

Just the Facts:

Tax Increment Financing (TIF)

May 2019

This fact sheet provides an overview of the TIF program. For the statutory program requirements, please see Kentucky Revised Statutes (KRS) Chapters 65 and 154.30.

Overview

Tax Increment Financing (TIF) is an economic development tool used by public agencies to finance needed infrastructure improvements for a project (e.g., streets, sewers, parking lots, etc.) by earmarking future tax gains resulting from the development for the improvements. This public investment will increase the value of the property as well as in the surrounding area and may spur further development. This increased tax revenue is the increment that TIF dedicates toward public infrastructure improvements in distressed or underdeveloped areas where private development would not otherwise occur. In summary, TIF captures the future value of an improved property to pay for the current costs of those improvements.

The first step for all TIF programs in Kentucky is the establishment of a TIF development area by a city, county or one of the agencies identified in statute as eligible. The statutes authorize two types of TIF development areas:

- Areas for local incentives only
- Areas for state and local incentives

Local Development Areas

Support at the local level can be provided through the entire development area or on a project-by-project basis. Detailed requirements for the establishment of a development area, including public hearing requirements, ordinance requirements and parameters for agreements establishing the development area and pledging financial support, can be found in KRS Sections 424.130, 65.7041 to 7083 and 154.30. There are two types of local development areas profiled in the following table.

Local Development Areas
Established by local government or eligible agency

Type of Development Area

Taxes Available for Increment

Maximum Term

Required Conditions

Local Only Development Areas

(KRS 65.7047)

Up to 100% of incremental property taxes & occupational license taxes or fees

20 years

- Land must be previously undeveloped tract of land
- Maximum size cannot exceed 1,000 acres in any 12-month period in any county
- Total amount of property within a city or county that may be in a TIF development area cannot exceed 20% of the total assessed value of taxable real property within the jurisdiction(s)

Blighted Urban Redevelopment Areas *

(KRS 65.7049)

Up to 100% of incremental property taxes & occupational license taxes or fees

30 years

- The area shall be contiguous and the maximum size cannot exceed three square miles
- Total amount of property within a city or county that may be in a TIF development area cannot exceed 20% of the total assessed value of taxable real property within the jurisdiction(s)
- Governing body of the city or county shall determine the development area must meet one of the following conditions:
 - Must meet two of the seven blight/deterioration conditions outlined below
 - Must be a Mixed-Use Development (see State TIF program) with one of the following conditions:
 - Located in a university research park
 - Located within three miles of a military base that houses, deploys or employs at least 25,000 military personnel, their families, military retirees or civilian employees
 - Includes either or both significant public storm water and sanitary sewer facilities designed to comply with a community-wide court decree mandating corrective action by the local government or agency thereof
 - Includes a tract of previously undeveloped land, owned by a liberal arts educational institution within four years prior to April 10, 2017, and the undeveloped land is bound on one side by a four lane US Highway. No more than 50% of the previously undeveloped land shall be used for qualified mixed uses
 - Must include a 5,000 seat arena as part of the proposed development if the development is on previously undeveloped land

** May be eligible for state participation if certain requirements are met.*

The following is a list of blight/deterioration conditions:

- Substantial loss of residential, commercial or industrial activity or use;
- Forty percent (40%) or more of the households are low-income households;
- More than fifty percent (50%) of residential, commercial or industrial structures and deteriorating or deteriorated;
- Substantial abandonment of residential, commercial or industrial structures;
- Substantial presence of environmentally contaminated land;
- Inadequate public improvements or substantial deterioration in public infrastructure; or
- Any combination of factors that substantially impairs or arrests the growth and economic development of the city or county; impedes the provision of adequate housing; impedes the development of commercial or industrial property; or adversely affects public health, safety or general welfare due to the development area's present condition and use.

A local development area with condition of blight may be eligible for both state and local participation.

If wage assessments are identified to be used as part of the TIF, the city or county must report the pledge of those assessments to the Kentucky Economic Development Finance Authority along with a report that identifies the boundary description, commencement date, activation date and termination date.

State Participation Programs

Local revenues pledged to support the project must be of a sufficient amount to warrant state participation. There are three state participation programs available, each of which has its own distinct requirements for eligibility:

- Real Property Ad Valorem Tax Revenues
- Signature Projects
- Mixed-Use Redevelopment in Blighted Urban Areas

All projects established (receiving final approval) after July 14, 2018, must meet the minimum capital investment by the activation date. In addition, the base year will be as of December 31 of the year of preliminary approval.

State Participation Programs

Program Name

Impact

Minimum Capital Investment

Use of Space

Taxes Available for Increment

Recovery Limits

Maximum Term

Real Property Ad Valorem Tax Revenues

(KRS 154.30-040)

Project must represent new economic activity in the Commonwealth

\$10 million

Not more than 20% of the capital investment or finished square footage can be devoted to retail

Up to 100% of the state real property incremental tax revenue may be pledged from the footprint

May recover up to 100% of approved public infrastructure costs

20 years

Signature Projects

(KRS 154.30-050)

Project must:

- Be judged to be of such magnitude as to warrant extraordinary public support AND
- Represent new economic activity in the Commonwealth AND
- Result in a net positive impact to the Commonwealth as certified by an independent outside consultant

\$200 million

Not more than 20% of the capital investment or finished square footage can be devoted to retail

Types of state taxes that may be pledged include:

- Real property ad valorem tax
- Individual income taxes/Withholding tax
- Corporate income tax
- Limited liability entity tax
- Sales tax

Up to 80% of incremental state tax revenues may be pledged from the footprint

May recover up to 100% of:

- Approved public infrastructure costs (less sales and use taxes paid)
- Financing costs related to public infrastructure costs
- Signature project costs (less sales and use taxes paid)

Qualifies for a sales tax refund on the purchase of construction materials that do not qualify as an approved public infrastructure cost or an approved signature project cost

30 years

State Participation Programs

Program Name

Impact

Minimum Capital Investment

Use of Space

Taxes Available for Increment

Recovery Limits

Maximum Term

Mixed-Use Redevelopment in Blighted Urban Areas

(KRS 154.30-060)

Project must:

- Represent new economic activity in the Commonwealth AND
- Result in a net positive impact to the Commonwealth as certified by an independent outside consultant AND
- Include pedestrian amenities and public space

\$20 million (but not to exceed \$200 million)

Must include at least two of the following “uses”:

- Retail
- Residential
- Office
- Restaurant
- Hospitality

To qualify as a “use,” the “use” must comprise at least 20% of the total finished square footage or 20% of total capital investment. Or a project may qualify if all of the following three requirements are achieved:

- Includes at least 3 “uses”;
- One of the “uses” meets the 20% requirement; and
- The other “uses,” when combined, jointly meet the 20% requirement.

The area cannot include any retail establishment that exceeds 20,000 square feet of finished square footage.

The area must meet three of the seven blight/deterioration conditions (see p.3)

Types of state taxes that may be pledged include:

- Real property ad valorem tax
- Individual income taxes/Withholding tax
- Corporate income tax
- Limited liability entity tax
- Sales tax

Up to 80% of incremental state tax revenues may be pledged from the footprint.

May recover up to 100% of approved public infrastructure costs and costs related to land preparation, demolition and clearance

20 years

State participation is limited to projects meeting the Blighted Urban Redevelopment Areas criteria of a Local Development Area outlined on page 2. Only the tax revenues generated within the footprint of the specific identified project are included in the increment. The footprint is defined as the actual perimeter of a discreet, identified project within a development area in which capital investments are made. If state income taxes or local occupational license taxes are included for a TIF project that includes office space, the applicant should consider the impact of pledging these taxes on the ability to attract/locate other economic development projects at a later date.

The Process

- After establishing local TIF development area by local ordinance, local agency submits TIF application for state increments to the Cabinet for Economic Development (CED).
- CED staff reviews TIF application for completeness and evaluates whether, based solely on information submitted by the applicant, the project is likely to meet the minimum requirements for the program.
- CED staff presents TIF project to the Kentucky Economic Development Finance Authority (KEDFA) board for preliminary approval.*
- Upon KEDFA preliminary approval, CED staff works with the Finance and Administration Cabinet and the Office of State Budget Director to develop criteria for the completion of a TIF consultant's report (if required).*
- Consultant researches potential TIF project and projections submitted by local agency and determines if the projections are accurate and if the project results in a net positive impact for the Commonwealth.*
- If the consultant's report reflects a net positive impact to the Commonwealth, the report is presented to KEDFA during closed session.*
- CED staff negotiates the TIF incentive available to the project and drafts a TIF incentive agreement detailing the footprint, the specific taxes, amounts of increments available and infrastructure expenditures along with reporting requirements.
- CED staff presents the TIF project to KEDFA Board for final approval.
- Upon final approval, the TIF project can activate and increments can begin to accrue.

**Do not apply to Real Property Ad Valorem Tax Revenue TIF projects since a consultant report is not required.*

Fees

A non-refundable application fee of \$1,000 is payable upon submission of the TIF application. Prior to final approval, the applicant will be responsible for an administrative fee equal to one-fourth of one percent (0.25%) of the final incentive amount authorized in the tax incentive agreement up to a maximum of \$50,000. In addition, the applicant will be responsible for all independent outside consultant fees and legal fees, including expenses of counsel to KEDFA, necessary for the preparation of the consultant report and the tax incentive agreement.

FAQs

See https://cedky.com/cdn/1740_TIF_FAQ_document.pdf for the TIF FAQs. To learn more, contact:

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