

STATE OF MICHIGAN



JOHN ENGLER, Governor

DEPARTMENT OF TREASURY

DOUGLAS B. ROBERTS, State Treasurer

STATE TAX COMMISSION

P.O. Box 30471

Lansing, Michigan 48909-7971

Telephone (517) 373-0500 - FAX (517) 373-3553

Bulletin Number 8
February 4, 1997
DDA, TIFA, LDFA
Capture Restrictions

COMMISSION MEMBERS

Mark A. Hilpert, Chairperson
Lesley F. Holt
Leroy J. Nelson

Roland C. Andersen, Secretary

To All: Downtown Development Authorities
Tax Increment Finance Authorities
Local Development Finance Authorities

From: Michigan State Tax Commission

Subject: **Restrictions, under Current Law, on the Capture and Use of School Operating Taxes by Tax Increment Finance Authorities (DDAs, TIFAs, LDFAs)**

Provision One: Under current law, tax increment revenues include school taxes (local school, intermediate school and State Education Tax) levied "upon the captured assessed value of real and personal property in the development area in an amount equal to the amount necessary, without regard to subparagraph (i) [non-school taxes levied on the district's captured assessed value], to repay eligible advances, eligible obligations, and other protected obligations." (MCL 125.1651(1)(z), DDA Act; MCL 125.1801(1)(aa), TIFA Act; MCL 125.2152 (2) (y), LDFA Act.)

Provision Two: Current law also requires that, "The percentage of taxes levied for school operating purposes that is captured and used by the tax increment financing plan shall not be greater than the plan's percentage capture and use of taxes levied by a municipality or county for operating purposes." (MCL 125.1664(14)(2), DDA Act; MCL 125.1813 (13) (b), TIFA Act; MCL 125.2162(12)(3), LDFA Act.)

Provision One and Provision Two are not contradictory. **Tax increment financing (TIF) plans must abide by both provisions.** Provision One defines school tax increment revenue, while Provision Two sets limits on the percentage of school taxes levied on captured value that may be retained and used.

In summary, in each fiscal year, a tax increment financing plan must abide by **all three** of the following requirements:

- (1) A TIF plan shall only capture school taxes levied on captured value equal to the lesser of
 - (a) The amount of school taxes levied on captured value for the fiscal year.
 - (b) The amount necessary, without regard to non-school taxes levied on captured value, to repay eligible advances, eligible obligations, and other protected obligations for the fiscal year.
- (2) In each year, a TIF plan shall not retain a greater percentage of school operating taxes levied on captured value than the percentage of county allocated or municipality operating taxes levied on captured value that the plan captures and uses. For these purposes, "school operating taxes" include the local school operating millages, the State Education Tax and intermediate school operating millages, on both ad valorem and specific tax properties. (Requirement 2 does not apply to the portion of the captured assessed value that a Downtown Development Authority (P.A. 197 or 1975) or Tax Increment Finance Authority (PA 450 of 1980) shared pursuant to an agreement entered into before 1989 with a county or with a city in which an enterprise zone is approved.)
- (3) A TIF plan SHALL use all tax increment revenue only for purposes allowed under the appropriate TIF Act.