TAX INCREMENT FINANCING

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Tax Increment Financing (TIF) can be a powerful tool for funding necessary infrastructure improvements and has been used successfully by larger cities and smaller communities throughout New Hampshire.

What Is TIF?

The ***F***inancing of public improvements with the ***I***ncremental ***T***axes created either by new construction, expansion, or renovation of property within a defined area of the community.

Suppose your historic downtown needs improvements (such as new parking facilities, expansion or replacement of public utility infrastructure, improvements to public streetscape and lighting, sidewalk and roadway upgrades, or new parks and open space) to maintain the existing tax base and also to attract new investments. Further suppose that this historic downtown is approved as a Tax Increment Finance Development District (hereinafter referred to as "district") at Town Meeting and the town approves borrowing money to pay for those improvements. After the district is established, the existing tax value of that district would continue to be distributed in the regular way (60-70% to schools, 6-8% to County, and the rest to the Town).

For example, suppose that over the next three years several properties within the district are extensively renovated and there is now $2 million of additional tax value. A portion of the taxes from that new incremental value would be dedicated for use within the district such as to pay off the bonds used to finance the public improvements, rather than being accounted for as tax general revenue.

Once public improvements in the district have been paid for, the increased tax value of the district would become part of the general revenues of the town and benefit everyone. Nothing is taken away from anyone, because the district uses new money that is created by new investments. Existing tax dollars are unused and untouched. And because 100% of the funds are available, bonds can be paid off much quicker than if general funds were used, which in most New Hampshire towns represent less than 30% of each new tax dollar (the rest going to the county and schools).

What Are The Rules?

Some key provisions are listed here but you should review the entire statute, RSA 162-K, for a full understanding.

- A municipality must first adopt the provisions of RSA 162-K before creating a TIF.
- Following adoption of the provisions of the statute, the municipality may then establish one or more Development Districts.
- For each district, the municipality must establish a Development Program including a Tax Increment Financing Plan which shall allocate use of tax increments for retirement of bonds and

notes, operation, maintenance and improvements in the district and for general municipal purposes.

- The plan must be adopted by the municipality after a public hearing conducted in conjunction with the hearing to establish the district and is created with input from the county commissioners and school boards.
- The municipality must create a District Advisory Board to advise the governing body and District Administrator on planning, construction and implementation of the Development Program and on maintenance and operation of the district after the program has been completed. A majority of members of the advisory board shall be owners or occupants of property within or adjacent to the district.
- There is no limit on the number of districts a community can have but there are restrictions.
- No one district can include more than 8% of a community's assessed value or more than 5% of a community's land area.
- All districts combined cannot exceed 10% of the community's land area nor more than 16% of a community's total assessed value.
- Money raised within a district must be spent within that same district to retire bonds and notes or for operation and development of the district except that "excess captured asset value" may be spent elsewhere in the town. Care must be taken to create a boundary that includes not only needed improvements but also includes sites that are likely to generate new taxes. Once a district is established, the boundaries may be enlarged in the future subject to limitations.

This Sounds Complicated! My Community Can't Do This!

Unfortunately the legislation, which was established in the late 1970's, makes it seem very complicated. It is focusing on old concepts of urban renewal and much of the language was probably borrowed from a more urban state. And it does take some work. But any community can do it and you don't have to hire an expensive consulting firm.

However, assistance may be needed. Small communities that have only a handful of staff may need to hire an accountant to set up the special records required. But that expense can be included as part of the TIF package and be paid for with TIF revenues, assuming the TIF is successful.

If TIF monies are spent to pay off a bond, then bond counsel will be essential, but that would be the case no matter what source of revenue was to be used.

Most parts of the state now have not only regional planning commissions but also economic development organizations which may be able to provide additional assistance.

Security: What If The TIF District Doesn't Generate New Taxes?

Communities must use caution with any project that will create a long-term financial obligation, whether using TIF or general revenue funds.

Just because you have a district does not mean you have to spend the money. TIF is a tool to be used when the right opportunity arises, and not all situations are appropriate for its use.

Establish as many safeguards as possible. Try not to rely upon a single project, and try to establish formal written development agreements with key development projects.

Try to avoid using TIF for projects that have no benefit to the community other than for one specific project. See the examples from Keene that were part of a comprehensive community planning effort to increase the industrial portion of the City's tax base and encourage development in the downtown after several major anchor businesses closed.

Combining TIF with Other Financing Tools (Hypothetical Example)

A small town in northern New Hampshire has an exciting vision for renovating its historic downtown. A general revenue bond will be used to renovate the Town Hall. Sewer and water rates will be increased and those funds will pay for upgrading downtown utilities. A Community Development Block Grant (CDBG) will be used to turn an old mill building into low-moderate income housing and a day-care center. Land and Water Conservation Funds will be used to create a new downtown river park. Transportation enhancement funds will be utilized to develop a bicycle trail that leads from the downtown to a major residential area using an abandoned railroad bed. This bike trail will attract more shoppers to the downtown area and provide an alternative commuter route during the summer months for downtown workers.

A reputable private developer likes these ideas and offers to construct a combination restaurant/hotel in another abandoned mill building in the heart of downtown. But the developer will need at least 50 parking spaces, which means that a parking deck must be constructed and all of the developer's resources are going into renovating the building. How will the parking be paid for? This could be paid for by creating a TIF and using the increased taxes from the improved property to pay off a bond issued by the Town as part of this package to design and construct a parking deck.

Now this kind of package can take two or three years to put together, and the community may need an experienced, full-time staff person to keep track of everything. But this example is by no means far-fetched. Financial packages as or more complicated than this example have been used in New Hampshire in recent years, both in the downtown area and as part of the creation of a new industrial park.

HOW DO I GET STARTED?

The Peterborough Example

In 1997 the Town's Community Development Director suggested that a Tax Increment Finance District could help to pay for needed infrastructure improvements in Peterborough's core commercial area. The Town's Economic Development Authority (EDA) agreed with this idea, as did the Town Administrator and Board of Selectmen. But someone had to take this idea and make it happen. It was decided that the EDA would take on that role. A subcommittee of EDA was formed to work with the Community Development Director and a general list of infrastructure improvements was developed.

Considerable time was then spent on mapping out a strategy. Several community groups such as Downtown 2000 and the Chamber of Commerce were asked to help. A general calendar of what needed to be done was then created, with the final goal being approval at March 1998 Town Meeting. Serious work started in September, a full seven months before Town Meeting.

A presentation was prepared that evaluated the economic condition of the Town and the importance of the core commercial area in assuring the Town's sustained economic prosperity. A map was drawn of the proposed district, and EDA members began to discuss the idea within the community. The Community Development Director was given the task of describing the TIF concept in the newspapers and making many of the formal public presentations. EDA members, as well as Chamber and Downtown 2000 members took on the all-important task of discussing this concept one on one throughout the community. As people asked questions and raised concerns, the proposal was modified and improved. The Hillsborough County Commission approved the concept. However, the ConVal School District, which by law needed to be informed, was not certain that it wanted to support the idea. EDA members spent considerable time talking to individual members, in addition to three separate presentations to the District. Ultimately they also endorsed the concept.

Presentations were made to all of the community's service organizations and an effort was made to contact each merchant within the district, seeking their support and answering their questions. Time was also spent with Town staff discussing the concept and making sure that the required administrative systems would be in place. The result of this hard work was that the proposal received overwhelming support at Town Meeting.

If this is such a good idea and has been permitted in New Hampshire since the late 1970's, why haven't more communities used it?

That's a very good question. In part, few communities have had the time to search through all of the RSA's for financial options. It is helpful to have a professional staff person who is familiar with this approach, and until now only a few communities in the State have had someone responsible for community development. Some communities thought it would just be too hard. The real answer is that most communities have never heard of this concept.

There has to be a downside to this. What can go wrong? Why might a community not want to use tax increment financing?

TIF won't work if there is not an increase in the taxable value of land and property within the Development district. If no one renovates downtown buildings, their value may continue to decline. Likewise, if you can't find an appropriate client for the proposed industrial park, there will be no money for the needed sewer and water lines. TIF can be a wonderful tool when private investment starts happening, but other tools may be needed to first prime the economic pump.

TIF is most often associated with bonds, but you can use the funds to directly pay for needed improvements. But if a bond is issued under a TIF program, say for 20 years, then the increased tax values upon which the bond payments are designed also must be maintained for 20 years. If some bright new idea comes to town, is a great success, and goes bankrupt after ten years, the bond still needs to be paid off. As with any significant investment decision, the community needs to think clearly, have contingencies, and not make commitments that are too risky. A proposal has to be sound whether or not TIF is used.

How do I select the boundary of the district?

It is important to remember that you are looking for areas of the community where new development or redevelopment is likely to take place, while also looking for those locations where public improvements are needed. Since money raised within the district boundaries must be spent within those boundaries, there is a balancing act that may take some thought. RSA 162-K was amended in 2004 to allow the district boundaries to be changed any time after the district is established, no longer limiting boundary changes to just within the first 5 years.

Perhaps the year after the boundaries are drawn a developer suddenly proposes to invest $1 million dollars to rehabilitate an old building no one thought would ever be improved, and so it was not included in the district. At the next Town Meeting the boundary can be shifted to include this building and its new incremental revenues so long as the overall district does not exceed 8% of the tax base or 5% of the total land area of the town. In a similar fashion, perhaps a bridge or a dam just outside the district suddenly needs to be repaired. If the district boundary is adjusted, then TIF dollars can be used to meet that expense. Also, remember that the Town can have more than one district. It is often better to establish a separate district rather than try to make one district meet all the needs of the Town.

What about the 60% Rule?

When the TIF legislation was established, it was intended primarily as an urban tool, and the language of the law appears to have been borrowed from some other State. It included a requirement that 60% of a district must already be developed. That had the impact of making this tool only available for downtown redevelopment projects, precluding its use for the majority of rural communities in New Hampshire.

At the request of the Town of Peterborough and its legislative representatives, the State legislature eliminated this requirement in 1998. Now any community can create a district without having to include developed areas. For a proposed industrial park outside of the developed portions of a community, this revision will be especially important.

Is the TIF district a special taxing district?

One of the greatest concerns of property owners included in a district is that this is some form of special assessment district and that people inside the TIF boundary will have to pay extra tax.

While special assessment districts can be an important community development tool, that is quite different than TIF. Taxpayers within the district won't know that they are in the district and will be taxed just the same as any similar property within the community. The only difference is that any new tax revenue will be spent within the district, directly benefiting those who are paying the tax. Once people get used to the idea, it is not uncommon to have property owners ask to be included.

Does TIF take money away from the schools?

The simple answer is no. The whole purpose of a district is to stabilize, retain or expand the community's tax base, which is essential for maintaining adequate school funding.

The existing tax base is left untouched, assuring full funding of school, county and general fund needs. When the district has served its purpose, the result is usually an expanded tax base, which makes it easier for the community to support its schools.

Can I use TIF district funds for other municipal purposes outside the district in an emergency?

A community can use all of the new incremental taxes of a district to fund the TIF plan. The municipality shall expend the tax increments received for any development program only in accordance with the plan. Tax increments shall be used only to pay off costs and administrative expenses incurred in developing the district.

A community may not "tap" the TIF bank for projects outside the district, but can divert some or most of the incremental revenues coming into the district to the general fund if needed. Section 162-K:10, II (b) requires a community to return “excess captured asset value” (money not needed to retire bonds or fund operation and development of the district) back to the general fund.

Section 162-K:9, III also allows communities to set up revenue sharing agreements with schools and/or the county, although such sharing tends to diminish the value and impact of the TIF concept.

Also, section 162-K:9, IV allows the legislative body to modify the TIF plan, adjusting its purpose and focus and to adjust the boundaries of the District no longer limiting this to just during the first five years.

Final Thoughts

Tax Increment Financing is not some magic bullet that can make every community prosperous and every project a success. But it is also not some "trick". TIF can provide a means for financing needed infrastructure improvements which the general fund cannot afford, using "new" money that neither the schools, the county nor the taxpayers of the community are accustomed to. It doesn't take anything away from anyone.

Important

Please note that RSA 162-K has been subject to several revisions over the last few years. It is therefore recommended that the reader keep current of any future revisions to this statute.

Developers tend to like TIF because they can see their tax dollars going towards something that is likely to more directly benefit their property.

Putting together a TIF program requires thought, time, and caution. The more information provided to the community, the greater its chance of success. It takes time and attention to detail, but any community can do it.

Good luck!