

**Illinois Department of Revenue
Regulations**

Title 86 Part 525 Section 525.101 Tax Increment Allocation Financing

TITLE 86: REVENUE

**PART 525
TAX INCREMENT ALLOCATION FINANCING**

Section 525.101 Tax Increment Allocation Financing

- a) Municipalities must supply all data and comply with all requirements provided for by statute, prior to receipt of payments from the State. The failure to comply with the minimum standards during a calendar year will result in the nonpayment of the State portion of incremental taxes. For example, a municipality which adopts tax increment allocation financing for a special redevelopment project in a timely manner and which provides the necessary certificates of the Chief Executive Officer and legal opinion of counsel will, nevertheless, fail to qualify if it has neglected to impose all local taxes at the maximum allowable rate prior to the time they would have received payment of the State portion of incremental taxes from the Department. Thus, a municipality which had imposed its Retailers' Occupation Tax at 3/4 of 1% rather than 1%, would not qualify, nor would a municipality which had never enacted a Municipal Use Tax.
- b) Errors or omissions in data provided to the Department of Revenue will result in corrections and adjustments of payments in the current year and in future years. The Department of Revenue (Department) will adjust for errors in data provided by municipalities, retailers and utility companies. These adjustments could result in either greater or lesser payments, depending upon the result of the adjustment.
- c) Municipal ordinances for sales tax increment financing for calendar year 1986 payment must be passed prior to January 1, 1987. Ordinances and 1985 Illinois Business Tax Numbers must be submitted by January 31, 1987, in order to ensure payment for the first tax increment financing sales tax disbursement. If the ordinances or Illinois Business Tax Numbers are submitted after January 31, 1987, there will be no payment to that municipality for calendar year 1986 and no adjustments for calendar year 1986 in a future year. Only tax increment financing districts created before 1986 are eligible to receive the first payment of incremental growth of State sales tax revenue between 1984 and 1985, which will be the 1986 payment. For calendar year 1987 payment, ordinances and 1986 Illinois Business Taxpayer Numbers must be submitted to the Department by April 1, 1987, in order to ensure payments by the end of the 1987 year. If the ordinance or Illinois Business Taxpayer Numbers are not submitted to the Department of Revenue within 30 days after the effective date of the ordinance or by April 1, 1987, whichever is earlier, there will be no payment to that municipality for the calendar year 1987 and no adjustments for calendar year 1987 in a future year. The same schedule for submission of data applies to utility tax increment financing; however, municipalities must pass utility ordinances prior January 1, 1988. In future years, the information and payment cycle will be as in 1987 so that all Illinois Business

Tax Numbers for the preceding calendar year and any new ordinances will be submitted to the Department of Revenue by April 1 of each year in order for the municipality to participate in the sales tax disbursement for that calendar year. This provision of the regulations is being adopted to ensure that financial data is available to the Department for presentation to the General Assembly in order to accurately estimate the amount of funds which will be necessary for the General Assembly to appropriate for expenditures to municipalities under this program.

- d) The Department of Revenue will make payments of incremental revenue attributable to a given retail location only once, even if that retailer or retail location is included in more than one tax increment financing district, i.e., if for any reason, the same geographic location is included within two special redevelopment areas for which tax increment allocation financing has been adopted, the Department's payment of incremental revenue for that retailer will be made only one time--it will not be made to each of the tax increment financing districts nor will it be split between them. Any such allocation will have to be made by the municipal authorities devising such a scheme.
- e) Municipalities are required to certify that local funds have been committed for deposit into the special fund prior to payment by the Department of Revenue. The Department of Revenue will certify the amount of the local increment to municipalities; the municipal treasurer must certify to the Department of Revenue within 10 days of the receipt of the Department of Revenue figures that the local amounts have been deposited into the fund. No Department of Revenue payment of incremental increases in State revenue will be made absent such certification. A municipality's failure to deposit funds in the amount required in the special account will also be a basis for correction of amounts paid in future years. The correction will equal the amount paid by the State in the prior year.
- f) No municipality may receive more than 25% of the maximum appropriation, whether or not allocation between municipalities applying for funds is required.
- g) Multi-outlet retailers within a municipality must provide data to the Department of Revenue regarding the amount of Retailers' Occupation Tax and Service Occupation Tax collected by their retail locations within a tax increment financing district within 45 days of the request for such information by the Department. If the information is not provided within that time frame, incremental growth for the retailer will not be computed and included in the municipality's allocation. Retailer information can be supplied at a later date to be used to compute future year's allocation.
- h) A municipality must opt for reimbursement either under the Retailers' Occupation Tax provisions or the Utility Tax provisions. It may not enact ordinances under both sections of the law. If a municipality has enacted an ordinance under one section, it will be disqualified for consideration under the other. A municipality may not have an ordinance enacted under the Retailers' Occupation Tax provisions for one tax increment allocation financing special redevelopment district and seek to have financing under the Utility Tax provisions for an industrial park within the same municipality even if each would be located in a separate special redevelopment district for which tax increment allocation financing were adopted. However, if a municipality having once adopted an ordinance seeking Retailers' Occupation Tax funding repeals

that ordinance, it would be free to thereafter adopt tax increment allocation financing for an industrial park under the Utility Tax provisions.

- i) Municipalities seeking payment under the Retailers' Occupation Tax section must pass an ordinance establishing tax increment allocation financing before January 1, 1987. Special redevelopment districts created on or after that date will not be eligible for State tax allocation under the Retailers' Occupation Tax section. Municipalities seeking payment under the Utility Tax section must pass an ordinance establishing the tax increment financing before January 1, 1988. Tax increment financing districts created on or after that date will not be eligible for State tax allocation under the Utility Tax section. Municipal changes to the boundaries of existing tax increment financing districts in any manner which would affect or have an impact on the tax base or growth factors for the sales or utility tax increment will not be taken into account for the purposes of determining payments to municipalities of special tax allocation funds. Boundary changes enacted pursuant to other statutory authority will not be taken into account for the purposes of determining payments to municipalities of special tax allocation funds under the provisions of ch. 24, par. 11-74.4-8a.
- j) If the Illinois Business Taxpayer Number or other relevant information provided by the municipality contains discrepancies with the Department's records, we will request correction or confirmation of the data from the municipality. The municipality must respond within 45 days after such request to ensure timely processing of the municipality's request for payments pursuant to the tax increment allocation financing project.
- k) Termination. Tax increment allocation financing shall terminate when the redevelopment project costs and all municipal obligations financing redevelopment project costs have been paid. Municipalities who issue obligations to finance the special project redevelopment district expenditures must limit those obligation's maturity date to a period no later than 23 years from the date of the ordinance approving the redevelopment project area. Such obligations may not exceed a maturity date of twenty (20) years from the date of issuance of said obligations.
- l) Incremental increases in local property tax and sales or utility revenue must be deposited into the special allocation fund and used for the development of the area. Abatement of real property taxes under the provisions of ch. 120, pars. 643 and 643e or any abatement provisions hereafter enacted may be permitted within a tax increment allocation financing district only to the extent that such abatement in no way causes or permits a municipality to in any way reduce the amount of the property tax allocable from such taxing district into the special allocation fund. Taxes must be collected and deposited into the special fund on a tax base equal to the tax base of the actual increment without regard to abatements. No funds intended for the special allocation fund may be abated. However, a municipality may abate taxes relating to the base equalized assessed valuation as long as incremental amounts are not affected. Enterprise zone exemptions relating to Retailers' Occupation Tax will not disqualify an enterprise zone from State tax incremental financing payments. However, municipalities which adopt utility tax related ordinances for industrial parks must impose those taxes at the full rate and may not provide enterprise zone exemptions for utility taxes within the tax increment allocation financing area.

- m) Municipalities must notify the Department if a retail business moves into their tax increment financing district and closes a retail business in another location in Illinois in the standard metropolitan statistical area of the municipality. Sales tax receipts from the business will be included in the base year receipts of the municipality for purposes of State tax payments. In the case of a municipality which is not included in a standard metropolitan statistical area, the Department will determine, upon request, the relevant area. That area shall be the county in which the municipality is located unless the Department determines that the retail trading market of the municipality extends beyond the county, in which case such area will also be included. In the event that a new business relocates from a location inside the standard metropolitan statistical area to a location within a municipal tax increment financing district, the receipts from that retailer will be included in the base year receipts unless the municipality can demonstrate that there was no direct close and proximal relationship between the closing of one business and the opening of the other location. This might be the case, for example, where a chain retailer opened and closed several locations within a particular standard metropolitan statistical area during the course of a year. If a municipality does not inform the Department of such relocation, the sales tax payments will be included in the base year receipts for the purpose of State tax payments and adjustments will be made to future year payments to account for past year payments as well as future year payments.