

Special Notice

Intended audience: County assessors, county treasurers, taxing districts, and local governments.

August 9, 2021

Updated June 29, 2022

Updated June 15, 2023

Legislative changes to tax increment financing

The 2021 Legislature passed [Engrossed Substitute House Bill \(ESHB\) 1189](#), effective July 25, 2021. The bill authorizes local governments to establish Local Tax Increment Finance (LTIF) areas or “increment areas” to fund certain public improvements. The bill creates Chapter 39.114 Revised Code of Washington (RCW) and amends [RCW 84.55.010](#) and [RCW 84.55.120](#).

The 2023 Legislature passed House Bill (HB) [1527](#), effective May 9, 2023, making several technical revisions to Chapter 39.114 RCW and to Chapter 84.55 RCW. Some changes include:

- Defining real property for purposes of a LTIF area to include privately owned improvements located on publicly owned land.
- Requiring the recalculation of the tax allocation base value for LTIF areas created on or prior to May 9, 2023, to now include the revised definition of real property, if any.
- Modifying notification requirements for local governments creating a LTIF area.
- Creating consistency in Chapter 84.55 RCW by allowing taxing districts located in a LTIF area to increase their 1% property tax levy limit like new construction add-ons, when consolidating or annexing taxing districts.

Purpose

The purpose of this Special Notice is to provide general guidance and assistance for county assessors, county treasurers, local governments, and other taxing districts impacted by an LTIF area. The notice reflects some of the common questions since the passage of the ESHB 1189 in 2021, and makes updates to the original August 9, 2021, and updated version on June 29, 2022, notice where necessary.

Increment areas

An increment area is an area where regular property taxes are apportioned to pay public improvement costs. A local government, which can be a city, town, county, port, or any combination thereof, may designate up to two increment areas and use resulting tax revenues to pay for public improvement costs. To do so, local governments must adopt an ordinance designating a specific increment area within its boundaries and specify the public improvements that are going to be financed with the use of LTIF.

Restrictions and requirements

There are certain restrictions and requirements for local governments implementing an increment area:

- A local government must adopt an ordinance designating an increment area and detailing public improvements proposed to be paid for by the resulting tax allocation from regular property taxes.
- The increment area may not cover the entirety of the local government's boundaries.
- At the time the ordinance is passed, the assessed value of the increment area cannot exceed \$200 million, or more than 20% of the local government's total assessed value, whichever is less.
- A local government may not have more than two active increment areas, and those two areas cannot overlap.
- The ordinance must set an expiration date for the increment area. The maximum time an increment area can exist is 25 years, following the first year property taxes are collected from the increment area.
- Increment areas must take effect on June 1 following the adoption of the ordinance.
- Additional public improvements cannot be added to the project after the adoption of the ordinance. The sponsoring local government can expand, alter, or add to the existing public improvements if doing so is necessary to complete the originally approved improvements.
- The ordinance must establish a deadline for when construction begins. The deadline must also be at least five years into the future, and extensions can be made for good cause.

Project analysis

When considering whether to establish an increment area, the local government's legislative body must complete a project analysis that includes, but is not limited to, the following:

- Objectives of the local government for the increment area.
- Any property the local government intends to acquire.
- Duration of the increment area.
- Identification of all parcels to be included in the area.
- Description of the expected private development within the increment area, along with comparisons of growth *with* public improvements versus growth *without* public improvements.
- Description of public improvements, estimated costs, estimated amount of bonds/other obligations to be issued to fund the public improvements and repaid with tax revenues.
- County assessor certified value of real property within the increment area, as well as an estimate of the increment value and tax revenues to be generated from the growth.
- Estimate of job creation, as a result of the public improvements and private development.
- Assessment of impacts to:
 - Affordable and low-income housing.
 - The local business community.
 - The local school districts.
 - The local fire service.

Local governments creating increment areas must make the finding that the public improvements would encourage private development within the area and increase the assessed value of real property within the area, more so than if the public improvements were not present. It must also find that private development in the area would be anticipated.

Requirements to adopt an ordinance

Prior to the adoption of an ordinance authorizing the creation of an increment area, the local government must:

- Hold at least two public briefings for the local community, announced at least two weeks prior to the date the briefing is being held. During these briefings, the increment area must be described including the public improvements to be funded and an estimate of the tax revenues to be allocated to the public improvements.
- Submit the project analysis to the Washington State Treasurer (Treasurer) for review. The Treasurer has 90 days to review the analysis and provide feedback or suggestions.
- Publish notice of the increment area in a newspaper at least two weeks before the ordinance creating the area is adopted, detailing the public improvements and boundaries of the increment area.
- Deliver a certified copy of the adopted ordinance to the county treasurer, assessor, and governing body of any taxing district located within the increment area within 10 days of the date the ordinance was adopted.

Impact on taxing districts

If the project analysis finds the increment area will impact 20% or more of assessed value of a fire protection district or regional fire service protection authority, the local government must negotiate a mitigation plan with the district to address any service issues within the increment area.

Reimbursement for county assessor and treasurer

Local governments creating an increment area may be responsible for reimbursing the county assessor or treasurer for costs related to the implementation and ongoing administration of the increment area. For the county assessor, this may include expenses in the revaluation of real property to determine the base value, the value at the time of the creation of the increment area, and the increment value. For the county treasurer, this may be expenses related to apportioning the taxes.

Use of bonds to finance public improvements

Local governments designating an increment area may issue general obligation bonds to finance the public improvements within an increment area. The bond debt will be repaid through the taxing district or districts within the increment area's regular levy.

Levy impact

The creation of an increment area will have an impact on county assessor's levy calculations. The levy limit will be increased based on the increase in assessed value within the increment area, similar to how increases in state assessed utility value is added to a district's levy limit. However, the revenue increase based on the increase in assessed value within the area is not carried forward as part of the district's highest lawful levy since 1985.

The county assessor will need to determine:

1. The tax allocation base value. The tax allocation base value is the assessed value of real property within the increment area for taxes imposed in the year in which the increment area is first

designated. Therefore, the assessment year would be the year prior to the tax year, meaning the year prior to the increment area being designated. For example, if an ordinance passes on February 1, 2022, the area is designated as of June 1, 2022, and the base value would be the assessment year 2021, for taxes payable in 2022.

- The increment value. The increment value is any increase in the true and fair value of real property within an increment area above the tax allocation base value. The increment value cannot be included in any other levy calculation, such as new construction or state assessed utility value.

In the example below, we assume the following facts to help illustrate how to calculate levy limits within a taxing district:

- The highest lawful levy is \$16,500,000.
- The total taxable value of the district is \$38,300,000,000.
- The tax allocation base value of the increment area within the district is \$50,000,000.
- The true and fair market value of real property within the increment area is \$180,000,000.
- The increment value of real property is \$130,000,000 (including \$100,000,000 in new construction).
- Last year's levy rate was \$.21 per \$1,000 of assessed value.
- The statutory maximum levy rate is \$0.45 per \$1,000 of assessed value.

a.)	Highest lawful levy	\$16,500,000	x	101% limit factor	=\$16,665,000
b.)	New construction	\$450,000,000	x	\$0.21 / \$1,000 AV	=\$94,500
c.)	Utility increase	\$24,000,000	x	\$0.21 / \$1,000	=\$5,040
d.)	Increment value, less new construction in increment area	\$30,000,000	x	\$0.21 / \$1,000	=\$6,300
e.)	Total levy limit (sum of a through d)				=\$16,770,840
f.)	Statutory maximum levy	\$38,300,000,000	x	\$0.45 / \$1,000	=\$17,235,000
g.)	Maximum allowable levy for this year (lesser of e or f)				\$16,770,840
h.)	New highest lawful levy since 1985 (Lesser of e minus d, or f. If f is the lesser, carry forward the greater of a or f)				\$16,764,540

Apportionment of taxes

Beginning in the calendar year following the calendar year the increment area takes effect, the county treasurer will distribute funds from regular property taxes imposed on real property located in the increment area. Property taxes to be apportioned under LTIF include most property tax levies subject to the Constitutional 1% and \$5.90 aggregate limits. Taxes levied by port districts or public utility districts specifically for the purpose of making payment on bonds (interest and principal on general obligation debt), taxes levied by the state for the support of the common schools, local school district excess levies, and any other excess levies are excluded from LTIF apportionment.

Each taxing district will receive the portion of its regular property taxes produced by the rate of tax levied by the taxing district based on the base value of real property located in the increment area for taxes imposed in the year that the area was first designated.

The local government that created the increment area will receive a portion of the regular property taxes levied by each taxing district based off the increment value and the levy rate levied by each taxing district within the increment area.

The local government that created the increment area may agree to receive less than the full amount of this portion, as long as bond debt service, reserve, and other bond covenant requirements are satisfied. The portion of the tax receipts distributed to the local government may only be expended to finance public improvement costs financed by LTIF.

The apportionment of increases in assessed valuation in an increment area end when the local government certifies to the county assessor that allocation revenues are no longer needed to pay the public improvement costs, no more than 25 years after the first year in which tax allocation revenues are collected from the increment area. The local government must return any excess tax allocation revenues to the county treasurer and distribute to the taxing districts that imposed regular property taxes.

The county assessor must recalculate tax allocation base value for an increment area that was effective as of May 9, 2023, to include privately owned improvements located on publicly owned land subject to property taxation, as of the date the increment area become effective.

The following is an example of the application of property taxes and tax allocations for a taxing district with a LTIF area within its boundaries effective June 1, 2022:

Note: The following values are not related to other examples in this document. They are round numbers used to portray tax allocations.

Taxing District A

Assessment /tax year	Base value	Increment value	Total value	Levy rate (per \$1,000 assessed value)	Total tax	Tax allocated to local government with increment area	Tax allocated to taxing district
2021/2022	\$1,000,000	\$0	\$1,000,000	\$1.25	\$1,250	\$0	\$1,250
2022/2023	\$1,000,000	\$200,000	\$1,200,000	\$1.20	\$1,440	\$240	\$1,200
2023/2024	\$1,000,000	\$400,000	\$1,400,000	\$1.10	\$1,540	\$440	\$1,100

Port and public utility districts with bond debt

Port and public utility districts located within a LTIF area that have bond debt in the LTIF area require additional levy calculations.

[RCW 53.36.020](#) and [RCW 54.16.080](#) provide port and public utility districts, respectively, with the statutory authority to raise additional revenue for the repayment of principal and interest general obligation bonds through property taxes. The bond debt supersedes any property tax revenue allocation authorized in [Chapter 39.114 RCW](#) and this revenue from property tax cannot be apportioned to the local government that established the LTIF area.

Therefore, the county assessor must:

1. Determine the levy rate based on the lesser of the levy limitation amounts and the entire taxable value of the district, including the increment value.
2. Determine the levy rate based on the bond levy portion of the taxing district's total levy amount and the entire taxable value of the district, including the increment value.
3. Subtract the levy rate in Step 2 from Step 1. This is the levy rate that will be used to determine the revenue apportioned to the local government.

The county treasurer will use the levy rate from Step 3 to determine the amount of revenue apportioned to the local government based on the increment value in the LTIF area.

Any port or public utility district with bond debt must identify the amount of revenue required for the payment of the bond debt. This amount must be provided to the county assessor, so the assessor can determine and ensure the property tax revenue satisfies the port or public utility district's bond debt and allocate the correct amounts to the local government that established the LTIF area. The county treasurer then must distribute the property tax revenues accordingly.

In the example below, we assume the following facts to help illustrate how to calculate the levy limits, rates, and apportionment when a port or public utility district has bond debt:

- The total taxable value of the district is \$38,300,000,000.
- The tax allocation base value of the increment area is \$50,000,000.
- The true and fair value of real property located within the increment area is \$180,000,000.

- The increment value of real property is \$130,000,000, including \$100,000,000 in new construction.
- Last year's levy rate was \$.21 per \$1,000 of assessed value.
- The statutory maximum levy rate is \$.45 per \$1,000 of assessed value for ports and public utility districts.
- The taxing district's general obligation debt is \$850,000.
- The certified levy request is \$7,330,000.

a.)	Highest lawful levy	\$16,500,000	x	101% limit factor	= \$16,665,000
b.)	New construction	\$450,000,000	x	\$.21 / \$1,000	= \$94,500
c.)	Utility increase	\$24,000,000	x	\$.21 / \$1,000	= \$5,040
d.)	Increment value, less new construction in increment area	\$30,000,000	x	\$.21 / \$1,000	= \$6,300
e.)	Total levy limit (sum of a through d)				= \$16,770,840
f.)	Statutory maximum levy	\$38,300,000,000	x	\$.45 / \$1,000	= \$17,235,000
g.)	Certified levy request				\$7,330,000
h.)	General obligation debt (included in g))				\$850,000
i.)	Maximum allowable levy for this year (lesser of e, f, g)				\$7,330,000
j.)	Levy rate calculation	\$7,330,000	/	\$38,300,000,000	= .191383812 / \$1,000
k.)	Levy rate for bond amount	\$850,000	/	\$38,300,000,000	= .022193211 / \$1,000
l.)	Levy rate without bond amount	.191383812	-	.022193211 / \$1,000	= .169190601 / \$1,000
m.)	Property tax to port district	\$38,170,000,000 \$38,300,000,000	x x	.169190601 / \$1,000 .022193211 / \$1,000	= \$6,458,005.24 <u>= \$ 850,000.00</u> \$7,308,005.24
n.)	Apportionment to local government	\$130,000,000	x	.169190601 / \$1,000	= \$21,994.78
o.)	New highest lawful levy since 1985 (Lesser of e minus d, or f. If f is the lesser, carry forward the greater of a or f)				\$16,764,540
p.)	Levy rate for next year's calculations				.191383812 / \$1,000

The following is an illustration of the taxing district and LTIF area:

County B

Port district

Bond levy calculations based on total taxable value of district:

$\$38,300,000,000 \times .022193211 = \$850,000$ bond
(general obligation debt) to port district

LTIF area within port district:

Taxable value of real property in LTIF area = \$180,000,000.

Base value of \$50,000,000 x
 $\$0.169190601 / \$1,000 =$
\$8,459.53 to taxing district.

Increment value of
 $\$130,000,000 \times \$0.169190601 /$
 $\$1,000 = \$21,994.78$
apportioned to local
government.

NC within the LTIF area
\$100,000,000.

Portion of the port district not subject to the LTIF area:

Taxable value \$38,120,000,000
x $\$0.169190601 / \$1,000 =$
\$6,449,545.71 to taxing
district.

New Construction (NC)-
\$350,000,000.