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Good news on TIFs

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A decision by the Mass. Appellate Tax board provides helpful guidance regarding the effect of a tax increment financing (TIF) arrangement on corporate excise taxes. The board held that the book value of real estate that was the subject of a TIF could be excluded from the non-income measure of the corp. excise tax.

A retail business had entered into a TIF with a Mass. town. A TIF, which is a product of Mass. statute, enables localities to attract business by permitting the locality to exclude a portion of the value of business property from local taxation. The TIF agreement sets out tax exemption percentages that will apply to the business's property during a specific term of years. In return, the business typically offers to make good faith efforts to employ residents and engage resident contractors.

The issue before the board was whether the book value of the property that was the subject of the TIF should be included in the nonincome measure of the business's corp. excise tax. Under Mass. general law, if real estate is subject to local taxation, then it is properly excluded from the non-income measure.

The business had excluded the book value of the property from the tangible property tax base reported on its corp. excise return. On audit, the commissioner determined that the property wasn't subject to local taxation due to the TIF and consequently, the property should have been included in the tangible property tax base.

The board disagreed with the commissioner, pointing out that although the TIF provided some exemption from local taxation, it didn't provide a blanket exemption from local taxation of the property. The book value of the property didn't need to be included in the tangible property tax base of the business corp. excise tax return.

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