Wisconsin Legislative Council

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Director

TO: SENATOR DUEY STROEBEL

FROM: Scott Grosz, Principal Attorney

RE: Effects of a Tax Incremental District on Municipal Levy Limits

DATE: November 29, 2022

This memorandum, prepared at your request, describes the relationship between the presence and growth of a tax incremental district (TID) in a municipality and the calculation of the limit, as imposed by current statute, on that municipality's ability to increase its annual property tax levy. Following a brief description of the tax incremental financing (TIF) and levy limit statutes, the memorandum provides a series of examples that highlight the effects of a TID on the calculation of a municipality's levy limit and its mill rate. The hypothetical examples, prepared in consultation with the Department of Revenue, simplify the levy limit calculations by removing other factors that, in a typical municipality, might also affect levy limit and mill rate calculations.

As will be described in more detail below, under the levy limit statutes, a municipality's levy in a given year is based on an equation that allows the prior levy to be increased in proportion to any increase in the municipality's equalized value due to "net new construction" (NNC). In this equation, NNC reflects additions to equalized value due to new construction and subtractions for improvements removed across the entire municipality, without regard to whether any change in value may be attributed specifically to property in a TID.[1]

Subsequently, the new levy, which is based on the change in *municipal-wide* equalized value due to NNC, becomes the numerator in the municipality's new, initial mill rate calculation. However, for the denominator, initial calculation of the municipality's mill rate following a levy limit increase uses the equalized value *excluding* TID property. As the examples illustrate, the effect of this is as follows:

- When a TID does not exist, an increased levy limit will not increase the mill rate from one year to the next, because the numerator and denominator of the mill rate increase proportionally. [*See* Example 2.]
- When a TID exists, but all NNC occurs outside the TID, the mill rate will decrease from the prior year, because the percent change in the mill rate's numerator is smaller than the percent change in its denominator. [*See* Example 5.]
- When a TID exists, and all NNC occurs within the TID, the mill rate will increase from the prior year, because the mill rate's numerator increases while the denominator stays the same. [*See* Example 6.]

[1] In practice, NNC is an often-used abbreviation for the statutory phrase, "new construction less improvements removed between the previous year and the current," in the definition of "valuation factor," described below.

- When a TID exists, and NNC is split between the TID and other property, the mill rate is likely to increase, though results depend on the distribution of NNC and the base and increment values of the TID relative to total equalized value. [*See* Examples 4 and 7.]

TAX INCREMENTAL FINANCING

TIF is a tool that municipalities often use to spur economic development. The TIF process allows a political subdivision to pay for public improvements within a designated portion of the municipality, called a TID, using the future taxes collected on the TID's increased property value to repay the cost of the improvements. The rationale behind TIF is that the municipality's public improvements will encourage development, accompanied by an increase in property value that would not have otherwise occurred.

Following TID creation, DOR determines the equalized value of the taxable property within the district. This is referred to as the TID's base value. The equalized value of certain municipally owned tax-exempt property must also be included in the base value. Inclusion of this property prevents a municipality from purchasing property prior to creating a TID in order to lower the TID's base value and create more tax increments than would have been created if the property had been taxable at the time the TID was created. [s. 66.1105 (2) (j) and (5), Stats.]

If the property value increases beyond the base value, this increase is called a value increment. DOR determines the value increment each year by subtracting the base value from the current sum of all of the taxable property value in the TID. Tax collected on the value increment is called the tax increment. The tax increment equals the value increment multiplied by the property tax levy of all jurisdictions levying taxes in the municipality. The municipality, as well as the county, school district, and technical college district, or any other tax district, do not receive the amount of revenues from their tax levy on the value increment. Instead, this money is collected and allocated to a special tax increment fund. This fund is used by the municipality to pay for the TID's project costs, including public works and other improvements in the TID, as a way to stimulate increases in property value. [s. 66.1105 (2) (i) and (m) and (5), Stats.]

TID project costs are expenditures that may be made or estimated to be made, or monetary obligations that may be incurred or estimated to be incurred by the municipality and which are listed in the project plan. Examples of expenditures that may be included as project costs include capital costs; financing costs; cash grants to developers, if pursuant to a developer agreement; relocation costs; and real property assembly costs. General operating expenses, unrelated to planning or development of a TID, do not qualify as project costs. Similarly, project costs may not, generally, include the costs of construction or expansion of municipal or other public buildings. [s. 66.1105 (2) (f), Stats.]

LEVY LIMITS

Section 66.0602 (2) (a), Stats., describes the general municipal levy limit under Wisconsin law, as well as its connection to TIF law as follows:

> Except as provided in subs. (3), (4), and (5), no political subdivision may increase its levy in any year by a percentage that exceeds the political subdivision's valuation factor. Except as provided in par. (b), the base amount in any year, to which the limit under this section applies, shall be the actual levy for the immediately preceding year. ***In determining its levy in any year, a city, village, or town shall subtract any tax increment that is calculated under s. 59.57 (3) (a), 60.85 (1) (L), or 66.1105 (2) (i).*** The base amount in any year, to which the limit under this section applies, may not include any amount to which sub. (3) (e) 8. applies. [Emphasis added.]

Two related statutes also play key roles in understanding the relationship between the presence of a TID in a municipality and the calculation of its levy limit. The first is, s. 66.0602 (1) (d), Stats., which defines the term "valuation factor" to mean: "… a percentage equal to the greater of either the percentage change in the political subdivision's January 1 equalized value due to new construction less improvements removed between the previous year and the current or zero percent." The second statute, s. 66.1105 (2) (i), Stats., defines "tax increment" for the purposes of the emphasized text above, as "that amount obtained by multiplying the total county, city, school and other local general property taxes levied on all taxable property within a tax incremental district in a year by a fraction having as a numerator the value increment for that year in the district and as a denominator that year's equalized value of all taxable property in the district."

In practical terms, the subtraction of the tax increment as referenced above is demonstrated via calculations made across several forms provided by DOR.[2] The calculations remove the tax increment from the municipality's total taxes, which is a combination of taxes attributed to the general levy (generated by imposing the final mill rate against the equalized value of all property except the TID increment) and taxes attributed to the TID increment itself. This subtraction ensures that levy limit is applied to the "prior levy" excluding the TID increment. For purposes of the examples below, the portion of the levy excluding the TID increment is referred to as the "apportioned municipal levy" while the "total municipal levy" ("total taxes") equals the sum of the apportioned municipal levy and the municipal share of the TID increment.

EXAMPLES

The following examples highlight a TID's effect on a municipality's levy limit, through the TID's effect on that municipality's calculation of NNC. Examples 1 to 6 highlight the effects of different distributions of NNC from a single year to the next. Example 7 highlights the effects of a single distribution of NNC (the same distribution used in Example 4), when sustained over a five-year period.

Example 1: No TID Without NNC

2021	
Equalized value	$10,000,000
Apportioned municipal levy	$100,000 (starting point of levy limit calculation)
Total municipal levy	$100,000
Final municipal tax rate (total municipal levy/current equalized value)	1.0% = $100,000/$10,000,000
2022	
NNC	$0
Equalized value	$10,000,000
Valuation factor (current year NNC divided by prior year equalized value)	0% = $0/$10,000,000

[2] These forms include the Municipal Levy Limit Worksheet, the Tax Increment Worksheet, the Mill Rate Worksheet, and the Statement of Taxes. Certain fields on the forms are entered by DOR on behalf of a municipality, while others are entered by the municipality, which then returns the forms to the department.

Example 1: (2022 Continued)	
Allowable levy limit increase due to valuation factor (valuation factor multiplied by prior year apportioned levy)	$0 = $100,000 * 0%
Apportioned municipal levy (prior year levy plus levy limit increase due to valuation factor)	$100,000 = $100,000 + $0
Total municipal levy	$100,000
Final municipal tax rate	1.0%

Example 2: No TID With NNC

2021	
Equalized value	$10,000,000
Apportioned municipal levy	$100,000
Total municipal levy	$100,000
Final municipal tax rate	1.0% = $100,000/$10,000,000
2022	
NNC	$500,000
Equalized value	$10,500,000
Valuation factor (current year NNC divided by prior year equalized value)	5% = $500,000/$10,000,000
Allowable levy limit increase due to valuation factor (valuation factor multiplied by apportioned levy)	$5,000 = $100,000 * 5%
Apportioned municipal levy (prior year levy plus levy limit increase due to valuation factor)	$105,000 = $100,000 + $5,000
Total municipal levy	$105,000
Final municipal tax rate	1.0% = $105,000/$10,500,000

Example 3: Year of New TID Creation

Same as “No TID” examples, because for year of TID creation, there is no increment to subtract when “determining its levy” relative to total taxes

Example 4: Growing TID (TID Exists, 50% of NNC in TID)

2021	
Equalized value	$10,000,000
Apportioned municipal levy	$100,000
TID details	• Base: $100,000 • Total value: $250,000 • Increment value: $150,000
Interim municipal tax rate (apportioned municipal levy/equalized value excluding TID value increment)	1.0152284% = $100,000/$9,850,000
Total municipal levy amount (interim rate * total equalized value)	$101,522.84
TID increment (municipal portion only) (total levy amount – apportioned levy)	$1,522.84
Final municipal rate (total municipal levy/total equalized value)	1.0152284%
2022	
NNC	$500,000 ($250,000 of $500,000 in TID)
Equalized value	$10,500,000
TID details	• Base: $100,000 • Total value: $500,000 • Increment value: $400,000
Valuation factor	5% = $500,000/$10,000,000
Levy limit increase due to valuation factor	$5,000 = $100,000 * 5%
Apportioned municipal levy limit (prior year apportioned levy + levy limit increase)	$105,000
Interim municipal tax rate (apportioned municipal levy/equalized value excluding TID value increment)	1.039604% = $105,000/$10,100,000
Total municipal levy amount (interim rate * total equalized value)	$109,158.42
TID increment (municipal portion only) (total levy amount – apportioned levy)	$4,158.42
Final municipal tax rate (total municipal levy/total equalized value)	1.039604%

Example 5: Stable TID (TID Exists, no NNC in TID)

2021	
Equalized value	$10,000,000
Apportioned municipal levy	$100,000
TID details	• Base: $100,000 • Total value: $500,000 • Increment value: $400,000
Interim municipal tax rate (apportioned municipal levy/ equalized value excluding TID value increment)	1.0416667% = $100,000/$9,600,000
Total municipal levy amount (interim rate * total equalized value)	$104,166.67
TID tax increment (municipal portion only) (total levy amount – apportioned levy)	$4,166.67
Final municipal rate (total municipal levy/total equalized value)	1.0416667%
2022	
NNC	$500,000 ($0 in TID)
Equalized value	$10,500,000
TID details	• Base: $100,000 • Total value: $500,000 • Increment value: $400,000
Valuation factor	5% = $500,000/$10,000,000
Levy limit increase	$5,000 = $100,000 * 5%
Apportioned municipal levy (prior year apportioned levy + levy limit increase)	$105,000
Interim municipal tax rate (apportioned municipal levy/ equalized value excluding TID value increment)	1.039604% = $105,000/$10,100,000
Total municipal levy amount (interim rate * total equalized value)	$109,158.42
TID tax increment (municipal portion only) (total levy amount – apportioned levy)	$4,158.42
Final municipal tax rate (total municipal levy/total equalized value)	1.039604%

Example 6: "Hero" TID (TID Exists, all NNC in TID)

2021	
Equalized value	$10,000,000
Apportioned municipal levy	$100,000
TID details	• Base: $100,000 • Total value: $250,000 • Increment value: $150,000
Interim municipal tax rate (apportioned municipal levy/ equalized value excluding TID value increment)	1.015228% = $100,000/$9,850,000
Total municipal levy amount (interim rate * total equalized value)	$101,522.84
TID tax increment (municipal portion only) (total levy amount – apportioned levy)	$1,522.84
Final municipal rate (total municipal levy/total equalized value)	1.0152284%
2022	
NNC	$500,000 ($500,000 of $500,000 in TID)
Equalized value	$10,500,000
TID details	• Base: $100,000 • Total value: $750,000 • Increment value: $650,000
Valuation factor	5% = $500,000/$10,000,000
Levy limit increase	$5,000 = $100,000 * 5%
Apportioned municipal levy limit (prior year apportioned levy + levy limit increase)	$105,000
Interim municipal tax rate (apportioned municipal levy/ equalized value excluding TID value increment)	1.06598985% = $105,000/$9,850,000
Total municipal levy amount (interim rate * total equalized value)	$111,928.93
TID tax increment (municipal portion only) (total levy amount – apportioned levy)	$111,928.93
Final municipal tax rate (total municipal levy/total equalized value)	1.06598985%

Example 7: Sustained Growth (Example 4, Repeated 5 years)

2021	
Equalized value	$10,000,000
Apportioned municipal levy	$100,000
TID details	• Base: $100,000 • Total value: $250,000 • Increment value: $150,000
Interim municipal tax rate (apportioned municipal levy/equalized value excluding TID value increment)	1.0152284% = $100,000/$9,850,000
Total municipal levy amount (interim rate * total equalized value)	$101,522.84
TID increment (municipal portion only) (total levy amount – apportioned levy)	$1,522.84
Final municipal rate (total municipal levy/total equalized value)	1.0152284%
2022	
NNC	$500,000 ($250,000 of $500,000 in TID)
Equalized value	$10,500,000
TID details	• Base: $100,000 • Total value: $500,000 • Increment value: $400,000
Valuation factor	5% = $500,000/$10,000,000
Levy limit increase due to valuation factor	$5,000 = $100,000 * 5%
Apportioned municipal levy limit (prior year apportioned levy + levy limit increase)	$105,000
Interim municipal tax rate (apportioned municipal levy/equalized value excluding TID value increment)	1.039604% = $105,000/$10,100,000
Total municipal levy amount (interim rate * total equalized value)	$109,158.42
TID increment (municipal portion only) (total levy amount – apportioned levy)	$4,158.42
Final municipal tax rate (total municipal levy/total equalized value)	1.039604%

2023	
NNC	$500,000 ($250,000 of $500,000 in TID)
Equalized value	$11,000,000
TID details	• Base: $100,000 • Total value: $750,000 • Increment value: $650,000
Valuation factor	4.761905% = $500,000/$10,500,000
Levy limit increase due to valuation factor	$5,000 = $105,000 * 4.761905%
Apportioned municipal levy limit (prior year apportioned levy + levy limit increase)	$110,000
Interim municipal tax rate (apportioned municipal levy/equalized value excluding TID value increment)	1.062802% = $110,000/$10,350,000
Total municipal levy amount (interim rate * total equalized value)	$116,908.21
TID increment (municipal portion only) (total levy amount – apportioned levy)	$6,908.21
Final municipal tax rate (total municipal levy/total equalized value)	1.062802%
2024	
NNC	$500,000 ($250,000 of $500,000 in TID)
Equalized value	$11,500,000
TID details	• Base: $100,000 • Total value: $1,000,000 • Increment value: $900,000
Valuation factor	4.545455% = $500,000/$11,000,000
Levy limit increase due to valuation factor	$5,000 = $110,000 * 4.545455%
Apportioned municipal levy limit (prior year apportioned levy + levy limit increase)	$115,000
Interim municipal tax rate (apportioned municipal levy/equalized value excluding TID value increment)	1.084906% = $115,000/$10,600,000
Total municipal levy amount (interim rate * total equalized value)	$124,764,15
TID increment (municipal portion only) (total levy amount – apportioned levy)	$9,764.15
Final municipal tax rate (total municipal levy/total equalized value)	1.084906%

2025	
NNC	$500,000 ($250,000 of $500,000 in TID)
Equalized value	$12,000,000
TID details	• Base: $100,000 • Total value: $1,250,000 • Increment value: $1,150,000
Valuation factor	4.347826% = $500,000/$11,500,000
Levy limit increase due to valuation factor	$5,000 = $115,000 * 4.347826%
Apportioned municipal levy limit (prior year apportioned levy + levy limit increase)	$120,000
Interim municipal tax rate (apportioned municipal levy/equalized value excluding TID value increment)	1.105991% = $120,000/$10,850,000
Total municipal levy amount (interim rate * total equalized value)	$132,718.89
TID increment (municipal portion only) (total levy amount – apportioned levy)	$12,718.89
Final municipal tax rate (total municipal levy/total equalized value)	1.105991%
2026	
NNC	$500,000 ($250,000 of $500,000 in TID)
Equalized value	$12,500,000
TID details	• Base: $100,000 • Total value: $1,500,000 • Increment value: $1,400,000
Valuation factor	4.166667% = $500,000/$12,000,000
Levy limit increase due to valuation factor	$5,000 = $120,000 * 4.166667%
Apportioned municipal levy limit (prior year apportioned levy + levy limit increase)	$125,000
Interim municipal tax rate (apportioned municipal levy/equalized value excluding TID value increment)	1.126126% = $125,000/$11,100,000
Total municipal levy amount (interim rate * total equalized value)	$140,765.77
TID increment (municipal portion only) (total levy amount – apportioned levy)	$15,765.77
Final municipal tax rate (total municipal levy/total equalized value)	1.126126%

Please let me know if I can provide any further assistance.
SG:jal