

# A GUIDE TO WISCONSIN'S TAX INCREMENT LAW

## ***Creating A District***

*Approving and Amending Project Plans  
Collecting Tax Increments*

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## INTRODUCTION

Wisconsin's Tax Incremental Finance (TIF) program was approved by the legislature in 1975, and the first districts (TIDs) were created in 1976. Its purpose is to provide a way for a municipality to promote tax base expansion through its own initiative and effort.

The legislature found municipalities were postponing or canceling public improvements that would allow new development because their taxpayers paid the price, while everyone that shared the expanded tax base profited. Establishing a tax incremental system relieved this inequity. Plus it benefited Wisconsin's people by improving and otherwise promoting their health, safety, welfare, and prosperity.

TIF is aimed at eliminating blight, rehabilitating declining property values, promoting industry, or encouraging mixed-use development. There were already other laws in place for these purposes, but lack of incentives and financial resources had stymied efforts to use them effectively. TIF works because it provides its own financing resource. It is basically a financing tool that municipalities can use to promote tax base expansion.

When a TIF district is created the aggregate equalized value of taxable and certain municipal owned property is established by the Department of Revenue (DOR). This is called the **Tax Incremental Base**. The municipality then installs public improvements and property values grow. Taxes paid on the increased value are used to pay for projects undertaken by the municipality. This is the **Tax Increment**. It is based on the increased values in the TID and levies of all the taxing jurisdictions that share the tax base.

The municipality, county, school districts, and other taxing jurisdictions do not benefit from taxes collected on value increases in the district until project costs have been recovered. After that, the added value is included in the apportionment process and everyone gains.

The underlying assumption of the TIF Law is that no new development would have taken place if the municipality had not created the TID. Public improvement costs needed to develop or redevelop the area would have been too prohibitive for the municipality and/or developer to do alone. So the necessary public works would not have been done. TIF provides a way for all entities benefiting from the expanded tax base to help pay the costs of promoting it.

Provisions of the "TIF Law" are in Wisconsin Statute sections 66.1105 (City/Village), 66.1106 (Environmental Remediation) and 60.85 (Town). The following pages describe how to create a Tax Incremental District, and amend a project plan under Wis. Stats. 66.1105. It is presented in outline form with statutory references provided for each item. Answers to often asked questions about TIF districts are also included.

## CLASS 2 NOTICE REQUIREMENTS

**Warning:** Failure to comply with the Class 2 Notice requirements will mean DOR cannot certify the Tax Incremental District's Base Value.

Please read the following information carefully.

Wisconsin Statute 985 deals with the publication of legal notices and public newspapers. It says:

- A Class 2 Notice requires two insertions (publications) in the newspaper. [s. 985.07(2)]
- These insertions must take place **once each week for consecutive weeks, with the last one published at least one week before the act or event.** (in this case the event is the public hearing). [s. 985.01(1m)]
- The computation of time between the last insertion **excludes** the day of publication, and includes the day the public hearing takes place. [s. 985.09(1)].

An example of the timing for a typical Class 2 Notice is shown below. It assumes the newspaper is published weekly.

1st Insertion	- June 2, 2008	(Monday)
2nd Insertion	- June 9, 2008	(Monday)
Hearing Date	- June 16, 2008	(Monday)**

\*\* The earliest date the public hearing could be held with these publication dates

In the above example, there is a week between the first and second newspaper insertions. With a daily paper the two insertions must be in **separate** calendar weeks, but not necessarily seven days apart. *Also note that the hearing date of June 16th is a week after the second insertion, and is the earliest day the public hearing could be held in this case.*

An easy way to determine the earliest date the public hearing may be held is to add '7' to the date the second insertion appears in the newspaper. If the 2nd insertion is on Wednesday, June 25th, the public hearing could not be held before Wednesday, July 2nd. *(The same amount of time is required between the 2nd insertion and the hearing with a daily paper).*

Please consult your municipal attorney for further clarification.

## HOW DOES A MUNICIPALITY CREATE A TAX INCREMENTAL DISTRICT?

When a municipality decides to establish a TIF district, it must notify the affected taxing entities of its intention and hold public hearings to allow all interested parties to be heard.

There are two ways a municipality can choose to hold the required public hearings. It can hold separate public hearings, one to consider the boundaries and one for the project plan. Or it can hold a combined hearing. This section will describe each method individually, beginning with the “combined hearing”, which is the simpler and most commonly used method.

In either case the Planning Commission initiates the process. It develops the project plan, holds the public hearings and recommends boundaries. The local legislative body (Common Council or Village Board) reviews the Planning Commission decisions, approves the project plan, creates the district and determines its boundaries. A Joint Review Board (JRB) must also approve the proposal.

### Combined Hearing Method

This method combines the project plan and boundary hearings. To implement the TIF law provisions, the following steps are required:

1. **Prepare a proposed project plan** which includes:

- a) A listing of the kind, number and location of the proposed public works or improvements within the district. Indicating, if any, which projects included are within the one-half mile radius of the TID boundary.
- b) An economic feasibility study.
- c) A detailed list of estimated project costs.
- d) A description of the financing methods and the time when the costs or obligations are to be incurred.
- e) A map showing existing uses and conditions of real property in the district.
- f) A map showing proposed improvements and uses.
- g) Proposed changes in zoning ordinances, master plan (if any), map, building codes and municipal ordinance.
- h) A list of estimated nonproject costs.
- i) A statement of the proposed method for relocation of any displaced persons.
- j) Indication as to how creation of the district promotes orderly development in the municipality.
- k) A signed attorney’s opinion advising whether the project plan is complete and complies with the law.

Prepare Proposed Project Plan 66.1105(4)(f)

The Planning Commission prepares the project plan.

2. **Prepare a notice** indicating when the public hearing on the proposed project plan, boundaries and creation of the district will be held. The notice must include a statement advising that a copy of the proposed plan will be provided on request. If it is anticipated that the proposed project plan’s project costs include cash grants made by the municipality to owners, lessees, or developers of land that is located within the tax incremental district, the hearing notice should contain a statement to that effect. It could also contain a brief description or a map of the area proposed to be included in the district.

Prepare Notice of Public Hearing 66.1105(4)(e)

3. **Identify specific properties** in the TID that are blighted or in need of rehabilitation or conservation work. **Owners** of these properties **must be notified** of this finding and hearing date, at least 15 days **before** the hearing is held (not required for industrial districts).

Notify Certain Property Owners 66.1105(4)(c)

4. **Send a copy of the hearing notice** to all affected taxing entities by **1st Class mail**, prior to publishing the notice. It goes to the school board of any school district that includes property located within the district and to the Chief Executive Officer of the other governmental units that have

Send Notice by 1<sup>st</sup> Class Mail to Local Governmental Entities 66.1105(4)(a), (e) and (5)(d)

power to levy taxes on the property in the district. Besides the local school district(s), the county, and technical college districts, some examples of other taxing entities that may be affected are, lake rehab and protection districts, sanitary districts and metro sewer districts.

5. **Publish a Class 2 notice** under Wis. Stats. Chapter 985. It should indicate the public hearing place and date, information as to where the proposed district is located and a statement indicating a copy of the project plan will be provided on request. If proposed project plan costs include cash grants made by the municipality, the hearing notice shall contain a statement to that effect. It is important that the hearing notice is sent by 1st class mail. It is important that the hearing notice is published properly; DOR cannot certify the district without a timely and accurate hearing notice publication. **See the requirements on page 3.**

Publish Class 2 Notice  
66.1105(4)(e) and (5)(d)

6. **Convene a JRB.** Members of the Board are appointed by the school district, county, technical college district and the municipality. If more than one school district, more than one union high school district, more than one elementary school district, or more than one technical college district has the power to levy taxes on the property within the tax incremental district, the unit in which is located property of the TID that has the greatest value shall choose that representative to the JRB. (If located in a union high school district, the school district representative for the board shall be held by 2 representatives, each of whom has one-half of a vote.) There is also a public member appointed by the others. The Board must hold its first meeting within 14 days of the first hearing notice publication, but before the public hearing. The chairman and public member should be selected by the others at the first meeting.

Convene JRB  
66.1105(4m)(a)

A standing joint review board may be created and remain in existence for the entire time that any tax incremental district exists in the municipality.

Standing JRB  
66.1105(3)(g)

7. **Hold a public hearing.** The Planning Commission conducts the hearing. All interested parties must be given a reasonable opportunity to express their views on the plan and the proposed boundaries. After due consideration the Planning Commission adopts the plan and designates recommended boundaries. These are both submitted to the local legislative body for approval.

Hold Public Hearing for TID  
Project Plan and Boundaries  
66.1105(4)(a), (e) and (f)

8. **Approve the project plan.** The project plan must be approved by the legislative body anytime prior to or when the creation resolution is adopted. The approval is by resolution that contains findings that the plan is feasible and in conformity with the municipality's master plan, if it has one.

Adopt Project Plan  
66.1105(4)(g)

9. **Adopt the creation resolution.** The legislative body may adopt the creation resolution no sooner than 14 days after the public hearing has been held. It must be adopted on or before September 30 for the district to be effective the previous January 1st. If it is adopted after September 30 of any given year, the district will be effective the next subsequent January 1st. See the table on following page.

Adopt TID Boundaries by  
Resolution 66.1105(4)(gm)

The creation resolution **must** contain the following information:

- a) **Describes the boundaries of the district.** They do not need to be the same as those recommended by the Planning Commission, but should include only whole parcels as they appear on the assessment roll. The TID must be a contiguous geographic area and may not have any parcels that are connected to the rest of the district only by a river, street or other right-of-way. No more than 25% of the area may be vacant property, except in industrial districts or mixed-use. The boundaries of the district may not include any annexed territory that was not within the boundaries of the municipality as of January 1, 2006, unless: (1) At least 3 years have elapsed since the territory was annexed; or (2) the municipality enters into a cooperative plan boundary agreement with the town from which the territory was annexed; or (3) the municipality and town enter into another kind of agreement relating to the annexation whereby they agree to pay the town an amount equal to the property taxes levied on the territory by the town at the time of annexation for each of the next five years. These must be the same boundaries as adopted by the JRB.

- b) **Establishes the district's creation date.** This date is dependent on the date the resolution is adopted. The table below shows how to determine the creation date.

Date Resolution Adopted	Date of Creation
Oct. 1, 2007 - Sept. 30, 2008	Jan. 1, 2008
Oct. 1, 2008 - Sept. 30, 2009	Jan. 1, 2009
Oct. 1, 2009 - Sept. 30, 2010	Jan. 1, 2010

- c) **Establishes the formal name of the district.** The first district in a municipality is called Tax Incremental District Number One, City/Village of \_\_\_\_\_. Each subsequent district is given the next consecutive number. This number remains with the district even after it is terminated or dissolved.

d) **Contains findings that:**

- i) Not less than 50% of the real property meets at least one of four criteria. It must be a blighted area; or be in need of rehabilitation or conservation; or be suitable and zoned for industrial sites; or suitable for mixed-use development.
- ii) The improvement planned will likely enhance significantly, the value of most of the other property in the district. The specific parcels meeting these criteria do not need to be identified.
- iii) The project costs are consistent with the reason the district is created. For example, projects planned in a district created to eliminate blight must be aimed at accomplishing that goal.
- iv) The equalized value of taxable property of the district plus the value increment of all existing districts does not exceed 12 percent of the total equalized value of taxable property within the municipality.

- e) Confirms that any property within the district found suitable for industrial sites and zoned for that purpose, will remain under that zoning for the TID's life (not required for blight or rehab/conservation districts).

10. **JRB approves the proposal.** It reviews the public record, planning documents and the resolution passed by the local legislative body under paragraph (4)(gm). The municipality is required to provide the JRB with information and projections listed in paragraph 66.1105(4)(i).

JRB Approves  
66.1105(4m), (b) and (c)

The district cannot be created unless the Board approves the creation resolution. Approval is by majority vote within 30 days after receiving the creation resolution. The JRB must submit its decision to the municipality within 7 days of making it. The JRB must contain a positive assertion that, in its judgment, the development described would not occur without the creation of the TID.

The Board's decision to approve or deny the proposal must be based on three criteria. First is whether the expected development would occur without using TIF; second is whether the economic benefits are sufficient to compensate for the cost of improvements; and third whether the benefits outweigh the anticipated tax increments to be paid by property owners in overlying districts.

The Board must issue a written explanation to the municipality, if it rejects the proposal.

11. After the district has been approved by the municipality and the JRB, **the municipal clerk must submit an application to DOR for base value certification.** DOR provides forms for this purpose. All forms and other required information must be submitted to DOR by December 31st of the creation year (as defined in sub. (4)(gm)2).

Submit Base Value  
Application 66.1105(5), (b)

12. **The municipal assessor must identify parcels** within a TIF district upon the assessment roll, with the name of the district. The clerk makes a similar notation in the tax roll.

Identify TID Parcels on  
Assessment Roll and on Tax  
Roll 66.1105(5)(f)

## Separate Hearings Method

This method requires holding two separate hearings, one for the project plan and another for the district boundaries and creation. Requirements for the boundary public hearing appear in the TIF law before those for the project plan hearing, but the law does not specifically state which one must be held first.

These instructions assume the project plan hearing will be first. The whole separate hearing process takes less time when done in this order. That's because the 14-day waiting period between the project plan hearing and creation resolution adoption can be taking place while preparing for and holding the boundary hearing.

The following steps are required to implement the law's provisions under the separate hearing scenario, with the project plan hearing first.

1. **A proposed project plan** is prepared by the Planning Commission. All the items listed below must be included:

Prepare Proposed Project Plan 66.1105(4)(f)

  - a) A listing of the kind, number and location of the proposed public works or improvements within the district. Indicating, if any, which projects included are within the one-half mile radius of the TID boundary.
  - b) An economic feasibility study.
  - c) A detailed list of estimated project costs.
  - d) A description of the financing methods and the time when the costs or obligations are to be incurred.
  - e) A map showing existing uses and conditions of real property in the district.
  - f) A map showing proposed improvements and uses.
  - g) Proposed changes in zoning ordinances, master plan (if any), map, building codes and municipal ordinance.
  - h) A list of estimated nonproject costs.
  - i) A statement of the proposed method for relocation of any displaced persons.
  - j) Indication as to how creation of the district promotes orderly development in the municipality.
  - k) A signed attorney's opinion advising whether the project plan is complete and complies with the law.

The Planning Commission prepares the project plan.

2. **A public hearing notice is prepared** for publication. It indicates when the project plan hearing will be held. A statement advising that a copy of the plan will be provided on request must be included.

Prepare Notice of Public Hearing 66.1105(4)(e)
3. **Specific properties in the district that are blighted or in need of rehabilitation or conservation work are identified. Owners** of these properties **shall be notified** of the finding and hearing date, at least 15 days before the hearing is to be held (not required for industrial districts).

Notify Certain Property Owners 66.1105(4)(c)
4. **A copy of the hearing notice must be sent** by 1st class mail to all governmental entities having power to levy taxes on property located within the proposed TID boundaries. The notice is sent to the school board of any school district and the Chief Executive Officer of all other taxing entities. The notice must be sent by 1st Class mail before the hearing notice is published.

Send Notice by 1<sup>st</sup> Class Mail to Local Governmental Entities 66.1105(4)(e)
5. **The project plan hearing notice is published** as a Class 2 notice under Wis. Stats. Chapter 985. The notice should contain the public hearing date, information as to where the proposed district is located and a statement indicating a copy of the project plan will be provided on request. It could also contain a brief description or a map of the area proposed to be included in the district. If it is anticipated that the proposed project plan's project costs include cash grants made by the municipality to owners, lessees, or developers of land that is located within the tax incremental district, the hearing notice should contain a

statement to that effect. It is important that the hearing notice is published properly. DOR cannot certify the district without a timely public hearing notice publication. **See requirements on page 3.**

6. **The public hearing is held on** the date indicated in the notice. The Planning Commission conducts the hearing. All interested parties should be given a reasonable opportunity to express their views. This hearing must be held at least 7 days after the second hearing notice publication and a minimum of 14 days before the legislative body adopts a creation resolution for the district.

Hold Public Hearing for  
Proposed TID Project Plan  
66.1105(4)(e)
7. **The project plan is adopted and approved.** The Planning Commission adopts the project plan and submits it to the legislative body for approval. The plan must be approved by the legislative body before or concurrent to adoption of the creation resolution. Approval must be by resolution which contains findings that the plan is feasible and in conformity with the municipality's master plan, if it has one.

Plan Adopted by Plan  
Commission, Approved by the  
Municipality's Council  
66.1105(4)(f) and (4)(g)
8. **The Planning Commission prepares a second hearing notice** for publication. This notice indicates when the public hearing will be held to consider the district boundaries and creation. It must be published as a Class 2 notice, again being careful to meet all Class 2 notice requirements. A copy of the notice must be sent prior to publication to the same taxing entities that received a project plan hearing notice. This notice must also be sent by **1st Class mail**. It could include a brief description or map of the area to be included.

Prepare and Publish Hearing  
Notice Notify Local Government  
Entities 66.1105(4)(a)
9. **A JRB must be convened.** Members of the Board are appointed by the school district, county, technical college district and the municipality. (If located in a union high school district, the school district representative for the board shall be held by 2 representatives, each of whom has one-half of a vote.) There is also a public member appointed by the others. The Board must hold its first meeting within 14 days of the first hearing notice publication, but before the public hearing. The chairman and public member should be selected by the others at the first meeting. **Note:** When the project plan public hearing is held first, the JRB does not have to be convened until afterward. It is not required by statute, but as a courtesy, reference to the JRB could be included in the cover letter sent to other taxing entities with the project plan notice.

Convene JRB  
66.1105(4)(a)
10. **The Planning Commission holds the public hearing** regarding district boundaries and creation on the date indicated in the hearing notice. All interested parties are given a reasonable opportunity to express their views on the proposal. After the hearing the Planning Commission designates the district boundaries it recommends and submits its recommendation to the local legislative body.

Hold Public Hearing for  
Proposed TID Boundaries and  
Creation 66.1105(4)(a)
11. **The local legislative body adopts a resolution** creating the TIF district, at least 14 days after the project plan hearing was held. The creation resolution must contain the same information and findings that are described in items (a) through (e) in the combined hearing method, pages 5 - 6.

Approve TID Creation by  
Resolution 66.1105(4)(gm)
12. **Likewise the municipality must provide the JRB** with the same information and the JRB must take action based on the same criteria and time schedule described in the combined hearing method.

JRB Approves  
66.1105(4m)(b) and (c)
13. **The local clerk must submit a request for base value certification** along with all required documents and forms to DOR by December 31st of the creation year. If the resolution is adopted during the period October 1, 2007 through September 30, 2008, the application is due to DOR by December 31, 2008.

Apply for Base Value  
66.1105(5)(b)

14. **The municipal assessor must identify parcels** within a TIF district upon the assessment roll, with the name of the district. The clerk makes a similar notation in the tax roll.

Identify TID Parcels on Assessment Roll and on Tax Roll 66.1105(5)(f)

## MAY THE BOUNDARIES AND PROJECT PLAN BE AMENDED?

A municipality may modify a district's boundaries **not more than 4 times** during the district's existence by subtracting or adding territory to the district in a way that does not remove contiguity from the district and is served by public works or improvements that were created as part of the district's project plan, provided that the equalized value of taxable property of the amended district plus the value increment of all existing districts does not exceed 12% of the total equalized value of taxable property within the municipality (addition amendments only).

Modifying Boundaries 66.1105(4)(h)2

This modification is done by amending the Project Plan. A single amendment to a project plan that both adds and subtracts territory shall be counted under this subdivision as one amendment of a project plan. Project plans may be amended to change or add projects at any time or to allocate increment from one TID to another. Procedures for amending a plan are described in s. 66.1105(4)(h)1.

Project plan amendments are prepared by the Planning Commission. A public hearing must be held, taxing entities notified, a Class 2 notice published and a JRB convened. The amendment must be adopted by the Planning Commission and approved by the local legislative body and JRB. The JRB's approval must contain a positive assertion that, in its judgment, the development described in the documents that the board has reviewed would not occur without the amendment of a tax increment district.

Prepare Notice of Public Hearing 66.1105(4)(h)2

Basically these actions must be done on the same time schedule as when the district was created. These requirements apply to all types of amendments.

1. A public hearing notice is prepared for publication and a copy is sent to each taxing entity by 1st Class mail before it is published.
2. A Class 2 notice under Wis. Stat. Chapter 985, is published twice, i.e., once each week in consecutive weeks with the last publication at least 7 days before the event. (**Example:** 1st notice posted 6-3-08, 2nd notice posted 6-10-08, earliest public hearing held 6-17-08.) It must include the purpose and cost of the amendment and advise that a copy will be provided on request.
3. The JRB must meet within 14 days of the hearing notice publication, but before the public hearing. The chairman and public member are chosen at this meeting.
4. After the hearing, the Planning Commission adopts a resolution approving the amendment and submits it to the local legislative body for approval.
5. Council approval must contain findings that the amendment is feasible and in conformity with the master plan, if the municipality has one. There is no required waiting period between the public hearing and approval by the legislative body.
6. The JRB must also approve the amendment (by majority vote) before it can take effect. This takes place within 30 days after receiving the amendment and supporting information. The JRB notifies the municipality of its decision within 7 days of making it. It must provide a written explanation if it rejects the proposal.

Convene JRB 66.1105(4m)(a)

Plan Commission Adopts Resolution 66.1105(4)(h)

Local Legislature Approves TID Project Plan Amendment 66.1105(4)(h)

JRB Approves 66.1105(4m)(b) and (c)

7. Within 60 days after final approval of the amendment, the municipal clerk must give DOR written notice that the project plan or territory has been amended. Also, copies of the amendment; hearing notice; letter to other taxing entities; affidavit of hearing notice publication; and resolutions adopted by the Planning Commission, legislative body and JRB should be sent to DOR.

Notice Sent to DOR  
66.1105(5)(cm)

8. DOR will review this information to determine whether or not the base value of the district must be redetermined. This is done if the amendment adds or subtracts territory. If the boundaries are modified, the value of the new area is determined and added to the original base value.

TID Base Value Redetermined,  
if Necessary 66.1105(5)(c) and  
(5)(ce)

9. The local clerk must submit a request for base value redetermination along with all required documents and forms to DOR by December 31st of the amendment year. If the resolution is adopted during the period October 1, 2007 through September 30, 2008, the application is due to DOR by December 31, 2008.

Apply for Redetermined  
Base Value

Also, each year between April 15 and May 15, the municipal clerk must notify DOR of any amendment adopted during the preceding year. This form (PE-209) is filed electronically and explained in the subsequent year letter mailed yearly to the municipal clerks.

## HOW IS THE BASE VALUE DETERMINED?

The Tax Increment Law specifies that when a tax incremental district is created, its base value must be determined as soon as reasonably possible. The municipal clerk applies in writing to DOR on prescribed forms. The clerk must fill out the forms available on the internet at [www.revenue.wi.gov/slf/tif.html](http://www.revenue.wi.gov/slf/tif.html) and submit them with the base certification application by December 31st in the year the district is created. Instructions for completing them are printed on each form.

Clerk Makes Application  
to DOR 66.1105(5)(b)

1. The following items must be included in the base application:

- a. Equalized Value Determination Request Form
- b. Legal Requirements Form
- c. TID Parcel Lists
  - Assessable Property
  - State Assessed Manufacturing Property
  - Tax Exempt, Municipal Owned Property
- d. Base Year Personal Property List
  - Assessable Personal Property
  - State Assessed Manufacturing Personal Property
- e. Assessor's Final Report and Special District Supplement
- f. Statement of Assessment
- g. A map of the district with parcel numbers listed. The numbers should correspond to those on the parcel lists (two hard copies or one PDF file).
- h. A boundary description - must describe outer boundaries (metes and bounds), not just a listing of property included. This should be the same as approved by the municipality and the JRB.
- i. Proof that other taxing entities were sent a hearing notice prior to publication - i.e., copies of cover letter or affidavit by clerk.
- j. A copy of letter sent to owners of blighted or rehab. property (not required for industrial).

Municipal Owned Property  
Value Determined  
66.1105(4)(k), 66.1105(5)(bm)

- k. Affidavit of Public Hearing Notice Publication from newspaper (verifying both publications).
  - l. A copy of the adopted project plan and planning commission approval resolution.
  - m. A copy of the creation resolution.
  - n. A copy of the JRB resolution approving the resolution adopted by the legislative body.
2. DOR uses this information, plus its other resources to determine the full aggregate value of the taxable and certain municipal owned property in the district. This full aggregate value constitutes the district's tax incremental base value. **Note:** DOR may not certify the tax incremental base until it determines that each of the procedures and documents required have been timely completed and all notices required timely given or if the limits on newly platted residential development in existing mixed-use district are breached.
 

DOR Determines Full Aggregate Value 66.1105(5)(b)
  3. The items received in the base application are reviewed and any problems resolved. Then the information is forwarded to the local DOR District Office where the value is determined. DOR then sends notification of the base value to the municipal clerk.
 

DOR Certifies Tax Incremental Base to Clerk 66.1105(5)(b)
  4. Annually DOR sends valuation notices to the designated finance officer of each taxing jurisdiction that has power to levy taxes on property within the district. This notice includes the base value, current equalized value and the equalized value increase (value increment). These values are used as the basis to calculate the tax increment each year.
 

DOR Annually Gives Value Notices to Finance Officers 66.1105(5)(g)

## WHEN DO TAX INCREMENTS START?

Positive tax increments are allocated to the municipality for a TID each year commencing after the date the project plan is adopted providing the clerk and assessor submit all required information to DOR by the second Monday in June.

Positive Tax Increment Allocated 66.1105(6)(a)

Beginning in 1981, the project plan had to be approved prior to or at the same time the creation resolution was adopted, therefore all districts are eligible to receive tax increments the year after creation, if the clerk and assessor submit timely information.

Because values are determined annually as of January 1st and taxes are levied in December for collection the following January, it takes more than a year after creation before any tax increment revenues are actually received.

For example:

- a. In 2008, municipality "X" creates TID #1 by common council resolution adopted September 8. (Deadline is September 30).
- b. In December the municipal clerk submits an application to DOR for base value certification (deadline is December 31st).
- c. The base value is certified February 9, 2009, reflecting the TID's value as of January 1, 2008.
- d. DOR receives subsequent year information from the assessor on the second Monday in June (June 8, 2009).
- e. On September 1, 2009, the current year value and value increment are certified and sent to the financial officers of the overlying taxing jurisdictions. They represent the district's value as of January 1, 2009.
- f. In December 2009, tax levies are apportioned and the tax increment calculated, assuming the TID has

experienced an increase in value.

- g. Beginning in January 2010, tax payments are received by municipality and proportionate amounts are deposited in the TIF fund.

Thus, a district officially created in September 2008, and effective January 1, 2008, does not receive any revenue until January, 2010, at the earliest. In this example there is a lag of 16 months from the adoption of the resolution to receipt of first tax increment revenue.

## WHERE DOES THE INCREMENT COME FROM?

The tax increment is an allocation of property taxes based on increased values in the TID. When positive tax increments are authorized by DOR, the value of property in a TID may not exceed the base value for apportionment purposes until the district is terminated.

Base Value used for Property  
Tax Apportionment  
66.1105(11)(a)

While the district exists, the Property Tax Bureau will send the municipal clerk a form and instructions for calculating the tax increment. The increment must be added to each apportioned levy before the local mill rate is determined. The difference between the apportioned levies and taxes actually collected is the tax increment.

## WHAT HAPPENS TO THE TAX INCREMENTS WHEN COLLECTED AND WHEN THE TID ENDS?

- 1. Every officer charged by law to collect local general property taxes must first pay the tax increment portion of collections to the municipal treasurer on each settlement day. For example, if the tax increment represents ten percent of the total tax levy, then ten percent of taxes collected by a particular settlement date must be paid to the treasurer for the TIF fund before disbursement to other taxing entities.

Increment Collected and Paid to  
Municipal Treasurer  
66.1105(6)(b)

- 2. When the municipal treasurer receives tax increments they should be deposited into the TIF fund without delay. The treasurer may also deposit other moneys into the fund as directed by the local legislative body. Moneys in the fund may be temporarily invested subject to agreement of bond holders and if earnings are used to reduce project costs.

Increment Deposited in Special  
Fund 66.1105(6)(c)

- 3. Money in the TIF fund can only be used to:

- a) pay project costs,
- b) reimburse the municipality for such payments,
- c) satisfy claims of bond or note holders for securities issued for TID projects or
- d) allocate funds to another TID.

TID Project Costs Paid  
66.1105(6)(c)

- 4. Money paid out of the fund for project costs may be paid before or **after** the district is terminated. This allows a municipality to terminate a district before all bond or note payments have been made if sufficient funds are available so investing them will provide for principal and interest payments to be made at a future date.

- 5. After all projects costs have been paid, all bonds and notes are paid or payment provided for and voluntary deposits by the municipality reimbursed; any remaining moneys must be paid over to the taxing entities in proportion to the amount each has contributed. Thus, if a school district levy represents fifty percent of the levy the year a TID is terminated, then the school district shall receive fifty percent of the funds remaining after all liabilities of the district have been provided for.

## HOW LONG CAN A DISTRICT EXIST?

A Tax Increment District may remain in existence until the earlier of:

1. When the municipality has received aggregate increments equal to the total project costs in the project plan and its amendments.
2. Five years after the last expenditure is made for a maximum of 27 years for districts created in blighted areas and rehabilitation or conservation work areas that were created after September 30, 1995. For industrial sites and mixed-use land districts created after October 1, 2004, 5 years after the last expenditure is made for a maximum of 20 years.
3. The local legislative body dissolves the district by resolution. The municipality then becomes liable for any costs actually incurred that are not paid by moneys in the TIF fund. Paragraph (7)(b) says the municipality is not liable for any tax increment bonds or notes issued. However, a December, 1992 Wisconsin Supreme Court decision ruled that Tax Incremental Bonds **do** constitute debt under Article XI, Sec. 3 of the Wisconsin Constitution. Therefore the municipality is liable for any of these obligations outstanding when a district is dissolved. To our knowledge no municipality has ever marketed a pure tax increment bond.

Terminate District when all Costs are Paid or Dissolved by Resolution 66.1105(7)

DOR will authorize allocation of tax increments annually, provided the clerk and assessor **submit required information on time** each year or until DOR receives proper termination notice from the municipality, whichever comes first.

DOR Authorizes Tax Increment Allocation 66.1105(6)(a)

## DOES THE MUNICIPALITY NEED TO NOTIFY ANYONE WHEN THE TID IS TERMINATED?

When a municipality passes a resolution to terminate or dissolve the TID district it must give DOR notice. This must be written notice within 60 days. Also, annually, before May 15th, DOR requires the municipality to inform them whether or not to certify an increment. Also, the overlying taxing jurisdictions should be notified of the termination.

Municipality Notifies DOR when TID is Terminated 66.1105(8)(a) and (b)

After the notice is forwarded by the municipality to DOR, the municipality and DOR shall agree on a date the municipality shall provide information to DOR. All the following information that relates to the terminated tax increment district will be submitted on a prescribed form:

- a final accounting of all expenditures made by the municipality,
- total amount of project costs incurred by the municipality,
- total amount of positive tax increments received by a municipality,
- total amount of project costs, if any, not paid for with tax increments that become obligations of the municipality after the district was terminated.

The chart below illustrates both situations for a notice received in 2008:

Date Notice Received	Effective Date	2008 Value Increment Certified	Final Levy Year	Final Tax Collection Year
1/1 – 5/15	Date Received	No	2007	2008
5/16 – 12/31	1/1 – 2009	Yes	2008	2009