

**TIPS FOR A SUCCESSFUL PROPERTY TAX INCENTIVE PROGRAM IN YOUR COMMUNITY**

CCFO & CMFO 2024 Training Program

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**TODAY'S OBJECTIVES**

- Overview of most common property tax incentives
- Tips for setting up a tax abatement program (PILOT)
- Tips for setting up a tax increment incentive program (TIF)
- Relationship to special assessment statutes

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**OVERVIEW OF PROPERTY TAX INCENTIVES AND TYPICAL PROJECTS**

- ✦ PILOT - Property tax abatement that improves cash flow. Typical projects include:
  - Industrial and Manufacturing
  - Apartments (Frequently used for projects supported by federal low-income housing tax credits (LIHTC))
  - Retail
  - Redevelopment projects that include commercial and apartments
- ✦ TIF - Diversion of incremental property taxes to pay or finance project costs. Typical projects include:
  - Redevelopment projects that include residential condominiums or other single-family housing
  - Projects that include public infrastructure to be constructed by developer
- ✦ Sales taxes are not affected by property tax incentive

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## GOVERNMENTAL ENTITIES INVOLVED IN PROPERTY TAX INCENTIVES

- ✦ What entities are allowed to undertake PILOTs and TIFs?
  - Industrial Development Boards
  - Housing Authorities
  - Health, Educational and Housing Facility Boards (only PILOTs)
  - Community Redevelopment Agency (only Shelby and Madison Counties) (TIFs)

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## EVALUATING WHETHER TO PROVIDE AN INCENTIVE

- ✦ How does the city or county know if an incentive is really needed?
  - When recruiting industry and similar business, need is really irrelevant – generally the target industry can command an incentive.
  - For other projects, some local governments have utilized a third-party consultant to evaluate the financial “gap” that must be met with an incentive for project to be financially viable.
  - This analysis is often referred to as the “but for” test, but this test is not a legal requirement.
  - Many jurisdictions rely on their own internal analysis or the developer’s analysis as to the “but for” test.

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## CONSTITUTIONAL AND STATUTORY LIMITS

- ✦ Why can't counties and cities undertake PILOTs and TIF directly?
  - Constitutional Limitations
  - No Statutory Authority
- ✦ Why don't local governments just guaranty private debt?
  - Often unconstitutional
  - Often no statutory authority
  - Often not supported by taxpayers

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## PILOTS VERSUS TIFS

	PILOT	TIF
Gov't approvals	Just one taxing jurisdiction - City or County (special retail rule)	Both taxing jurisdictions (to capture both taxes) - City and County
Require transfer of property to gov't entity	Yes	No
Upfront cash for project	Usually not	Possible for eligible costs
Sale or transfer of property allowed	Usually not	Usually yes
Lender consent required	Usually yes	Usually no
Condominiums	No	Yes
Cost to implement	Usually cheaper	Usually more expensive

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## PROS AND CONS OF PILOTS AND TIFS FOR PRIVATE PARTIES

- ✦ Tax Abatement (PILOTS)
  - No taxable income to private party
  - Difficult to monetize PILOT benefit
- ✦ Tax Increment Incentives (TIFs)
  - Monetization of TIF is easier (particularly upon completion)
  - Risk of taxable income to developer

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## PILOT DELEGATION REQUIREMENTS

- ✦ County or City must delegate authority to its IDB or Health Ed Board to negotiate PILOT.
- ✦ Blanket delegation can be used for a specific groups of projects.
- ✦ PILOTS for LIHTC projects do not require delegation except request from chief executive.
- ✦ County has no delegation rights as to City-implemented PILOTS (and vice versa) other than retail projects with a PILOT with a term of more than 10 years.

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## PILOT BASICS

- ✦ Almost every substantial economic development project in Tennessee has received some type of tax abatement.
- ✦ Tax abatement is achieved through a lease to the economic development prospect.
- ✦ At end of PILOT, beneficiary purchases the property back from the IDB, the Health Ed Board or Housing Authority for a nominal payment and abatement ends.
- ✦ State approval is required for IDB PILOTs that exceed 20 years.

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## PROPERTY TAX ABATEMENT – BEST PRACTICES

- ✦ Clear policies for granting tax abatement so that economic development staff can utilize tax abatement when needed to recruit economic development prospects.
- ✦ Documents should include consequences (sometimes referred to as clawbacks) if beneficiary of tax abatement does not meet economic development commitments.
- ✦ Documentation should be carefully drafted to address issues such as future expansions and closure of facility.
- ✦ Policies are usually coupled with a delegation resolution.

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## TAX INCREMENT INCENTIVE PROGRAM

- ✦ A tax increment incentive results in incremental tax revenues being allocated to the IDB or housing authority to support a project.
- ✦ A tax increment incentive can only be undertaken by an IDB or housing authority upon approval of an economic impact plan or redevelopment plan by the affected taxing entities (usually a city and county).
- ✦ A tax increment incentive can take the form of a reimbursement of a private party with increment as received by the IDB (but not a housing authority), or by a non-recourse borrowing by the IDB or housing authority secured by the incremental tax revenues.

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## BASIC TAX INCREMENT MATH

✦ Basic TIF Math

Base Taxes	\$10,000
Taxes after completion	\$110,000
Debt service component (assumed 15%)	\$15,000
Increment allocated to TIF	\$85,000

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## AUTHORIZING AN IDB TAX INCREMENT INCENTIVE

✦ Prepare Economic Impact Plan

- Identify area to be included in the plan.
- Discuss expected benefits to the City and/or County from the development of the area, including tax receipts and created jobs.
- Provide the property taxes imposed on the area.

✦ Publish notice of public hearing in newspaper of general circulation for 2 consecutive weeks. Notice must include:

- Time, place and purpose of public hearing.
- Location at which a map of the area subject to the Economic Impact Plan may be viewed.

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## AUTHORIZING AN IDB TAX INCREMENT INCENTIVE CONTINUED

✦ Board holds a public hearing as set forth in the notice.

✦ Required approvals for usage of both city and county tax increment:

- Approval of the Plan by the Board by resolution.
- Approval of the Plan by city's governing body by resolution.
- Approval of the plan by county governing body by resolution.

✦ State approval is required for certain TIFs that exceed 20 years and/or that pay the cost of privately owned property (other than parking, stormwater improvements and utilities).

✦ Upon creation of a tax increment area, file the property information, base tax amount, and authorizing resolutions with the Comptroller's Office, the assessor of property, and the chief financial officer of each taxing agency.

✦ By October 1 each year, tax increment agencies must file annual statements of tax increment revenues with Comptroller's Office.

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**TAX INCREMENT POLICIES**



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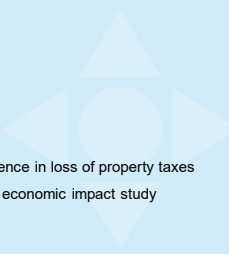
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**ADDITIONAL CONSIDERATIONS FOR TAX INCREMENT INCENTIVES**

- + Set internal and external stakeholder expectations on the front end
  - Public
  - Property Assessor
  - Local Government Staff
  - Private Beneficiary
  - Outside Professionals
- + Project Impact on Essential Services
  - Will growth in sales taxes make up the difference in loss of property taxes
  - Ask questions about projections used in any economic impact study



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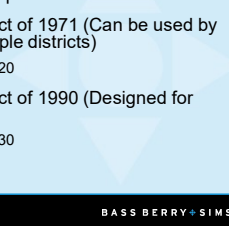
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**AUTHORIZING STATUTES FOR SPECIAL ASSESSMENTS**

- + Residential Infrastructure Development Act of 2024 (Designed to support residential development)
  - Tenn. Code Ann. §§ 7-84-701 through 7-84-728
- + Existing Assessment Statutes (Better Fit for Large Multi-Use Projects)
  - Tenn. Code Ann. §§ 7-32-101 et seq.
- + Central Business Improvement District Act of 1971 (Can be used by both Cities and Counties; can have multiple districts)
  - Tenn. Code Ann. §§ 7-84-101 through 7-84-420
- + Central Business Improvement District Act of 1990 (Designed for cities)
  - Tenn. Code Ann. §§ 7-84-501 through 7-84-530



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**SPECIAL ASSESSMENT CAN BE COUPLED WITH TAX INCREMENT INCENTIVES**

- ✦ Assessment can be paired with tax increment incentive so that developer has more of a commitment.
- ✦ Assessment could also be used to "back stop" tax increment financing.

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**THANK YOU AND QUESTIONS**

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