



The ABCs of TIFs, DIFs, TIEs & STAs

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What is a TIF ?

- TIF is an acronym for “Tax Increment Financing”.
- In Massachusetts, a TIF is actually a specific type of tax increment financing.



History of Tax Increment Financing

- Tax Increment Financing was originally developed as a tool to finance public infrastructure in urban renewal projects.
- Tax Increment Financing Districts were created within the Urban Renewal Area.
- The incremental tax revenue was earmarked to pay for the public infrastructure improvements.



A Little Massachusetts Context

- Chapter 23A was amended by Chapter 19, Section 4 of the Acts of 1993.
 - Added Sections 3A – 3F to Chapter 23A;
 - Created the EACC & the EDIP;
 - Allowed for the creation of ETAs & EOAs;
 - Allowed for Special Tax Assessments.



A Little Massachusetts Context

- Chapter 40 was amended by Chapter 19, Section 12 of the Acts of 1993.
 - Added Section 59 to Chapter 40;
 - Authorized the creation of TIF Zones;
 - Authorized TIF Agreements of not more than 20 years to be executed by legislative & executive branches of the municipality.



A Little Massachusetts Context

- Chapter 59, Section 5 was amended by Chapter 19, Section 14 of the Acts of 1993.
- Added Clause 51st to Chapter 59, Section 5;
 - Created Real Property Tax Exemptions as set forth in TIF Agreement;
 - Created 100% Personal Property Exemption.



A Little Massachusetts Context

- Chapter 23A, Sections 3A – 3F were substantially amended by Chapter 287 of the Acts of 2014.
- Uncoupled Certified Projects from ETA & EOAs;
- Uncoupled TIFs/STAs from ETAs & EOAs
- Allowed for “Local Incentive Only” TIFs/STAs



A Little Massachusetts Context

- Chapter 23A, Sections 3A – 3F were again substantially amended by Chapter 219 of the Acts of 2016.
- Totally rewrote Chapter 23A, Sections 3A – 3F
- Greater flexibility in STA provisions
 - Provided for “Clawbacks”



How Does a TIF Work ?





TIFs & STAs Today

- The 2016 Changes to Chapter 23A became effective on January 1, 2017.
 - In negotiating Post 1/1/17 TIFs & STAs don't rely on Agreements or Votes used prior to 1/1/17.
- The Assessor's Office should be part of the TIF/STA Negotiation Team from the start.
 - Chapter 40, Section 59 requires they get a copy of each TIF and list of parcels.



TIF & STA Annual Reports

- Companies receiving TIFs & STAs must file annual reports with EACC through the online portal:
 - the number of jobs retained and created,
 - the value of the property capital investments, and
 - other related items with respect to the property annually and on a cumulative basis.



TIF Additional Reporting

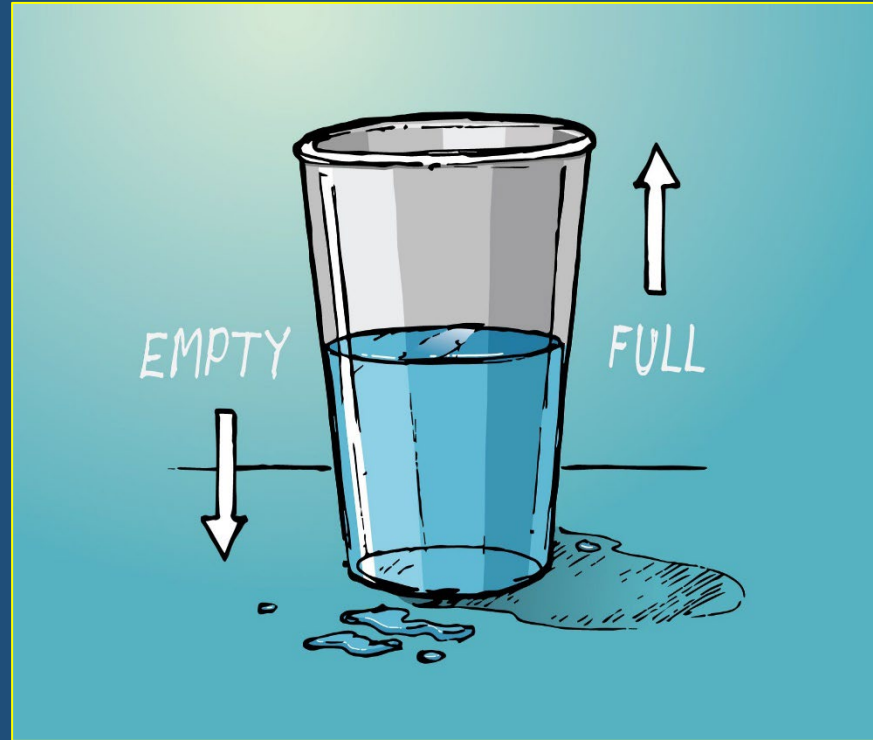
- Pursuant to Chapter 40, Section 59(viii) Companies receiving TIFs must file reports with the Town Clerk & EACC:
 - detailing the status of the construction laid out in the agreement,
 - the current value of the property, and
 - the number of jobs created to date as a result of the agreement.

Do TIFs Work ?



“Half Empty”

- Corporate Subsidy.
- Impact of rest of tax base.
- “They would have invested anyway.”



“Half Full”

- No decrease in tax revenue.
- Encourages development.
- Job creation.
- Creates “New Growth.”



Things to Keep In Mind - TIFs

- Be very clear about the Base Valuation
 - The Base Valuation should be the assessed valuation of the property in the fiscal year when the TIF Agreement is executed.
 - The Base Valuation will be adjusted annually pursuant to Chapter 59, Section 21C(f).



Things to Keep In Mind - TIFs

- Try to be as specific as possible about the 1st year of the exemption.
 - Companies will want to insure that there is some flexibility to account for delays in construction.
 - The 1st year of the exemption should be the 1st fiscal year after the Certificate of Occupancy or Completion has issued.



Things to Keep In Mind - TIFs

- Be as clear as possible about how personal property will be treated.
 - Is the company a manufacturer? If so, see Chapter 59, Section 5, Clause 16th.
 - If not, then pursuant to Chapter 40, Section 59 & Chapter 49, Section 5, Clause 51st the percentage exemption must be set forth in the TIF Agreement.
 - Expressly state if no exemption.



Things to Keep In Mind - TIFs

- TIFs are assignable to successive owners pursuant to Chapter 40, Section 59.
 - Successor must be of a “like kind business” and must abide by the provisions of the TIF.
 - If not, the TIF can be terminated voluntarily by the company selling the business or request to decertify can be filed by the municipality.



Things to Keep In Mind - TIFs

- Expressly provide for a process of default notification and cure.
 - Municipality should provide written notice of the event of default;
 - Company should have reasonable period to cure the default;
 - Landlord should also have right and opportunity to cure the default.



Things to Keep In Mind - TIFs

- TIF Agreements should provide for “clawback” of benefits upon default or decertification.
 - Recapture value of tax not paid due to TIF exemption through a special assessment;
 - State that assessment, payment, and collection of the special assessment treated as an Omitted Assessment under Chapter 59, Section 75, notwithstanding time frame set forth in Section 75.



Municipal Approval

- TIF & STA Agreements must be:
 - Approved by Town Meeting, or Town Council/City Council & Mayor (c.40, § 59).
- EDIP Local Incentive Only Applications for TIF & STA Agreements no longer need to be endorsed by the municipality.
 - Application is now filed through online Portal.



How does a TIF Agreement Work?

Project Details

- Vacant Parcel – Value \$1 Million
- Certificate of Completion – 8/1/2022
- Assessed Value by the Assessors upon Certificate of Completion - \$ 6 Million
 - Includes land value



How does a TIF Agreement Work?

Project Details

- Agreement provides:
The exemption for real estate taxes shall commence in the fiscal year following the date a certificate of occupancy has been issued to allow the Company to use and occupy the Project in its entirety.



How does a TIF Agreement Work?

Project Details

<u>Real Estate</u>	
<u>Year</u>	<u>Exemption %</u>
Year 1	95%
Year 2	95%
Year 3	85%
Year 4	85%
Year 5	75%
Year 6	75%
Year 7	60%
Year 8	60%
Year 9	50%
Year 10	50%
Year 11 -15	40%

<u>Personal Property</u>	
<u>Year</u>	<u>Exemption %</u>
Year 1	100%
Year 2	100%
Year 3	100%
Year 4	100%
Year 5	100%

**Exemption Schedules
can differ**



How does a TIF Agreement Work?

Real Estate Assessment/Exemption

Inflation Factor/Adjusted Base

Numerator - \$10,500,000 (\$11,000,000 [FY2024 Total Value Non-TIF Eligible C&I Parcels] minus \$500,000 [FY2024 C&I new growth])

Denominator - \$10,000,000 (FY2022 total value of parcels included in the numerator)

Inflation Factor = 1.05%

FY2024 Adjusted Base Value = \$1,050,000



How does a TIF Agreement Work?

Real Estate Assessment/Exemption

FY2024 TIF Exemption

FY2024 Fair Cash Value	\$6,000,000.00
FY2024 Adjusted Base	\$1,050,000.00
FY2024 Adj. Fair Cash Val.	\$4,950,000.00
FY2024 TIF Exemption	95%
FY2024 TIF Exempted Amt.	\$4,702,500.00
FY2024 TIF Impacted Amt.	\$1,297,500.00



How does a TIF Agreement Work?

- FY2025 – the same process is used.
- Once the Inflation Factor is determined its applied to \$1,000,000.
- Taxpayers will look for the TIF Exemption % and so it might help to use multiple page property cards.



Let's Talk About STAs

- Applies to total assessed value, not just incremental increase in value, of the property.
- No personal property tax exemption.
- Formal Determination that investment will contribute to economic revitalization, or will increase or retain jobs, is reasonably necessary for investment, and is reasonably proportionate.



Let's Talk About STAs

- Term must be at least 5 years and no more than 20 years.
- Must minimally comply with:
 - Year One: not less than 50% exemption;
 - Year Two: not less than 25% exemption;
 - Year Three: not less than 25% exemption;
 - Year Four: not less than 5% exemption;
 - Year Five: not less than 5% exemption



What is a DIF ?

- DIF is an acronym for “District Improvement Financing”.
- Pursuant to Chapter 40Q, a municipality may designate development districts provided that the total area of all development districts shall not exceed 25 per cent of the total area of the municipality.



How does a DIF work?

- In a DIF, the Assessor certifies the original assessed value of all the properties in the district.
- Each subsequent year, the Assessor certifies the portion of new growth attributable to the investments in the district.
- The associated tax revenue from the new growth is earmarked to fund public debt in the district.



How does a DIF work?

- Annually, after payment of the debt service, the excess tax revenue is turned over to the General Fund.
- The municipality can issue revenue or general obligation bonds to fund the improvements in the district.
- This is really how TIFs work in other States.



Let's Talk About TIEs

- Pursuant to Chapter 40V areas within a Gateway Municipality may designated as “Housing Development Zones” .
- Within the HD Zone, housing development projects with at least 80% market rate units can be designated as a “Certified Housing Project”.



Let's Talk About TIEs

- Pursuant to Chapter 59, Section 5M, Certified Housing Projects can qualify for a real estate tax exemption.
 - Exemption must be at least 10% but no more than 100% of the incremental value of the fully developed market rate units.
 - This Tax Increment Exemption, or “TIE” must be approved by DHCD.



Let's Talk About TIEs

Residential

Commercial





Let's Talk About TIEs

- The Base Value for the Exemption is the assessed value of the parcel of the property as of the fiscal year in which a HD Tax Increment Exemption Agreement is executed .
 - minus the assessed value attributable to any portion of the property that was assessed as other than residential in the applicable fiscal year and remains non-residential after completion of new construction or Substantial Rehabilitation.



How does a TIE Agreement Work?

Project Details

- Project – 40 Units of Market Rate Apts.
10 Units of Affordable Apts.
10,000 sf of Commercial Space.
- The TIE only applies to value of the Market Rate Apartments.



How does a TIE Agreement Work?


Project Details

- Exemptions under TIE Agreements don't begin until DHCD grants Final Certification.
- Certificate of Completion for all the Residential Units;
- Tax Increment Exemption – Confirmation of Calculation (Exhibit #4).



How does a TIE Agreement Work?

Confirmation of Calculation

 **CITY OF FALL RIVER**
TAX INCREMENT EXEMPTION - CONFIRMATION OF CALCULATION
5 BEDFORD STREET, FALL RIVER, MA

In connection with the Tax Increment Exemption Agreement dated April 25, 2019 by and between the CITY OF FALL RIVER, One Government Center, Fall River, Massachusetts, and 5 BEDFORD STREET LLC, LLC, a Massachusetts Limited Liability Corporation with an address at 200 Lincoln Avenue, Fall River, MA 02721 with respect to the property at 5 Bedford Street, Fall River, as amended (hereinafter the "Agreement"), the parties hereby confirm the following elements of the Agreement. Unless otherwise stated, capitalized terms have the meaning set forth in the Agreement.

1. The Effective Date of the Agreement is: _____
2. The MRRU is: 80 %
3. The assessed value of the residential portion of the Property upon Completion is: _____

In the event that the dates or figures in this "Tax Increment Exemption - Confirmation of Calculation" differ from those set forth in the Agreement, the contents of this document shall control and shall be deemed to have amended the Agreement.

MUNICIPALITY
CITY OF FALL RIVER

Paul F. Coogan
Mayor

Doreen LaBonte-Labean
City Council President

Dated:

SPONSOR
5 BEDFORD STREET, LLC
By its Manager

George Washington Smith

Dated:

- Can only be completed after the CO for the Residential Units has been issued.
- Establishes the Assessed Value to which the Exemptions will be applied.



How does a TIE Agreement Work?

Project Details

- Pre-Dev. Residential Value \$1 Million
- Conf. of Calculation Value – \$11 Million
- DHCD Final Certification – 8/15/2022
- Exemption:
 - Years 1 – 5 80%
 - Years 6 – 10 20%



How does a TIE Agreement Work?

Real Estate Assessment/Exemption

FY2024 TIE Exemption

FY2024 Res. Fair Cash Value	\$ 11,000,000.00
TIE Base Value	<u>\$ 1,000,000.00</u>
FY2024 Adj. Residential Val.	\$ 10,000,000.00
MRRU%	80%
TIE Increment	\$ 8,000,000.00
TIE Increment x 20%	\$ 1,600,000.00



How does a TIE Agreement Work?

Real Estate Assessment

FY2024

TIE Base Value	\$ 1,000,000.00
FY2024 TIE Impacted Res.	\$ 1,600,000.00
FY2024 Non-TIE Impacted Res.	\$ 2,000,000.00
FY2024 Commercial Value	\$ 3,000,000.00
	<hr/>
FY2024 Property Value	\$ 7,600,000.00



How does a TIE Agreement Work?

- FY2025 – the same process is used.
- Taxpayers will look for the TIE Exemption % and so, on a multi use parcel such as this it might help to use multiple page property cards.



Thank You!

MATTHEW J. THOMAS, ESQ.

Attorney at Law

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