

RENAISSANCE ZONE AND TAX INCREMENT FINANCING DISTRICT - POSSIBILITY OF OVERLAPPING TERRITORY

This memorandum was requested to determine whether property may be contained in a renaissance zone and a tax increment financing district.

RENAISSANCE ZONES

A city may apply under North Dakota Century Code Section 40-63-02 for Department of Commerce Division of Community Services approval designating a portion of the city as a renaissance zone. Under Section 40-63-03, the zone approval application must show all of the following criteria:

1. The property must all be within the boundaries of the city.
2. The city must propose a development plan.
3. The renaissance zone may not be more than 23 square blocks but may be expanded up to 38 blocks at a rate of one additional block for each 5,000 population beginning at a population level of 10,000.
4. All blocks in the zone must be contiguous except a single noncontiguous area not exceeding three square blocks may be included.
5. Proposed land usage for zoned property must include both commercial and residential property.
6. The application must include the proposed duration of renaissance zone status, not exceeding 15 years. The Department of Commerce Division of Community Services may extend the duration of renaissance zone status in increments of up to five years.

The primary incentives for property owners or purchasers of renaissance zone property are income and property tax exemptions.

Income Tax Exemptions

1. An individual who purchases or rehabilitates single-family residential property as a primary residence as a zone project is exempt from up to \$10,000 of personal income tax liability for five taxable years after the date of occupancy or completion of rehabilitation.
2. A taxpayer that purchases, leases, rehabilitates, or makes leasehold improvements to residential, public utility infrastructure, or commercial property for any business or investment purposes as a zone project is exempt from any tax on income derived from the business or investment location for five taxable years beginning with the date of purchase, lease, or completion of rehabilitation.
3. If the cost of a new business purchase, leasehold improvement, or expansion of an

existing business as a zone project exceeds \$75,000 and the business is in a city with a population not more than 2,500, an individual taxpayer may elect to take an income tax exemption of up to \$2,000 of personal income tax liability for up to five taxable years.

4. If a property owner not participating in a renaissance zone project is required to make changes in utility services or building structure because of changes to property that is part of a zone project, the owner of the nonparticipating property is entitled to a state income tax credit equal to the amount of investment required to complete the required changes.
5. A credit against financial institutions tax, individual income tax, and corporate income tax is allowed for investments in historic preservation or renovation of property in a renaissance zone. The credit is 25 percent of the amount of investment, up to a maximum of \$250,000. The credit may be claimed in the year in which the preservation or renovation is completed and any excess credit may be carried forward for up to five taxable years.
6. A credit against financial institutions tax, individual income tax, and corporate income tax is allowed for investments in a renaissance fund organization. The credit is 50 percent of the amount invested and the credit may be carried forward for up to five taxable years. Renaissance fund organization investments are limited to a total amount of credits not exceeding \$7.5 million for investments in renaissance fund organizations.

Property Tax Exemptions

1. A city may grant a partial or complete property tax exemption for single-family residential property, exclusive of the land, if the property was purchased or rehabilitated by an individual as a primary place of residence as a zone project.
2. A city may grant a partial or complete property tax exemption on buildings, structures, fixtures, and improvements purchased or rehabilitated as a zone project for any business or investment purpose for up to five years following the date of purchase or completion of rehabilitation.

TAX INCREMENT FINANCING DISTRICTS

A city may establish a tax increment financing district by adopting a resolution finding that one or more slum or blighted areas or industrial or

commercial properties exist which require development, rehabilitation, conservation, or development in the public interest. The city must prepare a development or renewal plan and hold a public hearing for consideration of the plan. After the hearing, the governing body may approve the plan.

To implement the plan, the city has authority to borrow money and accept financial assistance from any available source. The city may appropriate funds and make expenditures to carry out the plan. The city may issue bonds to finance the project and may issue refunding bonds to retire bonds previously issued.

Tax increment financing is used as the repayment mechanism for bonds issued for a development plan. At the time of establishment of a tax increment financing district, valuation of property within the district is "frozen" for property tax purposes. The property and any improvements made to the property, continue to be subject to the full rate of property taxes levied on property within the city. However, the incremental value of the property, which is the value of the property and improvements exceeding the "frozen" value, is essentially taxable only by the tax increment financing district and all property taxes against the incremental value are segregated in a special fund that may be used only for repayment of bonds issued to finance the project. This means that the city, county, school district, and any other taxing district will continue to receive property taxes levied only against the "frozen" value of the property. When the cost of the project and any related indebtedness has been fully paid and all bonds have been retired,

any amount on hand in the tax increment fund must be distributed by the county treasurer to the state and all political subdivisions having power to tax the property in amounts proportionate to the amount of tax losses.

As an alternative to sale of bonds for a tax increment financing district, the city may grant a total or partial property tax exemption for the project in order to provide assistance to a project developer. The property tax exemption is limited to the tax increment value of the property. The property tax exemption may not extend for more than 15 years.

OVERLAP OF RENAISSANCE ZONE AND TAX INCREMENT FUND FINANCING PROPERTY

It appears there is nothing provided by statute to prohibit property from being incorporated in both a renaissance zone and a tax increment financing district. Renaissance zone property is eligible for a property tax exemption, which would be incompatible with the purpose of a tax increment financing district, which is to continue property tax collection against property but divert part of the revenue to a tax increment fund for financing the improvements. However, the property tax exemption for renaissance zone property is optional. This could be used by a city to provide renaissance zone income tax credits but no renaissance zone property tax exemption and to also include the property in a tax increment financing district to finance improvements.