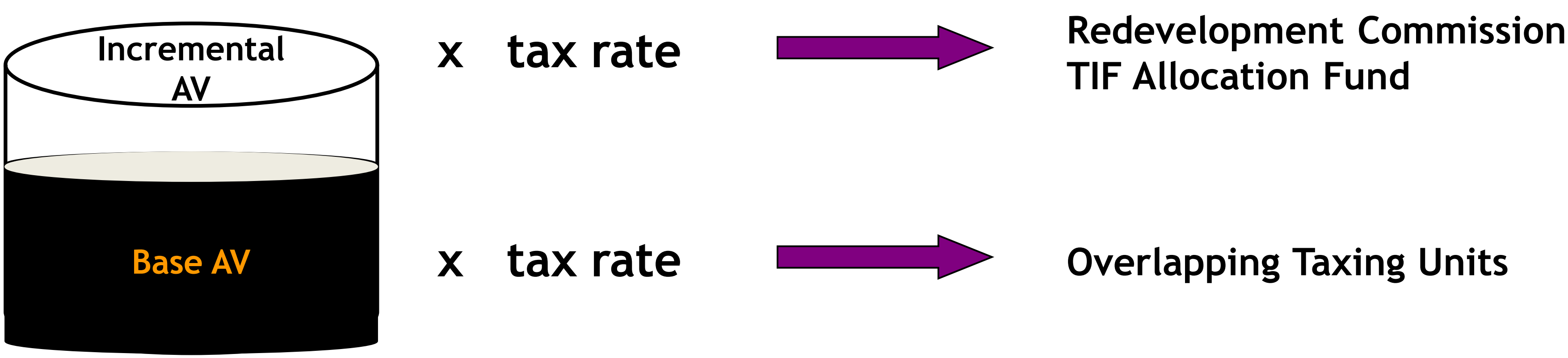
- Within the redevelopment district, the redevelopment commission may designate **redevelopment areas** or **economic development areas** as targeted areas for redevelopment or economic development activities, and approve a **redevelopment plan** or **economic development plan** for each area so designated.
- The redevelopment commission may (but is not required to) designate all or a portion of any redevelopment area or economic development area as an **allocation area** for purposes of capturing incremental new taxes in the area commonly known as "tax increment" or "TIF".

Basic Concepts and Definitions (con't.)

- After an allocation area is established, all of the assessed value in the area as of the immediately preceding *January 1* plus property assessed as residential (the **base assessed value**) continues to generate property taxes for various taxing units located in the area, while subsequent increases in assessed value due to new investments in that area (**incremental assessed value**) are temporarily captured and set aside—the new property taxes generated from that new assessed value (TIF) are deposited into an **allocation fund** under the control of the redevelopment commission and may be used for the redevelopment or economic development purposes described in the plan.

Basic Concepts and Definitions (con't.)

- **Base Assessed Value**
  - The assessed value of property that exists in the TIF area at the time of its creation as of January 1st.
    - **<u>Example</u>**: The base year of a TIF area created in December of 2023 is January 1, 2023 for pay year 2023 (base year goes back to the previous January 1).
  - Designated as assessed value of each unit of government that currently levies property taxes in the TIF area.



Basic Concepts and Definitions (con’t.)

- NOTE: the redevelopment statute requires the Indiana Department of Local Government Finance to adjust the base assessed value after each general reassessment of property and after each annual adjustment to assessed values (commonly known as “*trending*”), in order to neutralize the effects of these adjustments on TIF revenues.

- Allocation areas generally capture only increases in **real property** assessed values, but there are special provisions that allow the capture of **depreciable personal property** assessed value of **designated taxpayers** for certain types of projects (industrial, manufacturing, warehousing, research and development, processing, distribution, or transportation related projects).

Process for Creating a Redevelopment Area or Economic Development Area

- **STEP #1**: The redevelopment commission adopts a **declaratory resolution** creating the redevelopment area or economic development area and approving a redevelopment plan or economic development plan for the area.
  - If an allocation area is to be established, the declaratory resolution must include the allocation provisions.
  - Allocation areas established prior to June 30, 1995, were not required to include an expiration date (but note change in law applying to so-called "legacy" TIF areas in SEA 118 adopted in 2014).

Process for Creating a Redevelopment Area or Economic Development Area (con't.)

- Allocation areas established between July 1, 1995, and June 30, 2008, were required to have an expiration date of not more than thirty (30) years.
- Allocation areas established <u>after</u> June 30, 2008, are required to have an expiration date of not more than twenty-five (25) years after the date on which the first bond or lease rental obligations payable from TIF in the area are incurred.

Process for Creating a Redevelopment Area or Economic Development Area (con't.)

- Even prior to the formal expiration of an allocation area, the redevelopment commission is required on an annual basis (prior to each June 15) to determine whether it will need all of the TIF from the area for the following year's budget, and may pass through excess assessed value to the underlying taxing units.

- **STEP #2**: The unit's plan commission must approve the declaratory resolution and the plan.
- **STEP #3**: The legislative body of the unit must approve the declaratory resolution and the plan.

Process for Creating a Redevelopment Area or Economic Development Area (con't.)

- **STEP #4**: The redevelopment commission publishes a notice of public hearing on the declaratory resolution at least ten (10) days in advance of the public hearing.
  - If the declaratory resolution includes the designation of an allocation area, the redevelopment commission must file an **impact statement** along with a copy of the public hearing notice with each taxing unit that is located in whole or in part in the allocation area.

Process for Creating a Redevelopment Area or Economic Development Area (con't.)

   - The redevelopment commission conducts a public hearing on the declaratory resolution, and following the public hearing may adopt a resolution confirming, modifying and confirming, or rescinding the declaratory resolution (if confirmed, this resolution is commonly referred to as the **confirmatory resolution**).
- **STEP #5**: If an allocation area has been established, certain filings are made with the County Auditor and the Indiana Department of Local Government Finance.
- Any amendments to a declaratory resolution or plan (including amendments to any allocation area) must go through the same approval process required for the original establishment of an area.

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Permitted Uses of Tax Increment (TIF) Revenue

- Generally may be used (directly or through bonding) for capital project expenditures in or directly serving or benefitting a designated redevelopment area or economic development area.
- For direct "pay as you go" projects, the redevelopment commission may contract for the construction of the project, or may fund the project through grants or loans to a "neighborhood development corporation".

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Permitted Uses of Tax Increment (TIF) Revenue (con't.)

- TIF is commonly used for public infrastructure (including utility infrastructure) but may also be used for site acquisition, clearing and improvements for projects.
- TIF may be used for public safety projects (e.g., fire stations or trucks) that are located in or directly serve or benefit the allocation area.
- TIF may be also used for recreation facilities that are located in or directly serve or benefit the allocation area, if the facilities can be tied to an economic development or redevelopment purpose.
- TIF may be used for payment of debt service bonds issued to finance infrastructure projects in, connected to or benefitting and serving the area

Permitted Uses of Tax Increment (TIF) Revenue (con't.)

- TIF may be used to reimburse the Unit for expenditures made by the Unit for local public improvements in or physically connected to the allocation area.
- TIF may be used on a limited basis to reimburse public and private entities for expenses incurred in training employees of industrial facilities located in the allocation area, and to fund other training and worker education programs.
- TIF may be used to pay the costs of carrying out an "eligible efficiency project," defined as a project necessary or useful to carry out an interlocal cooperation agreement between two governmental entities, or a project necessary or useful to the consolidation of local government services.

Permitted Uses of Tax Increment (TIF) Revenue (con't.)

- Up to 15% of annual TIF received may be used to make contract payments to entities providing educational or worker training programs. May not be funded from bond proceeds.

- TIF may not be used for operating expenses of the redevelopment commission (but may be used to pay for project management expenses).
  - Note: *Town of Munster Redevelopment Commission* case.

- <u>Effective January 1, 2023</u>: A redevelopment commission may spend TIF for **police and fire services** on both *capital* and *operating* expenses. [I.C. 36-7-14-12.2(a)(28)]

Residential Housing TIF: *Permitted Uses and Process to Create*

- Generally may be used (directly or through bonding) for capital project expenditures in or directly serving or benefitting the designated redevelopment area or economic development area which includes the Residential Housing TIF.
- For direct "pay as you go" projects, the redevelopment commission may contract for the construction of the project, or may fund the project through grants or loans to a "neighborhood development corporation." [I.C. 36-7-14-12.2(a)(25)]
- Local school board approval no longer required, but must invite interested groups to a "public meeting" and provide adequate opportunity to participate in the program.

Permitted Uses of Tax Increment (TIF) Revenue from a Residential Housing TIF (cont'd.)

- **<u>Residential Housing TIF Revenue may be used for the following specific purposes</u>**:

(1) Construction of any infrastructure (including streets, roads, and sidewalks) or local public improvements (e.g., utility infrastructure) in, serving, or benefiting a residential housing development project.

(2) Acquisition of real property and interests in real property for rehabilitation purposes.

(3) Preparation of real property in anticipation of development of the real property within the allocation area (e.g., site clearing, excavation, improvements, etc., for projects).

(4) To do any of the following:

> (A) Pay the principal of and interest on bonds or any other obligations incurred by the Redevelopment Commission payable from the Residential Housing TIF Revenues that are incurred to finance projects for the Residential Housing TIF area.
>
> (B) Establish/maintain a reserve fund for bonds payable from the Residential Housing TIF Revenues.
>
> (C) Pay the principal of and interest on bonds payable from the Residential Housing TIF Revenues.
>
> (D) Pay the principal of and interest on bonds issued by the unit to pay for local public improvements that are physically located in or physically connected to the allocation area.
>
> (E) Redeem/prepay bonds payable the Residential Housing TIF Revenues before maturity.
>
> (F) Make payments on leases payable from the Residential Housing TIF Revenues.
>
> (G) Reimburse the unit for expenditures made by the unit for local public improvements (which include buildings and parking facilities) that are physically located in or physically connected to the Residential Housing TIF area.

Permitted Uses of Tax Increment (TIF) Revenue from a Residential Housing TIF (cont'd)

- TIF may be used for **public safety projects** (e.g., fire stations or trucks) that are located in or directly serve or benefit the allocation area.
- TIF may be also used for **park and recreation facilities** that are located in or directly serve or benefit the allocation area, if the facilities can be tied to an economic development or redevelopment purpose that serves or benefits the area.

Permitted Uses of Tax Increment (TIF) Revenue from a Residential Housing TIF (cont'd)

- Up to **15%** of annual TIF received may be used to make contract payments to entities providing educational or worker training programs (e.g., contract with local school corporation). May <u>**not**</u> be funded from bond proceeds. [I.C. 36-7-14-25-7]

- Generally, TIF may <u>**not**</u> be used for operating expenses of the redevelopment commission (but may be used to pay for project management expenses). [I.C. 36-7-14-39(b)(4)]

- <u>Effective January 1, 2023</u>: A redevelopment commission may spend TIF for **police and fire services** on both capital and operating expenses. [I.C. 36-7-14-12.2(a)(28)]

Procedures to Create a Residential Housing TIF

- **Step #1**: Hold public meeting with affected neighborhood associations, residents, township assessors, superintendent(s) and school board president(s) to consult with, provide adequate opportunity to participate in, and obtain views on the Program (minimum 30-day notice)
- **Step #2**: Redevelopment Commission adopts declaratory resolution to designate an area and approve a plan.
- **Step #3**: Plan Commission adopts resolution that RDC's declaratory resolution conforms to the overall plan of development for the City.
- **Step #4**: City Council adopts resolution approving the RDC's declaratory resolution and Plan Commission's resolution.

Procedures to Create a Residential Housing TIF (cont'd)

- **Step #5**: Redevelopment Commission publishes notice of public hearing, and delivers Tax Impact Statement to all overlapping taxing units (min. 10-days before)
  - Redevelopment Commission holds public hearing, and adopts resolution confirming, modifying or rescinding the declaratory resolution.
- **Step #6**: Filings are made with the County Auditor and the Indiana Department of Local Government Finance.
- Any amendments to a declaratory resolution or plan (including amendments to any allocation area) must go through the same approval process required for the original establishment of an area.

Additional Concepts of TIF: *Expiration Dates*

- **Termination Date for "Legacy" TIF Districts.** Tax allocation areas ("*TIF Districts*") created prior to July 1, 1995 were not required to set a termination date. Such areas now have a statutorily imposed termination date of the later of (a) July 1, 2025 or (b) the final maturity date of obligations payable from the TIF District that were issued before July 1, 2015.
- Since TIF obligations issued under current law may not have a final maturity date longer than 25 years after their date of issuance, the practical effect of the legislation was to limit the term of Legacy TIF Districts to not later than June 30, 2040.
- The termination date would apply only to the portion of the TIF District created before July 1, 1995, and not to any expansions that occurred after June 30, 1995. Expansions that occurred after June 30, 1995, should keep their existing termination dates. Such termination dates are tied to when the portion of the TIF district was created, as follows:

Additional Concepts of TIF: *Expiration Dates*

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

Additional Concepts of TIF: *"But For" Test*

- If a Redevelopment Commission proposes to create or expand a tax allocation area (i.e., TIF District) within an economic or redevelopment area, the Redevelopment Commission is required to make a specific finding of fact, supported by evidence, that the adoption of the allocation provision will result in new property taxes in the area that would not have been generated **but for** the adoption of the allocation provision.

Additional Concepts of TIF: *Issuance of Debt Obligations*

- A Redevelopment Commission is not permitted to issue debt obligations (including lease obligations) without first obtaining the approval of the legislative body of the applicable governmental unit.
- A Redevelopment Commission is not permitted to incur an obligation to acquire real property if (i) the purchase price of the property exceeds **$5,000,000**, or (ii) the property is to be acquired in installments payable over a term exceeding **3 years**, without first obtaining the approval of the legislative body of the applicable governmental unit.

Additional Concepts of TIF: *Annual Reporting Requirements*

- **April 1 Report**: Treasurer of the Redevelopment Commission (i.e., fiscal officer of the unit) must prepare a fiscal report for the Redevelopment Commission. The statute does not provide any details as to what is required to be included in the report. As a practical matter, it seems reasonable and appropriate for such report to include the financial information that is required to be included in the April 15 Report (see below).

Additional Concepts of TIF: *Annual Reporting Requirements*

- **April 15 Report**. By April 15 of each year, a Redevelopment Commission is required to file a report of its activities for the prior calendar year with the executive of the unit and fiscal body and the DLGF, containing the information set forth in IC 36-7-14-13. The report must include
  - Names of the members and officers of the Redevelopment Commission, the number of employees and salaries, the amount of expenditures made during the preceding year and their general purpose, an accounting of TIF revenues as a grant or loan from the Redevelopment Commission, the amount of funds on hand at the end of the prior calendar year, and any other information necessary to disclose the activities of the Redevelopment Commission.

Additional Concepts of TIF: *Annual Reporting Requirements (Cont'd)*

- **April 15 Report.**
  - Further, the report is required to include specified information for each TIF District for the previous year, including:
    1. revenues received;
    2. expenses paid;
    3. fund balances;
    4. amount and maturity date for all outstanding obligations;
    5. amount paid on outstanding obligations; and
    6. a list of parcels and the depreciable personal property of any designated taxpayer included in each TIF District and the base assessed value and incremental assessed value for each parcel and the depreciable personal property of any designated taxpayer in the list.
  - Must present the report to the unit's fiscal body at a public meeting

Additional Concepts of TIF: *Annual Reporting & Pass Through of AV*

- As part of the annual reporting process, Redevelopment Commissions must undertake each year (prior to **June 15**) to determine what amount, if any, of captured assessed value should be passed through to underlying taxing units.
- If the Redevelopment Commission determines that the amount of excess assessed value captured by the Redevelopment Commission in a tax allocation area (i.e., TIF District) is expected to generate more than 200% of the amount of TIF necessary to pay principal and interest on bonds and other amounts projected to be spent for authorized purposes from the TIF revenues in the following year, then the Redevelopment Commission is required to report the existence of such excess to the legislative body of the unit and the amount of captured assessed value that the Redevelopment Commission proposes to **pass through** to underlying taxing units for the following year.
- The legislative body of the unit may approve the Redevelopment Commission's determination or modify the amount of the excess assessed value to be passed through to underlying taxing units.

Additional Concepts of TIF: *Spending Plan*

- **Spending Plan**. *Effective January 1, 2024*:
  - By December 1 each year, the Redevelopment Commissioner shall file with the DLGF and with the unit's executive and fiscal body a report setting out a spending plan for the next calendar year describing planned expenditures. The spending plan must be filed in the manner prescribed by the department of local government finance.
  - A Redevelopment Commission may use money from the its TIF Districts and any other fund maintained by the Redevelopment Commission only for the purposes provided in the annual spending plan.