

ABATEMENTS AND TAX  
CAPTURING AUTHORITIES COURSE

TEXT FOR 2009

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## 1.0 INTRODUCTION

Welcome to this course on Michigan's tax capturing authorities and tax abatements. Tax capturing authorities and tax abatements are two of the several forms of state authorized tax incentives enacted to encourage new business growth, fight blight and to preserve the existing agricultural, commercial and industrial tax base.

The state of Michigan's modern efforts to sustain its property tax base and address issues commonly referred to today as "economic development incentives" may be traced back to 1945 with the adoption of the Municipal Blighted Area Rehabilitation Act (1945 PA 344, M.C.L. 125.71 et seq).<sup>1</sup> Over time, cohort legislation has been developed. Incentives focused upon in this class originate with the creation of the 1974 Industrial Facilities Abatement (IFT) and 1975 Downtown Development Authority (DDA) tax capturing legislation.

The DDA Act created a special taxing authority which had remarkable powers: it could levy property taxes and it could capture future "new" taxes that would normally go to other taxing units. From legislation of 1974 and 1975 has arisen many laws specifically aimed at fixing the environment and stimulating and preserving local economies within the state. This class contemplates 16 of the most used: eight in the form of specific taxes known as abatements and exemptions and eight forms of enabling legislation known as "tax capturing" authorities.

Implementation of abatement and tax capturing laws may be confusing: classes of property are affected differently, there are multiple millage rates, unique tax rolls and altered property values. However, a systematic evaluation shows there are only three general categories of tax relief found in the various incentives and there are explicit rules to guide an administrator.

Goals of this class include both providing information of practical use to assessment administrators and conveying information that will help community leaders make judicious use of tax incentives. After all, the goal of incentive legislation is noble: to preserve resources and create jobs for citizens in struggling communities.

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<sup>1</sup>Survey of Economic Development Programs in Michigan, Report 334, Citizens Research Council of Michigan, Lansing, Michigan, [www.crcmich.org](http://www.crcmich.org), May 2001

## 1.1 What is an abatement?

A tax abatement is a form of economic development incentive which reduces a tax burden if some form of investment changes the value of property. The main goal of this form of legislation is to eliminate a financial hurdle during the initial phase of a project. If no investment is made, the incentive creates no cost to local government.

If an investment is made, the qualifying property has a lower tax burden than it might otherwise have. Thus local governments give up a portion of potential new taxes.

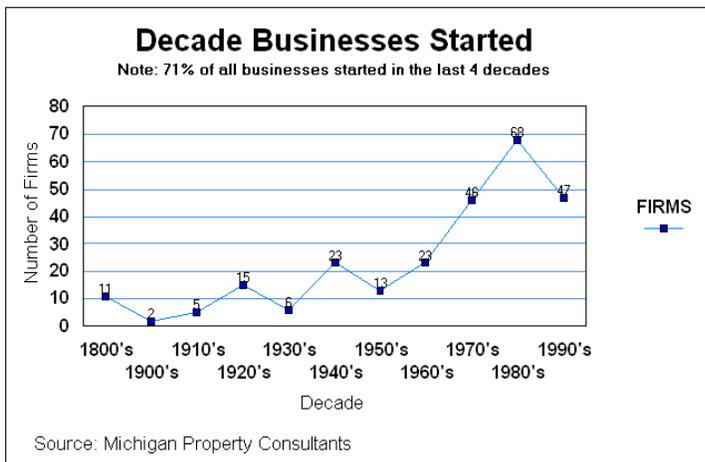
Presumably, it is during this phase that the taxpayer is most burdened by high costs. For example, in the case of an industrial property, significant resources must be allocated to building a new facility or remodeling an existing one. Machinery and equipment and furniture and fixtures must be purchased. Employees may need to be hired and others may need to be trained for the expansion. Private resources, in general, are limited and capital resources may be particularly strained. An abatement addresses those issues.

In the case of residential abatements, a similar financial scenario may exist with respect to a homeowner's resources. If the initial tax burden can be lightened and a reasonable expectation exists that household income will rise over time. With this kind of help citizens might be able to purchase new housing. New housing would stimulate the tax base by adding higher valued homes to any existing older housing stock. The existence of advantageously priced housing provides an opportunity for families to move into an area where property had previously been unused and oftentimes vacant. New families means more children and that means additional school revenue.

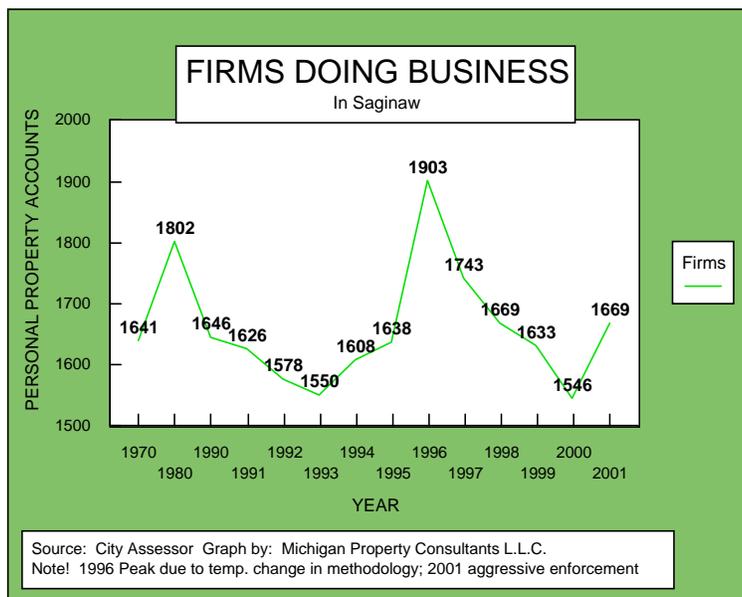
At the time of this writing, a child entering the local public school system represents a new cash flow to the schools of between \$7314 and \$12,443 annually. Therefore, every 100 new students entering the school system, stimulate the local economy is with an influx of between \$731,40000 and \$1,244,300. Each cash flow of one million dollars circulating in a local economy may be expected to sustain or

support approximately 25 to 30 modestly paying jobs.<sup>2,3</sup>

In any healthy local community, there is continuing turnover of business entities. New businesses start up, old businesses close up. Abatement legislation and tax capturing authorities and other tax incentives were not created to address this routine transition within stable economies. They were created to address extraordinary unemployment and blight and stagnation - usually resulting from structural changes in the economy. The charts shown illustrate the life cycle of businesses in Saginaw, Michigan as that market was constituted in the 1990s and firms doing business over time.



However, as the use of incentives proliferated, a competitive element entered into the picture. Tax and other incentives were offered to provide local communities with an edge as they competed for firms (both national and international).



For these and other reasons, abatement enabling legislation was created. In its simplest form, an abatement is a mechanism which does two things: it reduces the immediate tax burden and it contains some form of sunset provision returning the tax burden to normal at a future date.

<sup>2</sup> Personal correspondence, Daniel Styne, PhD, to Joseph Turner.

<sup>3</sup> Lefkowitz, Martin, What 100 New Jobs Mean to a Community, Economic Policy Division, U.S. Chamber of Commerce, 1615 H Street, N.W., Washington D.C. (1993)

## General Rule

As a general rule, abatements accomplish their task by removing part of the assessment value (personalty, buildings and other improvements) from the ad valorem tax roll and placing them on a “specific tax” roll. A “specific tax” calculation does not follow rules applicable to an ad valorem calculation.

Abatement millage rates and abated values are designed to be less than their ad valorem counterparts. The result is a taxpayer gets a reduced or “abated” tax bill when compared to some alternatively projected ad valorem bill. Importantly, the levies are distributed to the taxing units in the same manner as ad valorem levies. There are geographic districts associated with abatements. These districts delineate where properties eligible for a “certificate” are located. Enabling legislation requires a unique certificate to be issued for each abated property. An additional criteria for the abatement is applications must be timely filed and property becomes eligible after a specific start date. The maximum duration of abatement certificates for both existing and newly constructed qualifying properties in Michigan, is between 12 and 15 years.

## Creating an Abatement

While specifics varies from law-to-law, there is a general procedure which must be followed for a property to obtain any abatement from ad valorem property taxation. The first order of business to achieve an abatement is for an eligible unit of government to delineate the specific geographic area in which an eligible property may be certified for an abatement. This geographic area is becomes a “district” defined by a formal resolution of the governing body of the unit of government and named in a manner consistent with the enabling legislation. For example, properties eligible for Industrial Abatements may be located in a Plant Rehabilitation “District” or an Industrial Development “District.” The “district” created pursuant to the Neighborhood Enterprise Zone Act is termed a “Neighborhood Enterprise Zone.” This zone enables certificates for either new construction or rehabilitation. The NEZ act also provides for a district termed the “Homestead Zone.”

## Rehabilitation means frozen values

In the case of “rehabilitations” of existing structures and the construction of certain “replacement” facilities, the existing value is frozen for the duration of the abatement period. Using unaltered ad valorem millage rates, taxes are computed on

the “frozen” property value — a value established immediately before the granting of the certificate. Thus, taxes are “abated” by being calculated on a frozen value which is lower than the property might otherwise be valued at. Frozen values are sometimes calculated at the prevailing ad valorem millage rate. For accuracy of calculation, it is critical the appropriate law be carefully reviewed with respect to guidelines.

New Construction means millage rate change

In the case of abatements for new structures, the property value is not usually manipulated to lower taxes, the millage rate is. In some cases, such as the IFT, the rate is one-half the normal rate (except that the six mill state education tax rate can be part of the tax burden). In other cases, such as a Neighborhood Enterprise Zone certificate, the rate applied to the property is not connected in any way to local millage rates. Instead, an average of residential millage rates across the state is determined annually and one-half of this rate is applied to every NEZ certified new construction around Michigan. OPRA properties are taxed only for local and state school taxes.

The savings to a residential taxpayer in urban areas can be significant. For example, the average residential millage rate state-wide has been running around 31 to 34 mills. The chart which follows illustrates the ½ rate discount for PRE rates applicable to Neighborhood Enterprise Zones.

Current Tax Year	Non-PRE	½ of Non-PRE	PRE	½ of PRE
	State Avg Tax Rate From Preceding Year			
1995	49.08	<b>24.54</b>	31.08	<b>15.54</b>
1996	49.81	<b>24.91</b>	31.81	<b>15.91</b>
1997	50.85	<b>25.43</b>	32.85	<b>16.43</b>
1998	50.51	<b>25.26</b>	32.51	<b>16.26</b>
1999	50.36	<b>25.18</b>	32.36	<b>16.18</b>
2000	50.43	<b>25.22</b>	32.43	<b>16.22</b>
2001	50.82	<b>25.41</b>	32.82	<b>16.41</b>
2002	51.41	<b>25.71</b>	33.41	<b>16.71</b>
2003	52.04	<b>26.02</b>	34.04	<b>17.02</b>
2004	50.92	<b>25.46</b>	32.92	<b>16.46</b>
2005	51.68	<b>25.84</b>	33.68	<b>16.84</b>
2006	51.71	<b>25.86</b>	33.71	<b>16.86</b>
2007	51.89	<b>25.95</b>	33.89	<b>16.95</b>
2008	51.85	<b>25.93</b>	33.85	<b>16.93</b>
2009	48.39	<b>24.19</b>	30.39	<b>15.19</b>

The state average tax rates above are determined annually by the Michigan Department of Treasury, Assessment & Certification Division. Any questions regarding the calculation of the NEZ specific tax should be addressed to the Michigan Department of Treasury, Property Services Division (517) 373-2408.

## Summary

In summary, a tax abatement provides an immediate and specific tax savings for the taxpayer. It does this by freezing an assessment at the value of the property prior to any renovations and applying the local millage rate to the property; or for new construction, by valuing the property at its true cash value, but applying a millage rate which is lower than the prevailing rate in the jurisdiction granting the abatement.

Except for MSHDA and Commercial Forest property abatements, taxes on abated properties are collected from two tax rolls: land remains on the ad valorem roll and is taxed in the same way that all other ad valorem properties are; taxes levied against values placed on a “specific” tax roll use a millage rate or value which deviates from alternative ad valorem taxation. Abatements reduce immediate tax burdens and are short term incentives expiring in a time frame 15 years or less.

It should be noted that in the case of abated properties, tax collections are distributed to each local jurisdiction on a proportional basis which replicates the ad valorem distribution. Until recently, under some tax abatement laws, the 1993 school operating millage rate, not the contemporary rate, was used to calculate the specific tax. The school operating millage share of the specific tax is paid to the state school aid fund. The state, in turn indemnifies the school entities from a loss.

A unique aspect of some abatements is that when projects are completed and taxes abated, every taxing jurisdiction collects a larger and new revenue stream. That is, when a new project is completed, the land continues to be taxed normally and the improvements are taxed too, generating new revenue to all taxing units.

One final note. Opponents of abatements sometimes vociferously argue that they “lose” money because if the full value or millage rate were used, there would be more taxes collected. That argument is often countered with the idea that if the incentive is not offered, the project would never be done and therefore, to collect some money for a limited time period, is better than to never get the new project and new jobs.

Irrespective of which argument is preferred, the fact remains, of all tax incentives, abatements are the one in which, if money is invested in new structures or personal property, new taxes are generated for taxing authorities. It may not be as much new money as some want, but new money is generated.

## 1.2 What is a tax capturing authority?

A tax capturing authority is designed to preserve an existing tax base and to foster new growth from which some tax revenue can be captured for public projects.

### Reason for existence

Each unique law enabling the creation of a tax capturing authority cites slightly differing reasons for the law and activities that may be undertaken. The LDFA Act uses a relatively simple statement to justify the law. It exists: “to encourage local development to prevent conditions of unemployment and promote economic growth.” (Preamble to 1986 P.A. . 281). Though well intended, these laws have been controversial. In footnote 3 of its 1988 advisory opinion, Michigan’s Supreme Court said this:

“Regardless of the relative policy merits of tax increment financing, we are persuaded by the arguments of the Attorney General (in favor of constitutionality) and of various amici curiae, on both sides of the constitutional issue, that tax increment financing is a vital source of funding for communities.” ... “We therefore agree that the issues presented are sufficiently important to support the issuance of an advisory opinion.”<sup>4</sup>

### What do they do?

Tax capturing authorities do not reduce ad valorem millage rates generated by taxing jurisdictions or reduce a tax burden. In fact, a Downtown Development Authority may even add a new millage rate to the existing ad valorem rates. Tax capturing authorities are geographic areas in which special legislation permits certain taxes to be retained as revenue for exclusive use by the tax capturing authority.

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<sup>4</sup>In RE Request for Advisory Opinion, 430 Mich. 93, 98; 422 N.W. 2d 186 (1988)

In its advisory opinion, the Supreme Court described the function of tax capturing authorities in this way:

“Basically, once a tax increment financing plan has been approved, the property values covered by the tax increment financing plan are, in effect, frozen. Future ad valorem tax revenues that are attributable to any subsequent increase in value above the base value are turned over to the authority in order to further implement the development plan.”<sup>5</sup>

### Creating an authority

A tax capturing authority is created by a local unit of government so authorized through enabling legislation. To function, the authority must create *a tax increment financing plan and a project plan*. There is no specific template for the plans and sometimes these two distinct functions are carelessly crafted leading to confusion.

Furthermore, once an authority has been created, a tax increment plan and a project plan have been formulated and time for public hearings and comments has expired; the only continuing oversight by a superior body, is an audit by the state of Michigan to assure compliance with school tax distributions. The local legislative body benefits from a presumption of validity. This combination of amorphous legislation and independent governance leads to wide variations in plans created across the state.

### “Plans” required for an authority

The Michigan Department of Treasury issued a document which defined tax increment financing plans and distinguished them from a project area well enough that the language has been quoted by the state’s Supreme Court and in opinions by the Attorney General. Treasury said,

“ [a] tax increment financing (TIF) plan allows a local government to finance public improvements in a designated area by capturing the property taxes levied on any increase in property values within the area. Under a TIF plan, a base year is established for the project area. In subsequent years, any increase in assessments above the base year level is referred to as the captured value. All, or a portion, of the

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<sup>5</sup>Ibid, pg 100

property taxes levied on the captured value (SEV) is diverted to the area's development plan."<sup>6</sup>

Subsequently, it was shown in A.G. Opinion 6687, that taxes generated by a millage approved by a vote of the electors of a jurisdiction for some specific purpose may be captured in the same way taxes for the general operation of government may be captured.

### No Modification of tax computation and millages

A key to understanding tax capturing authorities is to realize that, with the exception of the added millage available to a DDA, the process by which taxes are created and computed is not changed in any way. Taxpayers receive tax bills identical to what they would have received if the tax capturing authority had not been created. The unique operation of a tax capturing authority is how the collection is distributed.

In 1991, Michigan's Attorney General was asked to address the issue of whether "voted millages for specific purposes that are levied on the 'captured assessed value' must be kept by the local government unit levying the tax or transmitted to the authorities created by 1980 PA 450 and 1975 PA 197."

The A.G. framed the response by quoting a Michigan Department of Treasury document in which it was stated: "Under a TIF plan, a base year is established for the project area. In subsequent years, any increase in assessments above the base year level is referred to as the captured value. All, or a portion, of the property taxes levied on the captured value (SEV) is diverted to the area's development plan."<sup>7</sup>

The A.G. then went on to refer to specific language in both TIF enabling laws and made the following statement about that language:

"In both instances, the Legislature has plainly commanded that 'the tax levy of all taxing bodies' on the 'captured assessed value' is to be transmitted to the authority. There are no statutory exceptions for special millage levies approved by the voters

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<sup>6</sup>Michigan Department of Treasury, Analysis of Tax Increment Financing in Michigan for 1986 (April, 1987), p A-2

<sup>7</sup>A.G. Opinion 6687, July 12, 1991, p 1.

for limited purposes. There is simply no basis in the text of the statutory provisions in question to determine that these specially voted millages are exempt from capture under these statutes. If the language is plain and unambiguous, there is no room for judicial construction. *City of Lansing v Township of Lansing*, 356 Mich 641, 648-649; 97 N.W. 2d 804 (1959)” ... “It is my opinion therefore, that voted millages for specific purposes which are levied on the ‘captured assessed value’ must be transmitted to the authorities created pursuant to 1980 PA 450 and 1975 PA 197.”<sup>8</sup>

## Geography of the authority

While there are exceptions, as a general principle, tax capturing authorities look at geographic areas instead of individual properties. In fact, with the exception of Brownfields, all mathematical calculations for tax capture require the manipulation of aggregate taxable values. The amount of “base” or non-captured taxes depends upon a “base” value established as an “aggregate” or total value for the entire geographic area in which taxes may be captured. This total value or “base” value is by law the “initial taxable value” existing as of specific final equalization for the year appropriate to the initialization of the tax capturing authority and a plan the authority created.

Properties change value during the existence of the plan. Some properties simply disappear (personal property, parcels of real property combined into one parcel for tax purposes, demolitions etc.). This circumstance leads to questions to be discussed later.

A tax capturing authority is an economic development tool designed to create “pockets of prosperity” by expending captured funds on public improvements. Whereas it may not be financially possible for a government unit to address the needs of its entire geographic area, tax capturing authorities create a way to stimulate new jobs and higher property value in a small geographic are or sub-unit of the jurisdiction.

Tax capturing authorities affect the flow of tax dollars, capturing them and diverting collections of money above some “base” level to specific projects included within a specific plan or plans created by the authority for the geographic area.

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<sup>8</sup>A.G. Opinion 6687, July 12, 1991, pgs 2-3.

## Opting Out - Legality of capturing taxes

There was quite a bit of fussing going on (as in lawsuits) between various government units between the inception of the Downtown Development Authority and the creation of the Local Development Financing Authority in 1986. As we've seen, in order to provide more efficient operation of government, the senate and governor requested a specific "advisory opinion" of the Supreme Court. The court granted their petition and ruled that in general the capture of property taxes by a tax capturing authority is legal and permitted

In 1993, the legislature amended Michigan's various tax capturing laws to permit an objecting jurisdiction to formally "opt out" of the proposed tax capturing area. A jurisdiction not wishing to lose future tax revenue could pass a resolution within a sixty-day window of opportunity created by the 1993 modifications, and its tax revenue could not be captured by the tax capturing authority. The "opt out" provision was predicated on certain public hearings and timetables.

In 2005, a dispute arose between several parties resulting in the Village of Holly and the Downtown Development Authority of the Village suing Holly Township and its treasurer. An important issue within the case was at exactly which time does the clock begin ticking on the 60 day window during which a unit of government may exempt its taxes from capture by "opting out"? More than one hearing date is mentioned in the DDA statute. The village of Holly felt the first hearing started the clock and the township seeking exemption believed it was a later hearing.

The issue was resolved with a published decision by Michigan's Court of Appeals. In it, the court ruled that there is only one hearing which triggers the 60 day time period.

"We therefore conclude that the most reasonable interpretation of these interlocking provisions is that" ... "both refer to one and the same public hearing held to create a DDA authority or modify the boundaries of a DDA authority. Indeed, subsections 2,3, and 4 provide the logical time sequence of establishing a DDA authority or modifying an authority's boundaries: (1) notice to tax payers and taxing jurisdictions of a public hearing, (2) a public hearing, (3) a 60-day time period during which taxing jurisdictions may opt-out and during which the governing body desiring to

create or amend a DDA may not act, and (4) adoption of an ordinance creating a DDA authority or amending its boundaries.”<sup>9</sup>

### 1.3 Distinguishing between abatements, authorities and specific taxes

Laws creating tax capturing authorities stand in contrast to laws which reduce the tax burden for taxpayers. Tax capturing authorities are designed to leave each existing property value and millage rate unchanged. Instead of reducing the tax burden, tax capturing authorities are used to make public improvement or improvements, using tax collections on increased property values within a specific geographic area. A supposition is that the public improvement is an incentive which stimulates job generation, job retention and generally benefits the community.

One difference between authorities and abatements, is in the disbursement of collected property taxes. Taxes levied within the tax capturing authority are not disbursed in the same way those outside the authority are. Another basic difference is that *tax abatements* provide immediate relief from a potential tax burden. *Tax capturing authorities* do not provide immediate relief from a property tax burden. Tax capturing authorities provide a new revenue stream to a specific taxing entity.

Authorities guarantee the tax base in effect at the time the authority is created remains unmodified and future collections from it go to existing taxing jurisdictions in an unaltered fashion. Hence, the emphasis on a “base value” and a “captured value.” There is no “specific tax roll” created tax capturing authorities. The primary function of an abatements is to benefit taxpayers not government. However abatement laws are crafted so that if there is no private investment, there is no lost tax to local government

Issues of time - looking to future benefit

Tax abatements provide an immediate relief from a tax burden whereas tax capturing authorities require plans extending into the future. Benefits from authorities may not appear immediately. They may take time to accumulate. The key to tax capturing authorities is its focus on the future. An authority’s plan (or plans) illustrate action over time periods of up to 30 years. It is a future growth in property values that

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<sup>9</sup>Village of Holly v Holly Twp, 267 Mich App 461; 705 NW2d 532 (2005)

permit any tax capturing authority to function. A reduction of future tax collections is a goal of abatements; reductions in taxes destroy the ability of authorities to function.

### Summary of Distinctions

“Specific” and ad valorem taxes are located on a separate and distinct tax rolls. Rules regarding property values and millage rates which apply to ad valorem taxation do not apply to tax calculations for a specific tax. A specific tax will sometimes be calculated using a millage rate identical to the ad valorem rate, but frequently the applicable millage rates will be considerably lower.

Tax capturing authority legislation does not affect property values or millage rates. The one exception is DDA which can levy additional taxes within its corporate bounds. Tax capturing authorities do not provide tax breaks of any kind. A tax capturing authority is a separate entity empowered by law to “capture” current tax levies in a specific geographic area. The amount to be captured is that part of the levy which exceed taxes derived from the application of contemporary millage rates to a fixed taxable value known as the “base” value. Authorities may capture both ad valorem and specific taxes when authorized by appropriate enabling legislation.

## 2.0 Millage Rates

It is impossible to properly levy an abatement tax or “capture” the appropriate tax for an eligible authority without a sound understanding of millage rates. So, we will briefly review the concept of millage rates, before we continue in our examination of abatements and tax capturing authorities. There are many forms of millage rates that may potentially come into play when calculating and distributing taxes from properties affected by an abatement or authority. First we’ll discuss ad valorem millage rates. These include homestead and non-homestead rates, millage rates for “specific tax” levies and special assessment millage rates.

### Ad valorem millage rates

There are three very general forms of ad valorem millage. The first is the operating millage permitted by the constitution or specific statute. The second are millages levied to pay for debt properly incurred by the a taxing authority. For example, voter approved bond issues. The third is a voter approved millage for some special purpose, such as mosquito control or maintaining a government office to serve veterans or supporting a government owned museum or some other facility.

Operating millages for various units of government may be authorized up to a specific amount by legislation and capped at lower amounts by the local unit of government. For example, a municipality may levy up to 20 mills but choose to levy only 10 mills; the principle hold s for Charter Townships. There appears to be a cap in Michigan’s Constitution on total operating and voter approved millage rates; either 18 mills or 50 mills depending upon certain conditions.

Here is language from the constitution in which Article 9 addresses these overall limitations:

Section 6. Except as otherwise provided in this constitution, the total amount of general ad valorem taxes imposed upon real and tangible personal property for all purposes in any one year shall not exceed 15 mills on each dollar of the assessed valuation of property as finally equalized. Under procedures provided by law, which shall guarantee the right of initiative, separate tax limitations for any county and for the townships and for school districts therein, the aggregate of which shall not exceed 18 mills on each dollar of such valuation, may be adopted and thereafter altered by the vote of a majority of the qualified electors of such county voting thereon, in lieu of the limitation hereinbefore established. These limitations may be increased to an aggregate of not to exceed 50 mills on each dollar of valuation, for a period of not to exceed 20 years at any one time, if approved by a majority of the electors, qualified under Section 6 of Article II of this constitution, voting on the question.

Readers are encouraged to review Report No. 295, published by the Citizen’s Research Council of Michigan for a detailed analysis of the 18 and 15 mill caps. While the report is elaborately detailed, the concept of constitutional limits on taxation via permitted maximum millage is well summarized within the report as follows:

“The fifteen, eighteen and fifty mill limitations apply only to operating millage levied by unchartered counties\* unchartered townships, and to millage for current operating expenses of school districts. Debt service millage levied by local units is excluded, as is operating millage imposed by any city, village, charter county, charter township, charter authority or other authority, the tax limitations of which are provided by charter or general law. These exclusions explain why aggregate property taxes levied on some parcels of property exceed fifty mills. For example, the total property tax rates in the cities of Highland Park and Detroit during calendar year 1988 were 90.42 mills and 84.13 mills respectively.”<sup>10</sup>

### Taxes from Ad Valorem Special Assessment Millages

In addition to these well known, constitutionally capped ad valorem millage rates, it is becoming increasingly common to see another ad valorem rate — voter approved “ad valorem” special assessments. In this form of special assessment, electors approve payment of a special assessment based upon the value of property. The levy is created exactly like a property tax is: the (voter approved) millage rate is multiplied by a property’s Taxable Value.

Michigan’s Supreme court approved the use of an ad valorem millage levy for special assessment purposes back in 1958 with it’s decision in *St. Joseph Twp. v Municipal Finance Commission*.<sup>11</sup> Today, there are over 100 jurisdictions levying special assessments as a millage rate multiplied by a property’s taxable value.

The Supreme Courts examined the constitutional limitations on ad valorem millage rates and ruled that special assessments levied with ad valorem rates, did not fall under the 15 mill cap.<sup>12</sup> The question remained for some, may a special

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<sup>10</sup>Local Property Tax Limitations in Michigan, Citizens Research Council of Michigan, Report No. 295, September 1989, pg v.

<sup>11</sup> *St. Joseph Twp v Municipal Finance Comm*, 351 Mich 524; 88 NW 2d 543 (1958)

<sup>12</sup>See page 7, Local Property Tax Limitations in Michigan cited in footnote 9

assessment's ad valorem millage rate be captured? Can special assessment millage rates be levied on specific tax rolls?

The question about special assessments and levies on "specific tax rolls" was answered by Michigan's Director of the Tax Analysis Division of Michigan's Department of Treasury. In an e-mail related to the preparation of this text, the Director, Mr. Howard Heideman, wrote on November 20, 2007 that special assessments do not apply to specific tax rolls. *So, any specific tax, including abatements, would not have a special assessment levy applied.*

The part of the property which remains *on the ad valorem roll could be specially assessed*. In the case of ad valorem special assessment millages, the removal of a portion of taxable value from the ad valorem roll creates an additional tax break. For example, an ad valorem special assessment millage may be levied on a \$10,000 land value but not on \$90,000 of taxable value on a "specific tax roll" such as an IFT roll.

Mr. Heideman noted that M.C.L. 211.7ff provides for the levy of a special assessment against Renaissance Zone properties. So, properties affected by that form of tax incentive could be specially assessed.

The issue of whether or not special assessments created by levying an ad valorem millage rate can be captured has been resolved by Mr. Heideman too. In e-mails of July 21, 2008 and August 22, 2008, Mr. Heideman made it clear that "TIF plans may not capture special assessments."<sup>13</sup>

### Millage limitations by agreement

Ad valorem millage rates may be limited by an agreements between jurisdictions levying property taxes within a tax capturing authority. For example, the authority may make an agreement to capture only a limited amount of a specific taxing authority's levy. Perhaps the capture will be based upon a specific millage rate say 2 mills out of 5 being levied. It might be a percentage split of the computed tax, say 40 percent to the authority and 60 percent escapes capture. Treasury's FAQ on

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<sup>13</sup>Personal correspondence with Joseph Turner

Authorities unequivocally states: “the plan may not capture a greater proportion of school operating taxes than the proportion of municipal operating or county operating taxes captured.”<sup>14</sup>

Authorities which enter into an agreement to limit collections must have uniform arrangements with all jurisdictions that have not opted out. Therefore, if the authority only captures 40 percent of the available tax for one taxing entity, it must only capture 40 percent with each of the other taxing units.

### Specific Taxes and their millage rates

The chart that follows outlines rules which apply to capturing millages based upon legislative connections between specific taxes and tax capturing authorities. It was supply by the Michigan Department of Treasury.

### Some millage rates levied within authorities

**Tax Increment Revenue  
Specific Taxes Allowable for Capture by Authorities  
As of July 20, 2009**

		Public Act Year							
		197 1975	450 1980	281 1986	381 1996	530 2004	280 2005	61 2007	94 2008
		DDA	TIFA	LDFA	BRFA	HNTIFA	CIA	NIA	WRITIFA
PA 189 of 1953	Lessees/Tax Exempt Prop	X	X	X	X	X	X	X	X
PA 198 of 1974	Industrial Facility Tax (IFT)	X	X	X	X	X	X	X	X
PA 255 of 1978	Commercial Facility Tax (CFT)	X	X	X	X	X	X	X	X
PA 385 of 1984	Technology Park	X	X	X	X	X	X	X	X
PA 224 of 1985	Enterprise Zone			X	X				
PA 147 of 1992	Neighborhood Enterprise Zone (NEZ)				X			X	
PA 146 of 2000	Obsolete Property Rehabilitation (OPRA)			X	X				
PA 260 of 2003	Eligible Tax Reverted Property Tax				X*				
PA 210 of 2005	Commercial Rehabilitation (CRA)				X			X	

\* Limited to amount not reserved for Land Bank Fast Track Authority (PA 258 of 2003)

<sup>14</sup>Michigan Dept. of Treasury, Frequently Asked Questions About Tax Increment Financing Authorities, PTD 3305 (Rev. 4-01), Question 7

The table that follows illustrates some of the millage rates which an assessment administrator may need to deal with. They could apply within a tax capturing authority existing within the state of Michigan. Some of the rates are typical ad valorem rates common within any local property tax levy. Others are unique rates that are applied based upon some special tax incentive or other property tax law.

Millage Rate	Variant	Application
Ad Valorem - operating and special voted operating	Non-Homestead	Personalty, real estate improvements and land taxed at unaltered rate
Ad Valorem - operating, specially voted operating	Homestead rate - residential and qualifying agricultural	Land and improvements taxed at unaltered rate minus 18 mills
Debt school	Amount tied to bond issues	Captured to repay “eligible obligations” and sometimes in Brownfield activities
Debt non-school	Tied to bond issues or other eligible obligations	Eligible for capture sometimes. Land, improvements and personalty
MBT derived Personalty Rates	Industrial and Commercial property	Industrial at minus 24 mills; commercial at minus 12 mills
<b>ABATEMENTS</b>		
Neighborhood Enterprise Zone	New Construction	½ State Average Homestead Rate
Industrial Facilities Abatement	New Construction	½ rate plus 6 mill SET
OPRA	New Construction	24 mills
Brownfield	Without Remedial Action Plan	School millage excluded
<b>OTHER RATES</b>		
Renaissance Zones	Debt millage levied	Some debt may be captured by DDA, TIFA or Brownfield

### 3.0 FOUNDATION ISSUES - Quoting Courts, the A.G. and other authorities

As mentioned earlier, following the adoption of contemporary tax capturing authority laws in 1975(DDA act) and 1980 (TIFA Act), a great deal of controversy arose. Much of it from the idea that certain state laws permitted these authorities to capture taxes which would have gone to schools, intermediate colleges, to pay debt obligations and for many other public purposes including those designated by a vote of taxpayers to be dedicated for specific purposes.

The controversy was loud and it was persistent. Michigan's Attorney General was asked to interpret the statutes numerous times. These requests produced a quick series of AG opinions.<sup>15</sup> Finally, in 1987 the Michigan Supreme Court agreed to issue an advisory opinion. It asked "*the Attorney General to brief both sides of the questions. Other interested parties were also invited to file briefs amicus curiae.*"<sup>16</sup>

In its decision the court concluded "*that the provisions of LDFA that allow the capture and use of tax increment revenues do not violate Const. 1963, art. 9, § 6. In addition, application of the same provisions does not on its face constitute an unconstitutional lending of credit in violation of Const. 1963, art. 9, § 18, or art. 7, § 26.*"<sup>17</sup> These conclusions were reached after considering the implications of all three then existing authorities (DDA, LDFA and TIFAA).

Michigan's Supreme Court distinguished between the legality of these laws and the wisdom of employing them as a tax policy in this way: "*Regardless of the relative policy merits of tax increment financing, we are persuaded by the arguments of the Attorney General (in favor of constitutionality) and of various amici curiae, on both sides of the constitutional issue, that tax increment financing is a vital source of funding for many communities.*"<sup>18</sup>

Once the constitutionality of these laws was confirmed, more AG opinions quickly followed (numbers 6558, 6589 and 6687) which further clarified outstanding issues. The end result was that tax capturing authorities grew in number following

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<sup>15</sup>Among them being: Opinion 6127 in 1983, Opinion 6212 in 1984, Opinion 6335 in 1986

<sup>16</sup>In RE Request For Advisory Opinion, 430 Mich 93, 98; 422 N.W. 2d 186 (1988)

<sup>17</sup>Id., pg 99

<sup>18</sup>Id. FN 3, pg 99

their inception rising to about 600 plans in 1999. The state initiated an audit of all plans for compliance with the capture of school taxes. The use of capturing plans has since fallen by about fifty percent.

## Oversight

Except for judicial challenge, oversight of tax capturing plans is limited. The state of Michigan performs audits of plans, but the audit is restricted to only the capture and disbursement of school taxes. Local government units from which tax levies are to be captured may the right to “opt out” of new plans under seven of the TIF acts, but there is a narrow window of opportunity to do so. Also, there may be objections to a plan raised by affected jurisdictions. Again, once the window of opportunity to object passes, a presumption of validity is established. It is the authority itself, and to some extent, the jurisdiction which created the authority, that retain control over the actions taken pursuant to the authority.

Tax capturing authorities continue to be a common economic development tool, both in Michigan and across the U.S. Chris Biggs, director of operations at Buxton Company, was quoted in *Shopping Centers Today*, the trade magazine for those involved in the development and operation of shopping centers both nationally and internationally. He said:

“We’ve seen some pretty interesting and effective approaches from the local economic development community to entice retailers and entrepreneurs.” ... “You hear of cities that do incentives like tax increment financing districts, but some are taking it a step further.”<sup>19</sup>

### 3.1 Premise for establishing

The Supreme Court’s discussion of issues related to the constitutionality of tax capturing authorities included several references to scholarly work and guidance from the Michigan Department of Treasury. The court summarized the importance of tax increment financing as an economic development tool on pages 102 and 103 of its decision with this quote from a scholarly source, stating tax increment financing:

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<sup>19</sup>Curt Hazlett, *Tapping the Fiscal Stimulus Next Door*, *Shopping Centers Today*, June 2009, page 19

*“Tax Increment financing ‘is premised on the theory that, without the redevelopment project, property values would not increase, FN8’ or ‘that increases in land values and assessments in the project area are caused by the redevelopment authority’s own construction of economic activity in the district. FN9’”*

A companion argument for constitutionality focuses on the idea that *“there is no ‘diversion’ because the taxing units continue to receive the tax revenue they would have received had the authority not been created, and those units are not required to give up any revenues to which they would otherwise be entitled.”*<sup>20</sup> This argument is joined to another important legal premise advanced by Michigan’s Attorney General. The legislature has an inherent power to allocate tax revenues. The concept is articulated in *Huron-Clinton Metropolitan Authority v Bds. of Supervisors of Five Counties*, 300 Mich. 1, 19; 1 N.W. 2d 430 (1942)

The no diversion language of the Attorney General’s brief was an element the Supreme Court found convincing. The brief argued that the constitution limits only the rate of taxation; it does not limit the amount of revenue that may be generated. The administration of contemporary tax capturing authority reflects the distinction nicely. Millage rates are not altered in any way. However, once the tax money is collected, it is disbursed in a unique way; a way differing from the method used for general ad valorem taxation.

### 3.2 Public purpose

It is critical for the authority to document the “public purposes” which justify the tax increment financing plan and its subsequent “capture” of taxes. Each statute expresses this concept in a slightly different manner. The purposes expressed within the specific statute must be conformed with. These purposes are often to foster a betterment of the community at-large, economic development and specifically publicly owned property.

Examples of the requirement for a public purpose follow. They are expressed in two differing ways. The shortest of the two is from M.C.L. 125.2167(17)(1) the LDFA law. The longer may be found at M.C.L. 125.1653(3)(1) the DDA Act.

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<sup>20</sup>ID page 110

“the governing body shall determine whether the development plan or tax increment financing plan, or both, constitutes a public purpose.”

“When the governing body of a municipality determines that it is necessary for the best interests of the public to halt property value deterioration and increase property tax valuation where possible in its business district, to eliminate the causes of that deterioration, and to promote economic growth, the governing body may, by resolution, declare its intention to create and provide for the operation of an authority.”

It may be noted that in the distant past, monies captured could only be used on public areas. However, recent modification to the LDFA law for example, has led some jurisdictions to claim privately owned property can benefit from captured funds.

### 3.3 Value as used within the statute

As stated earlier, there are two fundamental values associated with a tax capturing authority and its plan for tax increment financing: a “base” or “initial” value and a “captured value.” With the exception of Brownfields, these values are aggregated values. This means, the capturing process is not computed on a property by property basis. The capturing process is performed on the “total” or aggregated value of all properties subject to captured taxation. The authority is to consider the captured taxable value of each parcel, but no individual parcel may have captured value of less than zero. Where there are individual millage rates which apply to a group of parcels, a sub totaling is required. For example, in a DDA where there are residential and non-residential properties, the captured value is calculated separately for principle residence property and non-residence property. For specific guidance see section 4.3.

An “initial taxable value” or “base value” is the total value of all property (real and personal) which existed at the time a particular authority is determined to have been created. Brownfield plans may exclude personal property. The base value continues within the tax capturing district for as long as the authority exists or until a permitted modification of the district enables a redetermination of a base value.

In contrast to the unchangeable aggregated “base value”, the value of all qualifying individual properties within the geographic district can be modified annually pursuant to standard assessing procedures. Each year of the plan these current values are summed to create an aggregated total.

The ‘base’ value is subtracted from the annual aggregated total of the district. Any taxable value remaining above the base value, may then be used to compute “captured taxes.” The aggregated value that remains after subtracting the “base value” is known by law as the “captured taxable value.” This “captured value” is the value to which all appropriate millage rates are applied. Multiplying the “captured value” by appropriate millage rates determines the exact amount of the total tax levy that may be captured.

### 3.4 Important dates

Of course, each statute has its own timetable laid out as part of the legislative process that must be followed. Among the most important rules for administrators are issues related to the original Resolution of Intent (ROI) or Notice of Intent (NOI) to create an authority or abatement. Clearly the judicial disputes outlined earlier emphasize the imperative for adherence to public notices and notices to other units of government, especially windows of opportunity to “opt out” of a tax capture.

Two other distinct times are used to determine these two values. The “base value” is comprised of property values of record established on the Fourth Monday in May preceding the establishment of the tax capturing plan. Municipal planners, economic developers and private developers focus on the value as of the Fourth Monday in May and plan demolition and construction activities, fiscal planning and tax capture projections based upon the values which exist on this date.

Municipal treasurers and tax assessors look to changing taxable values in each calendar year. They determine the annual tax capture during the life of the plan by adding up current taxable values as determined on the tax day appropriate to the tax year in which a capture is to be made and then subtracting the base value as described above.

### 3.5 Abatements - Benefit to participants

Within the abatement program the most important benefits are the tax savings to the certificate holder and the flow of new property taxes to local units of government (LUG).

### 3.6 Authorities - Benefit to participants

Benefits to participants in tax increment financing plans are focused on public improvements and not tax reductions for property owners. The benefit of capturing taxes is that the new, captured, income stream can be used for such things as repairing roads, creating parking, constructing streetscapes and to address environmental issues including remediation, due diligence and the elimination of blight.

### 3.7 Debt levies by LUGs

The capturing of debt is specific to the enabling statute, so review each carefully. In general, only the oldest statutes (DDA and TIFAA) permit the capture of debt millages.

### 3.8 School taxes and opt outs

Following voter approval of Proposal A in 1993, jurisdictions have the opportunity to opt out of new tax capturing plans under seven of the eight TIF acts. Opting out means a jurisdiction that has taxes which have been proposed for capture, may choose to not contribute all or some portion of the potential capture of the jurisdiction's taxes. Opting out requires formal action by the unit of government seeking to preserve its tax collections. The only tax capturing authority that currently lacks an opt out provision is a Brownfield Redevelopment Authority.

An authority may negotiate a "deal" with certain taxing jurisdictions which permits the authority to capture some, but not one hundred percent of the tax capture levy. When a Brownfield authority negotiates the capture of less than 100 percent of a specific jurisdiction's taxes, the authority is obligated to capture taxes from other jurisdictions in an identical proportion. Thus, if one jurisdiction benefits from a negotiated collection of only seventy-five percent of the permitted tax capture, then

the authority may capture no more than seventy-five percent of other collections. For other cases see, question seven of the Authorities FAQ.

Taxes defined as school taxes also enjoy an exclusion from capture. However, a Brownfield Redevelopment Authority may capture school taxes if approved by the state. Tax increment financing authorities which incurred financial obligations and debt prior to 1995, and used captured school taxes to meet those financial obligations and debt repayments, may continue to capture school taxes for the payment of those eligible obligations and debts.

### 3.9 Obligations and Debt of an Authority

There are many forms of obligations and eligible advances and instruments evidencing debt that an authority may have entered into. Each creates a potential for the state to reimburse a jurisdiction for lost revenue or the authority itself for a shortage in its tax captured collections. The rules and regulations governing how such instruments and obligations will be treated are complex, but the basic premise is, where a state law or constitutional restriction has arisen after an eligible debt was lawfully created, there will be a reimbursement to make the jurisdiction or the authority whole. These circumstances and rules are articulated within state forms 2604, 4650 and DS 4410 and their respective instructions.

## 4.0 VALUE CONCEPTS

Not only is there confusion between the taxable value considered as base or “initial taxable value” and the term “captured taxable value”, but confusion sometimes exists because of the concepts of “abated” values and “captured” values. So, we are going to visit those concepts again.

### 4.1 Difference between an “abated” and a “captured value”

The difference between taxable values used to calculate abated taxes and those taxable values used to calculate “captured taxes” is distinguishable by the tax roll the properties appear on.

Values for properties which are to have abated taxes are found on a “specific” tax roll. The “specific roll” is a tax roll created by law and used specifically and only for properties to be abated. Except for MSHDA and Commercial Forest Property, this roll excludes the value of land associated with a property and land value remains on the ad valorem tax roll.

It is possible for a tax capturing authority to have within its boundaries, properties that are abated. When that occurs, the authority may capture the specific taxes along with general ad valorem taxes.

### 4.2 Abatements - calculating new and frozen values

Once the land value is separated from all other values (real and personal) associated with the property in question, a specific roll can be created. The specific roll will list each assessable property and its associated taxable value. Taxable values are calculated using standard assessing methods on abated properties when there is no “frozen” value. Taxable value is determined property-by-property and the millage rate used to calculate taxes is applied to each individual property

Where there is a “frozen” abated value, the improved property value listed on the specific tax roll remains unchanged throughout the term of the full abatement. This frozen value is the assessed value existing on the effective date of the abatement. Some abatements provide a “ramp up” period during the latter years of the certificate.

### 4.3 Authorities - Base (Initial) and Captured Values

Captured taxable values for individual properties within a tax increment plan are not affected by any of the machinations associated with a specific tax. The value of each property is calculated using standard assessment practices and remains on the ad valorem tax roll unless the property has been approved for a specific tax in lieu of an ad valorem tax.

The methodology of determining a “base” and “captured value” for a tax capturing authority is unique. Unlike a specific tax roll where any number of individual taxable values exist, there is one and only one, appropriate base value and taxable captured value for each authority plan in each year. It is possible to have an authority with several plans.

The base (initial taxable value) is the total or aggregate value of all properties, real and personal, ad valorem and specific, which were included within the tax increment plan at the time of approval of the plan. This aggregate value is predicated on individual values approved as of the Fourth Monday in May, preceding the plan’s approval. Though there may be a change in the value of individual properties originally included within the plan, the base or “initial taxable value” never changes during the life of the plan. However, a plan can be modified adding or excluding property from the plan. Then, a new base value may be calculated for the new plans adopted by the authority.

The “captured value” used for computing captured taxes is simply the difference between the current year’s aggregate taxable value for all property within the authority and the base value established by the tax increment plan.

A “captured tax” is calculated by applying the appropriate millage rates to the appropriate captured value.

In part, because of confusion over exactly how to calculate the taxable value and subsequent captured taxes the State Tax Commission issued guidelines. A copy of one instruction follows. Look at the last line. The original may be referenced the state Treasury’s FAQ on tax capturing authorities found at:

<http://www.michigan.gov/printerFriendly/0,1687,7-238-43876-154693--F,00.html>

From the example below, it is very clear that the proper method of calculating the actual captured tax is based upon a roll-by-roll total, then applying the proper millage rate to each total captured value by roll and finally by summing the total of each individual roll calculation.

www.michigan.gov (To Print: use your browser's print function)				
		Release Date: October 24, 2006		
Last Update: March 08, 2007				
Frequently Asked Questions				
Tax Increment Financing				
Do we calculate captured value property by property, or roll by roll? (for Step 2 of form 2604/2967)				
Answer:				
Calculate captured value roll by roll. You will still need the base year value and the current year value for each parcel in the plan, but you should add them roll by roll, and then calculate the captured value for each roll.				
A simple example is:				
	Parcel	Base Year	Current Year	Captured Value
Homestead property	A	100	175	
	B*	\$ 25	\$ 0	
Homestead ad valorem roll		125	175	\$ 50
Non-homestead real	B*	\$ 0	\$ 50	
	C	\$ 75	125	
	D	\$ 95	\$ 90	
Personal property	E**	\$ 35	\$ 0	
	F	\$ 80	105	
Non-homestead av roll		285	370	\$ 85
IFT New, post 1993	G	0	205	
	H	0	400	
IFT New, post 1993 roll		0	605	605
* Note that parcel B switched rolls. (see "How do I report initial value? How do I report current value?").				
** Parcel E personal property was removed from the area after the initial year.				
Once these values are calculated roll by roll, you must compute the captured taxes by tax roll. Do not net the roll values together. Doing so would give you an incorrect calculation, because each roll is taxed at a different rate.				

The proper procedure is to simply sum the current year taxable value of all properties (real and personal) and compare that total value to the base value. If the current year value is greater than the base value, then a tax capture may take place. If the current year taxable value for all properties in the tax increment plan is less than the base value, then no capture may take place. It is important to track each property within the tax increment plan, but tax capture calculations are done only on the aggregate.

Oh, For Pete's Sake Which Rate Do I Use!

Property tax administration procedures and rules have changed dramatically since the first TIF plan was implemented in 1975.

Back in those days taxes were levied on the State Equalized Value and there was no such thing as a taxable value. Ad valorem millage rates were uniform. There

was no distinction between school millage rates for real property and personal property. There was no state education tax. There was no homestead and non-homestead rate.

A question exists ... because we now have multiple millage rates that did not exist when abatement and TIF laws were created, what is the proper procedure for designating values as either a base value or taxable value when such a choice needs to be made?

Here is an example. Suppose the original base value for the TIF under discussion was composed of both real and personal property. Suppose further, that the personal property consisted of both commercial and industrial property. Suppose further that there is an aggregate value within the district today which would permit both a tax capture and the base tax. Because we know the millage rates to be applied to the base and captured values will vary with the class and type of properties that comprise these two aggregate values, it will be important to be fair about how those values are allocated between base and captured values. Without formal guidelines from an administrative or judicial entity, the tax administrator must use judgement that will withstand public scrutiny.

Without the ability to cite authoritative guidelines, the author offers the following suggestions. Remembering the intent of tax capture laws is to preserve the original tax base (and presumably collection), it is recommended that when a decision has to be made, that the proportion of value between real and personal and the aggregate value be maintained as closely as possible.

If the original base consisted of eighty-five percent real property and fifteen percent personal property, and choices are to be made for the current allocation; then whatever is done should reflect the original ratio. Within the category of personal property, the ratio of commercial to industrial should be maintained in the same way. Current ratios should mimic original ratios. Whatever is done, should be done with the ultimate goal of being equitable and reasonable.

## 5.0 SAMPLE CALCULATIONS

Several simple examples of calculations for abated taxes and captured taxes follow. These examples are for illustrative purposes only. In the recent past, both terminology and specific rules have changed for existing laws and new laws have been added to the economic development repertoire. See Section 5 for basic rules.

In order to more fully understand exactly how the tax capturing mechanism works for various authorities, we will begin by completing basic tax calculations. In the table below we'll use a single property and taxable value to illustrate calculation methodologies for several basic abatement regulations. The calculations will be based upon the following millage levies.

MILLAGE RATE TABLE			
Millage Rates Non-Homestead	SUMMER	Millage Rates Non-Homestead	WINTER
5.2598	City	1.6186	County Operating
0.0000	City Debt	0.3927	Community Hospital (voted debt)
2.9532	Trash	0.3295	Senior Citizens (voted County)
<b>2.0000</b>	<b>City Police and Fire</b>	0.4993	Mosquito Control (voted County)
3.2372	County Operating	0.2496	Community Hospital (voted Operating)
18.0000	School Operating	0.3394	County Law Enforcement (voted)
3.9000	School Debt	0.1615	County Parks & Recreation (voted)
1.9417	ISD Special Ed	0.1997	County Museum (voted)
0.1455	ISD Operating	0.0497	County Juvenile Home debt (voted)
2.0427	Community College	0.4493	County Civic Center (voted)
3.0000	Public Transit		
3.9947	Public Library	<b>4.0000</b>	<b>City Police and Fire</b>
6.0000	State Ed Tax		<b>Note: public safety special is a PA 33 levy</b>
52.4748	NON-HOMESTEAD RATE	8.2893	NON-HOMESTEAD RATE
Total non-homestead millage rate		60.7641	
State Average Residential Rate	32.00 Mills		

## 5.1 A chart comparing abatement calculations for “new” construction

(In calculating this example, exclude all special assessment levies from calculations)

(Frozen value for OPRA is \$1,000,000; Current TV is \$3,000,000)

Act	Step	Taxable Value	Total Mills	Rule	Adj Mills	Other Action	Rate/Amt used 4 calc	Incentive TAX	Annual Savings
IFT - new	1	\$3,000,000	52.4748	Exclude Land Value; exclude SET	46.4748	46.4748/2	23.2374		
	2			Add SET back in	29.2374		29.2374	\$87,712	\$69,712
		\$3,000,000	52.4748	<i>Tax calculation without incentive</i>			52.4748	\$157,424	
NEZ New		\$3,000,000	34.4748	Use ½ State Average Residential Rate			16.0000	\$48,000	\$55,424
			34.4748	<i>Tax calculation without incentive</i>			34.4748	\$103,424	
Obs Prop.	1	\$3,000,000	52.4748	Calculate tax on frozen value minus P.P., Land and Real Value	52.4748	- \$2,000,000	\$1,000,000	\$52,475	
	2	\$3,000,000	24.0000	Use school and SET mills only; subtract Frozen value, land and P.P.	24.0000	- \$1,000,000	\$2,000,000	\$48,000	
		\$3,000,000	52.4748	<i>Tax calculation without incentive</i>			52.4748	\$157,424	\$56,949

## 5.2 Rules for levying ad valorem special assessments against specific taxes

**Ad Valorem Special Assessment Levy Table**

General Rule for Levy of Special Assessments against “specific tax” rolls					
Ad Valorem Levies	Exempt Property	MSHDA Pilot Properties	Renaissance Zone Prop	Abated Facilities	Tax Capturing Authorities
PA 33 (1951)	No	No	Yes	Yes Land Only	Yes
Non PA 33 Levies	Yes	Yes	Yes	Yes	Yes

**Note: Non-ad valorem special assessments may be levied against all real property unless a specific exemption exists.**

Chart by J. Turner Source Documentation: e-mail to J. Turner et alia from H. Heideman (Director, Tax Analysis Division, Michigan Department of Treasury) Dated November 20, 2007

*"Special assessments levied under Public Act 33 of 1951, MCL 41.801 - 41.813, do not apply to property exempt from the collection of taxes under the general property tax act. So special assessments levied under PA 33 of 1951 would be levied on the land on which an industrial facilities tax (IFT) or neighborhood enterprise zone (NEZ) tax facility is located, but not on the IFT or NEZ facility itself.*

Housing facilities subject to the MSHDA Act payment in lieu of taxes under M.C.L. 125.1415a and commercial forest property exempt from ad valorem taxes under M.C.L. 324.51105 are not subject to a special assessment levied under PA 33 of 1951. For special assessments levied under public acts other than PA 33 of 1951, the full special assessment is levied on the properties/facilities described above.

Since M.C.L. 211.7ff provides that property in a renaissance zone is not exempt from a special assessment levied by the local tax collecting unit in which the property is located, property in a renaissance zone remains subject to the full special assessments levied under Michigan law, including PA 33 of 1951."

### 5.3 Computing an abatement levy with new construction

(No land nor personal property in Taxable Value Figure)

Act	Step	Taxable Value	Total Mills	Rule	Adj Mills	Other Action	Rate/Amt used 4 calc	TAX	Annual Savings
IFT	1	\$1,000,000	52.4748	Exclude Land Value; exclude SET	46.4748	46.4748/2	23.2374		
	2			Add SET back in	29.2374			\$29,237	\$36,475
		\$1,000,000	52.4748	Tax calculation without incentive				\$52,475	
NEZ		\$1,000,000	34.4748	Use ½ State Average Residential Rate			16.0000	\$16,000	
			34.4748	Tax calculation without incentive				\$34,475	\$18,475
Obs Prop.	1	\$3,000,000	52.4748	Calculate tax on frozen value minus P.P., Land and Real Value	52.4748	- \$2,000,000	\$1,000,000	\$52,475	
	2	\$3,000,000	24.0000	Use school and SET mills only; subtract Frozen value, land and P.P.	24.0000	- \$1,000,000	\$2,000,000	\$48,000	
		\$3,000,000	52.4748	Tax calculation without incentive				\$157,424	\$56,949

## 5.4 Specific Taxes Allowable for Capture by Authorities

**Tax Increment Revenue**  
**Specific Taxes Allowable for Capture by Authorities**  
**As of July 20, 2009**

		Public Act Year							
		197 1975	450 1980	281 1986	381 1996	530 2004	280 2005	61 2007	94 2008
		DDA	TIFA	LDFA	BRFA	HNTIFA	CIA	NIA	WRITIFA
PA 189 of 1953	Lessees/Tax Exempt Prop	X	X	X	X	X	X	X	X
PA 198 of 1974	Industrial Facility Tax (IFT)	X	X	X	X	X	X	X	X
PA 255 of 1978	Commercial Facility Tax (CFT)	X	X	X	X	X	X	X	X
PA 385 of 1984	Technology Park	X	X	X	X	X	X	X	X
PA 224 of 1985	Enterprise Zone			X	X				
PA 147 of 1992	Neighborhood Enterprise Zone (NEZ)				X			X	
PA 146 of 2000	Obsolete Property Rehabilitation (OPRA)			X	X				
PA 260 of 2003	Eligible Tax Reverted Property Tax				X*				
PA 210 of 2005	Commercial Rehabilitation (CRA)				X			X	

\* Limited to amount not reserved for Land Bank Fast Track Authority (PA 258 of 2003)

## 5.5 Chart Illustrating Tax Capture

The basic principles of tax capturing is the same for all tax capturing statutes. There are variations in the way individual enabling statutes determine either the millage rate to be used or calculate the taxable value considered appropriate for a specific tax increment financing plan. A chart follows which illustrates some basic principles.

In general, millages levied for debt and certain obligations may not be captured. However, the capturing of debt millages is permitted under some statutes under some specific circumstances. In general, the captured taxable value is the difference between the “base” value established when the tax increment plan was approved. However, some acts (e.g. OPRA) use two taxable individual taxable values to calculate a tax levy that may be captured. Again, you must read the specific plan to determine which value or values are to be used in calculating a captured tax.

The chart which follows, illustrates the basic principles involved in calculating a captured tax and it references unique situations such as the existence of a specific tax and the impact of an ad valorem special assessment levy within an authority’s

boundaries. The millage rates used below are from the Millage Rate Table found on page 30:

- Total rate including all levied millages ... 60.7641
- Millage rate for ad valorem special assessment ... 6.0000 mills
- Millage rate for local schools ... 18.0000
- Millage rate for state education tax ... 6.0000
- Millage rate for debt ... 4.3424

<i>Chart</i>	Tax Calculation			
<b>Taxable Value</b>	DDA 1975 PA 197	LDFA 1986 PA 281	BRFA 1996 PA 381	NIA 2006 PA 61
<b>Base Value \$1,000,000</b> <i>Captured Value \$500,000</i>				
Total Ad Valorem "base levy"	\$60,764	\$60,764	\$60,764	\$60,764
Captured Tax - Millage excluding debt, schools, SET, special Assessment - applies to each form of authority listed 26.4217	\$13,210	\$13,210	\$13,210	\$13,210
Captured Tax from debt levy 4.3224 mills	\$2,166	\$0	\$0	\$0
Captured School Tax (assumes eligible obligations)* 24 mills	\$12,000	\$12,000	\$12,000	0
Ad Valorem Special Millage Rate 6.000 mills	\$0	\$0	\$0	\$0
Total annual capture	\$27,376	25210		

**\*Note: School Tax capture under DDA, LDFA and TIFA now limited to repayment of eligible obligations.** School tax capture under BRA requires state approval.

## 6.0 Some Suggested Guidelines

Tax capturing authorities can have wide variation in the tax status of various real and personal property - *each with a distinct millage rate*. Among the variations are:

1. Residential, commercial, industrial and all other “classes” of property defined by Michigan’s property tax laws
2. Properties of any class that have a *non-ad valorem special assessment levy*
3. Properties of any class that have an *ad valorem special assessment* levy
4. *Classes of property* with land values remaining on ad valorem tax rolls and improvements placed *on rolls as a “specific tax”*
5. Both real and personal property with unique ad valorem millage rates such as homestead and non-homestead; industrial and commercial personalty; and residential or agricultural personalty.

The purpose of any tax capturing plan is to encourage growth in the tax base. Growth means change. Change means the class of properties, the number of abated or other “specific tax” levies, the number and kind of special assessment levies and other circumstances within the microcosm of the jurisdiction’s total tax base will not remain static within the authority boundary. Therefore, **while it is an unchangeable truth that the aggregate taxable value of the “initial taxable value” must always remain unchanged, it is possible for the composition of properties making up the base value to change.**

Consider an authority with an “initial taxable value of \$1 million and a current taxable value of \$1.5 million. What would happen if all industrial personal property within the authority vanished due to plant closures , but there had been enough growth in real property values from other projects, that the authority might still capture taxes?

It is the multiplicity of applicable taxing rules and the constant change that presents a real challenge to any property tax administrator. For that reason, here are some general rules the author hopes will be helpful:

1. Taxes are sometimes captured on a property by property basis and sometimes captured by comparing the aggregate taxable value on all property within the authority. The value to be used is the current taxable value. Read the law to determine how to calculate captured taxes.
2. Of course, the tax is determined by both a millage rate and taxable value. The millage rate to be used is always the contemporary millage rate.
3. In calculating the tax capture, it may be helpful to ...
  - a. Before tax bills are run, create a data base and worksheet for calculation purposes consisting of all properties, real and personal, exempt and taxable, lying within the authority boundaries.
  - b. Separate the taxable values into aggregates of those that form the base value and those that form the captured value
  - c. Separate the values of those properties from which taxes may be potentially captured into subgroups by appropriate millage rate. For example, all properties for which the Taxable Value will be multiplied by the non-homestead ad valorem millage rate would fit into one category (this would include the taxable value associated with land for properties such as IFT, NEZ et cetera); all properties or parts of property with unique millage rates such as NEZ and IFT properties should be placed into another subgroup; all properties such as Renaissance Zone properties which may be exempted from certain ad valorem millage rates, but subject to millage rates (e.g. certain debt millages) that may be captured.
  - d. Once a proper identification of taxable values and appropriate millage rates has been made, and a base value has been distinguished from the total taxable value, follow Treasury's FAQ 3305 rules. Millage rates that must be excluded from the captured tax calculation are excluded. Each eligible captured taxable value subtotal is multiplied by the appropriate millage for the properties which comprise the subtotal.

e. The total tax revenue generated from all properties within the boundaries of the authority without regard to whether the tax may be captured or not is calculated. This means ad valorem and specific or other unique taxes created by application of a millage rate for a levy. The total of captured and non-captured taxes should be compared to the total levy and the sum of captured and non-captured taxes should equal the amount of total taxes levied within the authority.

f. If the sum of the captured and non-captured taxes do not equal the actual levy, determine where the error is and correct it. Once these values are in balance, the actual tax bills can be generated.

### Special Assessments

1. **Non Ad Valorem special assessment levies:**

A tax capturing authority *may not capture* a non-ad valorem special assessment levy (e.g. fixed levies such as sidewalk or street et cetera).

2. **Ad Valorem special assessment levies:**

A tax capturing authority *may not capture* an ad valorem special assessment levy

Source Documentation:

“On the special assessment levy table, I am concerned that the column labeled "Tax Capturing Authorities" may be read as stating that the authorities may capture special assessments--which they can't.” Personal correspondence (e-mail) dated August 22, 2008 from Howard J. Heideman to Joseph Turner. In a similar e-mail between the two parties dated July 21, 2008, the following quote by Mr. Heideman may be found: “TIF plans may not capture special assessments.” Mr. Heideman is the Director of Tax Policy Analysis, Office of Revenue and Tax Analysis., Michigan Department of Treasury

Note: Department of Treasury Tax Increment Financing FAQ follows on next page

## Other guidelines

- \* The term TIF indicates a tax increment financing tool permitting the capturing of certain taxes. This is a generic term for tax capturing authorities.
- \* A TIFA is the term applied to Public Act 450 of 1980, the Tax Increment Financing Act. It is not used interchangeably with “TIF”
- \* An authority is delineated by a geographically bounded area within which the authority has certain powers. A sub-unit or sub-units of the authority are geographic areas created within the development plan (and usually the tax increment financing plan) which are referred to in state of Michigan directives as “plan areas”.
- \* As a general rule, school taxes may only be captured to pay of “eligible advances” and “eligible obligations.” School taxes consist of levies for local schools, the intermediate school district and the state education tax. A community college is not a school tax within these definitions.
- \* See STC Bulletin 9 of 1997 for information concerning the authority’s annual reporting requirements. Technically, each authority is responsible for its own filing, but the assessor may be asked to assist.
- \* Treasury expects the jurisdiction’s treasurer or assessor to have completed what Treasury describes as an “ATW” (Assessor or Treasurer Worksheet).
- \* Authorities must be created through specific actions and dissolved through specific actions. It is wise to review the law applicable to the authority you are working with and speak with legal or other appropriate counsel to determine exactly what dates apply.
- \* Remember, except for tax increment financing plans actually approved on the 4<sup>th</sup> Monday in May of a year, the applicable initial taxable value is a value from the past - the preceding finally equalized values. For plans actually approved on the 4<sup>th</sup> Monday of May, the initial assessed value is the value on that date.
- \* It is possible to have a portion of a plan fall under one set of guidelines (pre-Proposal A rules) and another portion fall under contemporary rules.

- \* LDFA rules require form 2604 reports for each specific property not included within a “certified business park”. For properties located within a “certified business park” and most other authorities, a for 2604 covers multiple properties.
- \* Treasury’s FAQ form 3305 (rev 4-01) describes in detail a method for calculating captured value where values have changed since initiation.

## 7.0 Definition of Tax increment Revenues by Authority

**Brownfield Redevelopment Authority** M.C.L. 125.2562 (ee) “‘Tax increment revenues’ means the amount of ad valorem property taxes and specific taxes attributable to the application of the levy of all taxing jurisdictions upon the captured taxable value of each parcel of eligible property subject to a brownfield plan and personal property located on that property. Tax increment revenues exclude ad valorem property taxes specifically levied for the payment of principle of and interest on either obligations approved by the electors or obligations pledging the unlimited taxing power the local governmental unite and specific taxes attributable to those ad valorem taxes.”

**Corridor Improvement Act** M.C.L. 125.2873 (g) “‘Tax increment revenues’ means the amount of ad valorem property taxes and specific local taxes attributable to the application of the levy of all taxing jurisdictions upon the captured assessed value of real and personal property in the development area.”

**Downtown Development Authority** M.C.L. 125.1651(bb) “‘Tax increment revenues’ means the amount of ad valorem property taxes and specific local taxes attributable to the application of the levy of all taxing jurisdictions upon the captured assessed value of real and personal property in the development area, subject to the following requirements: ...”

**Historical Neighborhood Tax Increment Finance Authority Act** M.C.L. 125.2843 (3)(f) “‘Tax Increment revenues’ means the amount of ad valorem property taxes and specific local taxes attributable to the application of the levy of all taxing jurisdictions upon the captured assessed value of real and personal property in the development area.”

**Local Development Financing Authority Act** M.C.L. 125.2152(2)(ee) “‘Tax increment Revenue’ means the amount of ad valorem property taxes and specific local taxes attributable to the application of the levy of all taxing jurisdictions upon the captured assessed value of eligible property within the district, or for purposes of a certified technology park, real or personal property that is located within the certified technology park and included within the tax increment financing plan, subject to the following requirements:”

**Neighborhood Improvement Authority Act** M.C.L. 125.2913(3)(g) “Tax increment revenues’ means the amount of ad valorem property taxes and specific local taxes attributable to the application of the levy of all taxing jurisdictions upon the captured assessed value of real and personal property in the development area.”

**TIFAA** M.C.L.A. 125.1801(1)(aa) “Tax increment revenues’ means the amount of ad valorem property taxes and specific local taxes attributable to the application of the levy of all taxing jurisdictions upon the captured assessed value of real and personal property in the development area, subject to the following requirements: ...”

**Water Resource Improvement Tax Increment Financing Authority Act** M.C.L. 125.1773(3)(f) “Tax increment revenues” means the amount of ad valorem property taxes and specific local taxes attributable to the application of the levy of all taxing jurisdictions upon the captured assessed value of real and personal property in the development area.”

## PREPARING FOR A CLASS EXAMPLE OF SPECIFIC TAX LEVIES AND TAX CAPTURE

This course will cover 16 property tax laws directly targeting issues of importance to those involved in fighting blight, joblessness and other economic development incentives. Eight of the laws involve relief of a tax burden for property owners. Eight of the laws involve capturing new tax revenues above a certain base and using the captured revenues for public improvements or improvements permitted by the authorizing legislation.

In cases where the applicable law provides relief from a tax burden, such as property exemptions, the property value is simply reduced to zero for purposes of tax calculations. In cases of property tax abatements, the value may be “frozen” at some level or the applicable millage rate may be changed (reduced). Property tax abatements belong a class of tax incentives known as “specific taxes.” In the case of tax capturing authorities, such as the Downtown Development Authority (DDA) or Brownfield Authorities, the tax burden is not lowered. In fact, tax capturing authorities only work when the tax collection rises above a beginning or “base” level. So, administrators of tax capturing authorities don’t seek to lower taxes, they want higher tax collections. In fact, a DDA can actually levy up to two mills.

To begin to understand these processes and the overall mosaic of property taxation created when these laws are employed, one must begin with the fundamental principle of property taxation encompassed within the following formula: a property tax is equal to a property value times a millage rate. The laws under discussion in this class achieve their purpose by changing either the value which is to be used in that formula or the millage rate to be used.

The single formula articulated above is the foundation for ad valorem taxation. To achieve economic development goals, legislation modifies the components (value and millage rates) employed in the formula above. These modifications lead to a unique form of property taxation known as the “specific tax.”

Specific taxes and ad valorem taxes are similar but each type of tax is calculated and summarized on its own unique accounting record commonly known as a property tax roll. Thus there may be an “ad valorem” tax roll, a tax roll for the “specific tax” known as the Industrial Facilities Tax, the Neighborhood Enterprise

Zone tax and many other “specific taxes.”

Reading individual abatement and exemption acts and applying the rules they articulate to the basic property tax formula stated early is sufficient to enable a student to calculate each of the eight specific tax and exemptions laws we'll study in this class.

However, implementation of tax capturing legislation involves a more complex understanding of property tax law. In order to achieve that understanding, it is suggested that students utilize an analytical tool referred to by its acronym IRAC.

IRAC stands for Issue, Rule, Analysis and Conclusion. IRAC is a process whereby an issue (in this case the proper amount of tax which may be captured) is determined by assembling all applicable rules, analyzing the interaction of the rules and then applying them to the property values and millages rates and once, the proper millage rates and values have been determined, concluding the exact amount of the overall tax levy that may be captured.

In the class example which follows, the basic property tax formula will be applied to generate both ad valorem and specific taxes. Once a total tax levy has been determined, the class will apply more rules to ascertain exactly how much money can be extracted from the pool of total taxes collected. The extracted money will be "captured" and given to appropriate taxing units.

The example, then, consists of several procedures. A list of existing properties will be compiled. Each property will be imbued with a current taxable value, an "initial taxable value" and in some cases a third value which may be either a "frozen value" or a preceding value. Millage rates will be established for a tax levy. The millage rates will be categorized by functions related to various laws. There will be "operating" millage rates, "debt" millage rates and so forth. Students will learn to discriminate between the term "school" millage rates as used in specific tax formulas and "school" millage rates as they apply to tax capturing legislation.

The result will be some tax levies may be captured and some may not be captured, depending upon which millage rate was used to generate the tax. Consequently, the "total" tax levy on each property must be apportioned to each of the identified taxing jurisdictions.

Sometimes the apportionment will be based upon the individual millage rates which constitute the total millage rate used in the basic tax formula for the levy. In other cases, the authorizing legislation requires a single millage rate to be used in

the calculation. The millage rate will have no connection to the ad valorem levy. When that happens, students will be required to apportion taxes based upon a special rule.

Some taxes may be captured and some may not depending on exact legislation authorizing the levy. For example, Tax Increment Financing Act legislation (PA 450, 1980) does not permit a capture of certain specific tax levies which a Brownfield Authority (PA 381, 1996) may capture. The laws permit some jurisdictions to “opt out” of a tax capturing program. School taxes may or may not be captured. There is also the issue of “ad valorem special assessment” levies. In addition to referencing the authorizing legislation, certain tools will be provided to students to assist them in determining which taxes may be captured and which may not. The example will end with a demonstration of the tax capture.

In summary, the class example provides guidance in three areas: students will compute actual tax levies; students will determine an apportionment of the levies for each of several categories of millage rate and, based upon the apportionment and other rules, students will determine the proper amount of the total taxes that may be captured.

**CLASS EXAMPLE OF TAX CALCULATION AND TAX CAPTURE**

List of Seven Properties to be used for Calculations

Rule: Value times millage rate yields a “specific tax” or an ad valorem tax

Property I.D.	Current use. of Prop	Initial A.V.	Current A.V.	2008 value
Property 1	Industrial P.P.	\$10,000	\$13,000	
Property 2	Non-Homestead Real	\$10,000	\$20,000	
Property 3	NEZ	\$10,000	\$10,000	
Property 4	OPRA	\$20,000	\$100,000	\$20,000
Property 5	New IFT Real	\$20,000	\$100,000	
Property 6	Act 255	\$20,000	\$100,000	\$20,000
Property 7	Principle Residence	\$20,000	\$100,000	

<b>RULES FOR CALCULATIONS</b>				
Calculating taxes: Value X millage rate = property tax				
Rule for apportioning tax: Total tax levy times percentage determined from normal levy				
Total millage rate consists of components; some can be captured some cannot				
45 Total Mills	16 mills operating	Local Sch 18 mills S.E.T. 6 mills I.S.D. 1 mill	3 mills debt retirement	1 mill sinking fund
Apportionment ratios for specific taxes; rule category millage rate divided by total				
45 mills = 100%	16/45 = .36	18/45 = .40 6/45 = .13 1/45 = .02	3/45 = .07	1/45 = .02
Fixed specific tax rates		24 Mills OPRA	15.5 mills NEZ	

## VALUATION BASE FOR FUTURE TAX CAPTURE

1980 TIFA PROPERTIES I.A.V. (I.A.V. means Initial Assessed Value)		Brownfield I.A.V.	Current S.E.V.
Parcel I.D.	Initial Assessed Value	2008 I.A.V.	
Property 1 Industrial .P.P.	\$10,000	\$15,000	\$13,000
Property 2 Non-Homestead Real	\$10,000	\$15,000	\$20,000
Property 3 NEZ new	\$10,000	\$15,000	\$100,000
Property 4 OPRA	\$20,000	\$20,000	\$100,000
Property 5 IFT New Real	\$20,000	\$20,000	\$100,000
Property 6 Act 255	\$20,000	\$20,000	\$100,000
Property 7 New P.R.E.	\$20,000	\$20,000	\$100,000

Parcel 1 Calculations: Industrial Personal Property: Ind. P.P.; Current Value \$13,000				
<i>Tax levy</i> formula Tax = value times millage rate: \$13,000 X (.045-.024) = \$273			\$273	
Operating Levy	\$13,000 X .016 = \$208	\$208		
Local School Levy	\$13,000 X 0 = \$ 0	\$0		
State Education Tax	\$13,000 X 0 = \$ 0	\$0		
Intermediate School District	\$13,000 X .001 = \$13	\$13		
Debt	\$13,000 X .003 = \$39	\$39		
Sinking Fund	\$13,000 X .001 = \$13	\$13		
<i>Total of individual categories</i>		\$273		
<b>Check for agreement</b>	<b>Levy by category</b>	<b>\$273</b>	<b>Levy line 2</b>	<b>\$273</b>

Parcel 2 Calculations: Non-Homestead Real Property; Current Value \$20,000				
<i>Tax levy</i> formula Tax = value times millage rate: \$20,000 X (.045) = \$900			\$900	
Operating Levy	\$20,000 X .016 = \$320	\$320		
Local School Levy	\$20,000 X .018 = \$360	\$360		
State Education Tax	\$20,000 X .006 = \$ 120	\$120		
Intermediate School District	\$20,000 X .001 = \$ 20	\$20		
Debt	\$20,000 X .003 = \$ 60	\$60		
Sinking Fund	\$20,000 X .001 = \$ 20	\$20		
<i>Total of individual categories</i>		\$900		
<b>Check for agreement</b>	<b>Levy by category</b>	<b>\$900</b>	<b>Levy line 2</b>	<b>\$900</b>

Parcel 3 Calculations: New NEZ; Current Value \$100,000				
<i>Tax levy formula</i> Tax = value times ½ state avg rate: \$13,000 X (.0155) = \$1550			\$1,550	
Operating Levy	\$1550 X .36 = \$558	\$558		
Local School Levy	\$1550 X .40 = \$620	\$620		
State Education Tax	\$1550 X .13 = \$202	\$202		
Intermediate School District	\$1550 X .02 = \$31	\$31		
Debt	\$1550 X .07 = \$108	\$108		
Sinking Fund	\$1550 X .02 = \$31	\$31		
<i>Total of individual categories</i>		\$1,550		
<b>Check for agreement</b>	<b>Levy by category</b>	<b>\$1,550</b>	<b>Levy line 2</b>	<b>\$1,550</b>

Parcel 4 Calculations: OPRA; Current Value \$100,000; Frozen Value: \$20,000				
<i>Tax levy</i> 125.2790(2)a			\$900	
formula Tax = Frozen value times millage rate: \$20,000 X (.045) = \$900				
Operating Levy	\$20,000 X .016 = \$320	\$320		
Local School Levy	\$20,000 X .018 = \$360	\$360		
State Education Tax	\$20,000 X .006 = \$120	\$120		
Intermediate School District	\$20,000 X .001 = \$20	\$20		
Debt	\$20,000 X .003 = \$60	\$60		
Sinking Fund	\$20,000 X .001 = \$20	\$20		
<i>Total of individual categories</i>		\$900		
<b>Check for agreement</b>	<b>Levy by category</b>	<b>\$900</b>	<b>Levy line 2</b>	<b>\$900</b>

Parcel 4 Calculations 2790(2)b: OPRA ; Current Value \$100,000; Frozen Value \$20,000				
<i>Tax levy</i> (Note: unless captured, OPRA money goes to State Education Fund)			\$1,920	
formula Tax = value times millage rate: \$80,000 X (.024) = \$1920				
Operating Levy	\$1920 X .36 = \$691	\$691		
Local School Levy	\$1920 X .40 = \$768	\$768		
State Education Tax	\$1920 X .13 = \$250	\$250		
Intermediate School District	\$1920 X .02 = \$38	\$38		
Debt	\$1920 X .07 = \$135	\$134		
Sinking Fund	\$1920 X .02 = \$38	\$38		
<i>Total of individual categories</i>		\$1,920		
<b>Check for agreement</b>	<b>Levy by category</b>	<b>\$1,920</b>	<b>Levy line 2</b>	<b>\$1,920</b>

Apportionment Table for IFT New Real Calculations			
Formula: Total millage rate minus SET divided by 2; then add SET back in ( rate = 25.5 mills)			Ratio
Operating portion	$16/2 = 8$ mills	8	$8/25.5 = 31\%$
Local Schools	$18/2 = 9$ mills	9	$9/25.5 = 35\%$
State Educations	6 mills	6	$6/25.5 = 24\%$
Intermediate School District	$1/2 = 0.5$ mills	0.5	$0.5/25.5 = 2\%$
Debt	$3/2 = 1.5$ mills	1.5	$1.5/25.5 = 6\%$
Sinking Fund	$1/2 = 0.5$ mills	0.5	$0.5/25.5 = 2\%$
Millage Rate for specific tax IFT New Real		25.5	100.00%

Parcel 5 Calculations: Industrial Personal Property: New Real; Current Value \$100,000				
<i>Tax levy</i> formula Tax = value times millage rate: $\$100,000 \times ((.045-.06)/2)+6 = \$2550$			\$2,550	
Operating Levy	$\$2550 \times .31 = \$791$	\$791		
Local School Levy	$\$2550 \times .35 = \$893$	\$893		
State Education Tax	$\$2550 \times .24 = \$612$	\$612		
Intermediate School District	$\$2550 \times .02 = \$51$	\$51		
Debt	$\$2550 \times .06 = \$153$	\$153		
Sinking Fund	$\$2550 \times .02 = \$51$	\$51		
<i>Total of individual categories</i>			\$2,550	
<b>Check for agreement</b>	<b>Levy by category</b>	<b>\$2,550</b>	<b>Levy line 2</b>	<b>\$2,550</b>

Apportionment Table for Act 255 Restored Real Property Calculations			
Formula: Frozen value times current millage rate equals 207.850(8)a calculation of specific Act 255 tax			Ratio
Operating portion	$16/45 = 36\%$	.36	$8/25.5 = 31\%$
Local Schools	$18/45 = 40\%$	.40	$9/25.5 = 35\%$
State Educations	6 mills	6	$6/25.5 = 24\%$
Intermediate School District	$\frac{1}{2} = 0.5$ mills	0.5	$0.5/25/5 = 2\%$
Debt	$3/2 = 1.5$ mills	1.5	$1.5/25.5 = 6\%$
Sinking Fund	$\frac{1}{2} = 0.5$ mills	0.5	$0.5/25/5 = 2\%$
Millage Rate for specific tax IFT New Real		9.26	100.00%

Parcel 6 Calculations: Comm Act 255 Real; Current Value \$100,000; Frozen Value \$20,000				
<i>Tax levy 8a calculation</i> formula Tax = Frozen value times millage rate: $\$20,000 \times (.045) = \$900$			\$900	
Operating Levy	$\$20,000 \times .016 = \$320$	\$320		
Local School Levy	$\$20,000 \times .018 = \$360$	\$360		
State Education Tax	$\$20,000 \times .006 = \$120$	\$120		
Intermediate School District	$\$20,000 \times .001 = \$20$	\$20		
Debt	$\$20,000 \times .003 = \$60$	\$60		
Sinking Fund	$\$20,000 \times .001 = \$20$	\$20		
<i>Total of individual categories</i>		\$900		
<b>Check for agreement</b>	<b>Levy by category</b>	<b>\$900</b>	<b>Levy line 2</b>	<b>\$900</b>

Parcel 6 Calculations (2)b: CFT (Act 255) ; Current Value \$100,000; Frozen Value \$20,000 Part 207.850(8)b calculation				
<i>Tax levy</i> (Note: unless captured, CFT money goes to State Education Fund) formula Tax = value times millage rate: \$80,000 X (.024) = \$1920				\$1,920
Operating Levy	\$1920 X .36 = \$691	\$691		
Local School Levy	\$1920 X .40 = \$768	\$768		
State Education Tax	\$1920 X .13 = \$250	\$250		
Intermediate School District	\$1920 X .02 = \$38	\$38		
Debt	\$1920 X .07 = \$135	\$134		
Sinking Fund	\$1920 X .02 = \$38	\$38		
<i>Total of individual categories</i>		\$1,920		
<b>Check for agreement</b>	<b>Levy by category</b>	<b>\$1,920</b>	<b>Levy line 2</b>	<b>\$1,920</b>

Parcel 7 Calculations: New Principle Residence: Current Value \$100,000				
<i>Tax levy</i> formula Tax = value times millage rate: \$100,000 X (.045-.018) = \$2700				\$2,700
Operating Levy	\$100,000 X .016 = \$1,600	\$1,600		
Local School Levy	\$100,000 X 0 = \$ 0	\$0		
State Education Tax	\$100,000 X .006 = \$600	\$600		
Intermediate School District	\$100,000 X .001 = \$100	\$100		
Debt	\$100,000 X .003 = \$300	\$300		
Sinking Fund	\$100,000 X .001 = \$100	\$100		
<i>Total of individual categories</i>			\$2,700	
<b>Check for agreement</b>	<b>Levy by category</b>	<b>\$2,700</b>	<b>Levy line 2</b>	<b>\$2,700</b>

Levy Summary All Parcels				
<i>Tax levy</i> formula Tax = Sum of each individual tax levy				\$13,613
Operating Levy	\$208+\$320+\$558+\$320+\$691+\$791+\$320+\$1600+691	\$5,499		
Local School Levy	\$360+\$620+\$360+\$768+\$893+\$360+768	\$4,129		
State Education Tax	\$120+\$202+\$120+\$250+\$612+\$120+\$600+250	\$2,274		
Intermediate School District	\$13+\$20+\$31+\$20+\$38+\$51+\$20+100+38	\$331		
Debt	\$39+\$60+\$108+\$60+\$134+\$153+\$60+\$300+\$135	\$1,049		
Sinking Fund	\$13+\$20+\$31+\$20\$38+\$51+\$20+\$100+\$38	\$331		
<i>Total of individual categories</i>			\$13,613	
<b>Check for agreement</b>	<b>Levy by category</b>	<b>\$13,613</b>	<b>Levy line 2</b>	<b>\$13,613</b>

Note: This example includes a modified parcel 6 calculation which increases total tax collections by \$1920 over the amount used in the Sept 2009 class.

## Begin Tax Capture Calculations

Methodology employed based upon I.R.A.C.

**I**ssue            Capture taxes based upon PA 450 of 1980 and, time permitting, per Brownfield Act

**R**ule            Find all rules which apply to various levies and captures

**A**nalysis       Apply appropriate rules to calculate tax levies and tax capture

**C**onclusion      State specific amount of captured taxes

Rules:            Procedures outlined in Act 450 of PA of 1980; Michigan Department of Treasury guidelines on capture of special assessment levies and specific tax levies; statutory and administrative guidelines with regard to tax computations for each category of tax: specific and ad valorem; and legislative mandates with regard to permitted tax captures

### Analysis:

Tax captures are limited by: type of levy (ad valorem and specific); by the category of millage rates, by the difference between the amount of initial assessed value and the current taxable value, by jurisdictions that may “opt out”

For this analysis the initial capture is being conducted for a TIFA (P.A. 450 of 1980).

There are seven categories of properties proposed for tax capture.

Within the ad valorem levies there are: real non-homestead property and a real homestead property and one industrial personal property.

There are four specific tax levies. They include: an NEZ, an OPRA, an IFT new real and an Act 255 commercial facilities levy.

According to our survey of tax laws, the TIFA may capture taxes from each ad valorem levy, but it may not capture school taxes. TIFAs may capture debt levies. As a footnote, for tax capturing purposes a “sinking fund” levy is not considered a school tax.

The TIFA is only permitted to capture some forms of specific tax. Referring to the chart provided on page 17 of the text it is clear that of the specific tax levies made within the TIFA district only the IFT and Act 255 (CFT) levies may be captured.

Therefore our analysis indicates a spreadsheet capable of handling the initial and current taxable values for each property eligible for capture should be created. The spreadsheet should include a computation involving the initial taxable value for each property from which taxes are to be captured and the present taxable value for each of those same properties. The computation will include a proper millage rate so that the basic formula for calculating a captured tax using instruction from Act 450 can be clearly illustrated for state officials and any other interested party.

An example of a suitable table for determining captured taxes follows on the next page. While the table only shows one property per tax roll for the assessor's worksheet, most jurisdictions will have a number of properties which comprise each of the tax rolls needing analysis.

This example, shows the interaction between seven differing parcels of real estate and a tax capture permitted by one tax capturing authority. However, it is reasonable and very possible that a single taxing jurisdiction may have two or more tax capturing authorities overlaid, one on top of the other. In such situations, the general rule is the first authority established gets to capture whatever it desires pursuant to appropriate laws and authorities that follow may only capture what is not captured by pre-existing tax capturing authorities.

## TABLE SUITABLE FOR COMPUTING CAPTURED TAXES

Assessor's Worksheet for Act 450 tax capture						
Roll Identifier	Parcel	Initial Assessed Value	Current Taxable Value	Captured Taxable Value	Applicable Millage Rate	Captured Tax
Roll 1 Ad Valorem P.P	P 1	\$10,000	\$13,000	\$3,000	20	\$60
Roll 2 Ad Valorem N.H.Real	P 2	\$10,000	\$20,000	\$10,000	20	\$200
Roll 3 Ad Valorem Homestead	P 7	\$20,000	\$100,000	\$80,000	20	\$1,600
Roll 4 IFT new Real	P 5	\$20,000	\$100,000	\$80,000	10	\$800
Roll 5 207.850(2)a calculation	P 6	\$20,000	\$20,000	-0-	20	\$0
207.850(2)b School capture not permitted	P 6	\$20,000	\$100,000	\$80,000	-0-	\$0
Total Capture						\$2,660
Total all levies						\$13,613