



TID Closure: Options and What to Consider

Todd Taves, Senior Municipal Advisor and Principal, Ehlers

Each year, prior to April 15, a municipality must decide and inform the Department of Revenue whether it will close or hold open each of its active tax incremental districts. A decision to close a tax incremental district (TID) should be preceded by thoughtful planning as to the impacts.

There are three ways in which a TID may close:

1. **By having reached the end of its statutorily permitted life.** For TIDs created on or after October 1, 2004, this is either 20 or 27 years depending on district type.
2. **Following recovery of all project costs.** Unless a TID is still within its expenditure period and there are project costs yet to be made, closure is required once all costs are recovered.
3. **Voluntary closure, prior to recovery of costs.** In cases where unrecovered costs are minimal the beneficial impacts of closure may warrant absorbing those costs. For example, a municipality with TID values greater than its 12% limit may consider closing a TID early to drop below the limit and enable creation of another district. It is important to note that any unrecovered costs become the responsibility of the municipality and are not shared by overlapping taxing jurisdictions.

Prior to making the decision to close a TID, a municipality should consider the following:

1. **Have all project costs been recovered?** If not, and if the TID is nearing the end of its permitted life, an extension may be possible. Either a three- or four-year extension is permitted for most districts dependent on the type of TID and when it was created. An additional three-year “technical college” extension is also available for any TID created prior to October 1, 2014. The “technical college” reference to this extension relates to a past increase in state funding for technical colleges that reduced their tax levies and diminished the cash flows of TIDs that existed at the time. All extensions require approval of both the municipal governing body and the Joint Review Board.
2. **Could the TID serve as a donor to another TID?** If the municipality has other active districts that are eligible recipients designating the TID as a donor prior to the end of its expenditure period is an option to evaluate. Designating a district as a donor requires amendment of its project plan.

Only certain types of TIDs can be recipients of donated tax increments: blighted area TIDs, TIDs in need of rehabilitation or conservation, environmental remediation TIDs, distressed or severely distressed TIDs, and TIDs that include project costs to create, provide, or rehabilitate low-cost housing or to remediate environmental contamination. Both the donor and recipient TIDs must also be in the same overlapping taxing jurisdictions.

3. **Should the TID be extended for one additional year to provide funding for affordable housing?** (See sidebar)
4. **What funds will be available following TID closure for distribution to the municipality and overlapping taxing entities?** At closure, any funds remaining in the TID must be apportioned and distributed to the municipality and its overlapping taxing jurisdictions based on their respective contributions. While completion of a closeout audit is needed to verify amounts, estimating the amount the municipality expects to retain is helpful as it may impact budgeting and capital planning. Providing such estimates to your overlapping taxing jurisdictions in advance of the distribution allows them to similarly plan and fosters good Joint Review Board relationships.
5. **How will closure impact the levy limit, tax rate, and municipal budget?** In the valuation year following the last collection of tax increment, a municipality receives a one-time base building levy limit increase. The permitted increase is equal to one-half of a percentage calculated by dividing the TID’s final incremental value by the TID OUT value for the corresponding valuation year. The following is an example of the calculation for a district closed after April 15, 2021:

Final TID Incremental Value 1/1/2021	TID OUT EV 1/1/2021	Final TID Incremental Value as Percent of TID OUT EV	Levy Limit Increase (2022 Levy for 2023 Budget)
25,000,000	500,000,000	5.00%	2.5%

Since the TID is closed after April 15, DOR will certify an incremental value for January 1, 2021. That increment will be collected as part of the 2021 levy for the 2022 budget year, with the levy limit adjustment then first applying to the 2022 levy for the 2023 budget year. As only one-half of the calculated percentage is applied the result is that more revenue

will be received assuming the adjustment is claimed, while the tax rate will decrease if all other variables are held constant. The budgetary and tax rate impacts will vary depending on the value of the closed TID relative to the overall size of the tax base and can range from negligible to significant.

6. Does closure provide additional opportunity for use of tax incremental financing? Following approval of the TID closure resolution a district's incremental value is no longer considered in calculation of the 12% equalized value test. (No need to wait for an entire valuation cycle.) For municipalities that are "TIF'd out," closure of a TID may provide new opportunities that can be planned for in advance.

Commencing planning well before an expected TID closure provides the opportunity to carefully consider alternatives to closure and to quantify anticipated fiscal impacts to the municipal budget and spending. One-time distributions of remaining TID funds may provide opportunities to fund

capital projects and reduce borrowing requirements, retire debt, or fund other, preferably nonrecurring expenditures. Understanding how the municipal levy will be impacted following closure provides the opportunity to consider how best to manage additional levy capacity and to incorporate that into both the municipal budgeting process as well as longer-term financial planning.

About the Author:

Todd Taves is a Senior Municipal Advisor and Principal with Ehlers. A pioneer in municipal advisory services since 1955, Ehlers helps clients build strong, vibrant, and sustainable communities by delivering independent, integrated advice across all areas of public finance. We work with more than 1,500 local governments, schools, and public agencies across five states, placing our clients' needs and best interests at the center of everything we do. Todd may be reached at ttaves@ehlers-inc.com



Affordable Housing Extension

A tax incremental district that has recovered its project costs and could otherwise close may be kept open for one additional year to provide funding for housing initiatives in your municipality. The tax increment collected in that final year must be used to improve housing stock in the community, with 75% of the funds spent toward affordable housing that costs a household no more than 30% of its gross monthly income. Use of funds is not limited to the TID area: they may be spent anywhere within the municipal boundaries. Additionally, funds do not have to be spent within the year they are collected and can be spent over multiple years until fully expended.

With the limited exception of certain older environmental remediation districts, the extension is available to all TIDs, to include those that have reached the end of their maximum life. To utilize the extension the municipal governing body must adopt a resolution stating that the district will remain open for an additional year and describe how the funds will be used to improve housing stock. Municipalities have significant discretion in how to best spend the funds, but must document how the affordable criteria was met.

Following adoption, the resolution must be provided to the Department of Revenue. While the extension does not require Joint Review Board approval, letting your overlapping taxing entities know of the extension plans and intended uses of the funds is a good practice. The required Annual Joint Review Board meeting provides a good opportunity to have that conversation.



Eau Claire Prevails in Court

Stephen Nick, City Attorney and Doug Hoffer, Deputy City Attorney, City of Eau Claire

Eau Claire prevailed again in an appellate decision challenging the city's use of tax increment financing (TIF). Voters with *Facts v. City of Eau Claire*, 2019AP1528 (publication not recommended).

The decision affirms a circuit court dismissal. Along with an earlier Wisconsin Supreme Court decision (*Voters v. City of Eau Claire*, 2018 WI 63), an appropriately deferential judicial standard of review and timeframe to bring a claim are now clearly established with local city councils afforded the legislative policy discretion to use TIF to benefit their communities. Eau Claire has used TIF rarely but to great positive impact with housing (affordable and market rate), parks, trails, brew pubs, corporate headquarters, jobs, and a community arts facility all developed in recent years. These public-private partnership projects successfully and beautifully opened our revitalized riverfronts to the public that had too often and for too long been inaccessible, contaminated, and abandoned blight.

Contact Stephen at stephen.nick@eauclairewi.gov and Doug at douglas.hoffer@eauclairewi.gov