

## ***2.2 TIF Amendments***

After a Tax Incremental District (TID) is created, the municipality may amend the TID in several ways.

- **Territory** - The area of the TID can be modified to add property served by TID improvements, or remove developed land from a TID.
- **Project plan** - The project plan can be amended to include new project costs or different financing plans.
- **Allocation** - The increment revenue from one TID can also be allocated to help pay debts of another TID.
- **Distressed/severely distressed** – For TIDs that are experiencing financial difficulties the ability to extend their maximum life.
- **Affordable housing** – May be requested when a TID is ready to terminate.
- **Base value redetermination** - If a TID is in a "decrement" situation, they can apply for a base value reduction.
- **Extension** - Finally, the life of a TID can be extended beyond the statutory maximum (which differs based on the type of TID) if existing tax increments will not pay project costs in the allowed time.

This section details the unique features of the different amendments, and outlines the required forms and procedures. The procedures to adopt a TID amendment are largely similar to those for creating the TID. The steps described here apply to each type of amendment. Details for extending the maximum life can be found at the end of this section.

### **STEP ONE: Preparation**

Depending on the type of amendment, this step will vary. If territory changes are involved, this will require valuation forms that list and value the parcels. At the very least a change to the project plan will have to be drafted. This draft would include all affected parts of the project plan, especially the financing and cash flow information. See the discussion of each type of amendment below for details.

### **STEP TWO: [Notices & Hearings](#)**

There must be a Class 2 notice published in two consecutive weeks preceding the public hearing, the second insertion being at least seven days before the hearing. The notice should include a description of the amendment, the time and date of the hearing, and inform the public that copies of the project plan are available upon request. There must be a Class 1 notice published at least five days prior to all JRB meetings.

A copy of the public notice must be sent to the overlying taxing jurisdictions, along with the request to form a Joint Review Board (JRB). Even if a standing JRB is already in existence, the JRB must meet before the public hearing takes place to select the board Chair and the Public Member. If the TID being amended is a territory amendment and

blight TID or a rehabilitation/conservation TID, notice must also be sent to the property owners in the TID. See the TIF public hearing notice webpage for additional information.

### STEP THREE: Resolutions

The planning commission must approve the amendment by resolution after the public hearing. The territory amendment as passed by the planning commission is then sent to the municipal governing body. The municipal board must approve the amendment by resolution. There is no waiting period when passing amendments, so adoption can happen any time after the resolution is received from the planning commission. They can adopt the same amendment as the planning commission, or they may alter the amendment.

**Please note:** If any of the required bodies does not adopt a resolution approving of the amendment, the changes *cannot* be certified.

The amendment is sent to the JRB, who must approve the amendment by resolution within 30 days of receipt.

The municipal clerk must notify the Department of Revenue (DOR) that the amendment has been adopted within 60 days of JRB approval. Amendment packets for resolutions passed before 10/1 are due by 10/31 of that year (resolutions passed after 9/30 are not due until 10/31 of the following year). For example, a resolution adopted before 10/1/2014 is due by 10/31/2014.

The specifics of each type of amendment are detailed below. The [Project Plan Amendment Checklist](#) contains a list of all the required forms and procedures for TIF amendments.

#### **Territory Amendment**

Addition – The boundaries of a TID can be expanded as long as three requirements are met. First, the addition must be contiguous to the TID. Second, the equalized value limit must be observed. Third, the newly added territory must be served by the improvements in the district's project plan. Each TID can add territory up to four times during its life.

Subtraction – The process for subtracting territory from a TID parallels the process for adding territory. The only limit on what lands can be removed from a TID demands that the TID retain contiguity after the subtraction. With a subtraction, the equalized value limits do not apply. Municipalities that are in excess of the equalized value limits can subtract territory from a TID to increase their available TIF capacity, rather

**Please note:** If a territory addition and a territory subtraction amendment are completed concurrently, they will be considered one amendment towards the limit of four. However, the charge for redetermining the base value of the TID will be \$2,000, rather than \$1,000.

than waiting for a TID to be terminated. However, more than a year will pass before the additional capacity is available on the value limit test. Each TID can subtract territory up to four times during its life.

Addition/Subtraction – A municipality can have an addition and subtraction approved at the same time. The requirements are the same as listed above. The addition is done first and the equalized value limit is calculated prior to the subtraction. An addition/subtraction amendment counts as one amendment. A municipality **may not** subtract parcels and add them back into the TID in the same year.

Maps – The maps submitted as part of a territory amendment should only identify those parcels that are part of the amendment. Likewise, the legal description should only describe the amended area. If non-contiguous areas are being added or subtracted, they should be described separately. It is essential that the numbers used to identify the parcels on the map match the numbers used to identify the parcels on the valuation forms. If DOR cannot match the parcels identified on the map to the parcels that are listed on the valuation forms the amendment cannot be approved.

Forms – When filling out the [valuation forms](#) (listed below) for a Territory Addition Amendment, only list the parcels that are in the amended area. For a Territory Subtraction Amendment the [valuation forms](#) are different than what is listed below to calculate the amount of the base value reduction.

1. **PE-606** – Equalized Value Determination Request provides basic information about the TID being amended, such as the overlying taxing jurisdictions, and contact person.
2. **PE-605** – City/Village/Town Legal Requirements contains the dates of statutorily required postings and proceedings (meetings, resolutions, etc.).
3. **PE-608** – Locally Assessable Property contains all of the locally-assessed property being added to the TID. If the amendment adds and subtracts land from the TID, separate packets will need to be filed. The assessed value of the land and improvements should be listed and totaled. Property annexed after the date of assessment has special treatment. Those parcels must appear on separate forms, all signed by the clerk and assessor of the municipality from which the parcels were annexed, not the annexing municipality.
4. **PE-601A** – Personal Property contains the value of municipally assessed personal property in the amended area which contributes to the redetermined base value of the TID. Personal property is classified in one of four groups: boats and other watercraft; machinery, tools and patterns; furniture, fixtures and equipment; and all other personal property. The total is entered on the form. If the parcel where the personal property is located is part of another TID, that overlapping TID number must be listed.

**Remember:** Property annexed after the January 1 assessment date must have special treatment; those parcels must appear on separate forms, all signed by the clerk and assessor of the municipality from which the parcels were annexed.

5. **PE-619** – Municipal-Owned Property list any city-owned parcels that are part of the amended area. The TIF Law specifically exempts municipal-owned, municipal-used property from being counted in the base value of a TID. However, when such parcels are part of the amended area, they must be identified on this form. Value information is only required for municipal-owned land that is not used by the municipality, or that sits vacant. The assessor should value these parcels at full market value, or indicate at what rate they are valuing the parcels if not full market on the Assessors Signature form. This form also includes the current use (park, fire station, parking lot, etc.) for each parcel and must be listed.
6. **PE-608M** – Manufacturing Real Property contains the amended parcels that are state-assessed manufacturing property (class 3=Manufacturing). The description as well as the address of each parcel should be included on this form. Separate forms should be used if the parcels have different overlying taxing jurisdictions.
7. **PE-608MP** – Manufacturing Personal Property contains the personal property located at manufacturing sites separately from the other personal property in the TID.
8. **PE-615A** – The TID Statement of Assessment (SOA) contains the assessed values of the real and personal property in the amended area, according to class. It is essential that the total on this form matches the totals on the other valuation forms (PE-608 and PE-601A). This form also lists the other taxing jurisdictions that have taxing authority over property in the TID.
9. **Clerk Signature Page** – requires signature and the date.
10. **Assessor Signature Page** – requires signature, assessment percent of municipal-owned property, e-mail address and date.
11. **Tax Incremental Financing Remittance Fee** - All fees are required to be paid through "[My Tax Account](#)."

### **Project Plan Amendment**

The TID project plan must contain certain elements (outlined in the [Common Language Guidelines](#) for TIF Project Plans). Plans cannot be amended to remove any of these elements, but any element can be modified as part of a project plan amendment. The most common amendments are project expenditures. After work in the TID has begun, additional projects may be needed or desirable. Also, the growth in value of the TID may generate larger tax increments than previously thought, providing the revenue stream to finance additional projects. It is important to update the financial analysis if project costs are added to the plan; the increments must still be able to pay for the improvements within the life of the district.

There are no limits on the number of project plan amendments that can be made to a single TID during its life. However, the expenditure period can only be extended once (see next page). Requirements, timeline and a checklist for project plan amendments can be found on the [Project Plan and/or Allocation Amendments](#) webpage.

### **Allocation Amendment**

This type of amendment allows the municipality to divert revenue from one TID (called the "donor TID") to another TID (called the "recipient TID"). This may be desirable when one TID is generating revenues above what was forecast, and another is performing

below expectations. The JRB members and the public should understand that they will be diverting more revenue than planned to the TIF fund if the amendment is adopted. This is because directing increment revenue from one TID to another, delays the time in which a TID can fully pay its costs and be retired. This delays the return of the tax base to the overlying districts.

There are two sets of criteria for allocation amendment –

1. the donor and recipient TIDs must have the exact same overlying taxing jurisdictions
2. the donor TID must be able to demonstrate that the current increment is sufficient to pay off all costs incurred by the TID and provides enough surplus revenue to pay some of the costs for the recipient TID.

**Please note:** The resolutions that are adopted by the planning commission and the governing body must state specifically from which TID the increments are coming, AND to which TID the surpluses are going.

Once a district is made a donor district, the City or Village cannot request an extension for the life of that TID. See the [Allocation Fact Sheet](#) for additional information.

### **Distressed/Severely Distressed Amendment**

A municipality may be experiencing financial difficulty and would need to extend the life of the TID to pay off obligations.

- Distressed - allows the municipality to extend a TID 10 years past the original termination date
- Severely distressed - allows a municipality to extend a TID up to 40 years from the creation date

To become distressed/severely distressed, the TID must:

1. Be created before October 1, 2008
2. Not be amended after October 1, 2009
3. Have projected TID increments that show the TID will not be able to pay project costs and debt within the normal life of the TID
4. Use any increment that exceeds the TID's annual expenditures to retire the TID debt or establish a reserve fund that can only be used to retire the debt of the distressed or severely distressed TID
5. **Note: Severely Distressed TIDS only** - must have an increment in any year that has declined at least 25% from the highest value increment

Once a TID is declared distressed/severely distressed it *may not*:

- Make any additional expenditures after the original expenditure period ends
- Amend the project plan to add any new costs, any new territory or become a donor TID

- Become part of a TID with overlapping boundaries
- Spend any funds outside its boundaries

Additional information and forms can be found on DOR's [website](#).

### **Affordable Housing Amendment**

Under sec. 66.1105(6)(g), Wis. Stats., a TID that has paid off all of its project costs may extend their life by one year if:

1. the municipality adopts a resolution extending the life of the TID for a specified number of months and specifies how they intend to improve its housing stock.
2. the municipality forwards a copy of the resolution to DOR.

DOR will then authorize the allocation of tax increment for one additional year.

### **Base Value Redetermination Amendment**

A Tax Incremental District (TID) can request a base value redetermination, if in a decrement situation under state law (sec. 66.1105(2)(aj), Wis. Stats.).

Qualifications/requirements are:

- [TID's Equalized Value](#) (see Tax Incremental Value Reports) must be at least 10% below the current 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% 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
- Same timeframe and requirements as a regular TID amendment
- If you amend a TID after October 1, you must complete and submit the packet forms to DOR **on or before October 31** of the following year based on the municipal resolution date
- DOR does not start the process of redetermining values until after January 1 of the year following submittal

Additional information and forms can be found on DOR's [website](#).

### **Extension Amendment**

The maximum life of a TID can only be extended by action of the JRB. The municipality must request that the JRB grant the extension, and it is the sole discretion of the JRB whether or not the extension should be granted. On the other hand, the

**Please note:** The allowed maximum life of a TID varies based on type and creation date. Please view [section 2.4](#) TIF Termination for more information.

municipality may provide an independent audit that shows that the TID cannot repay its obligations in the allotted time, in which case the JRB must approve the extension.

The length of extension that a municipality can request varies based on the type and the creation date of the TID. Not all types are eligible for life extensions.

- TIDs created before October 1, 1995 are not eligible for extensions.
- Blighted and rehabilitation/conservation districts created after October 1, 1995 but before October 1, 2004 can have a four-year extension.
- Any blighted or rehabilitation/conservation district created after October 1, 2004 can have a three-year extension.
- Industrial Districts created between October 1, 1995 and October 1, 2004 are not eligible for extensions.
- Industrial districts created after October 1, 2004 can have a three-year extension.
- Mixed-Use districts created after October 1, 2004 can have a three-year extension.

This information is summarized on the TID [Criteria Matrix](#)