GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Chief Financial Officer

Office of Revenue Analysis

MEMORANDUM

TO: District of Columbia Tax Revision Commission

FROM: Jeffrey Oakman, Fiscal Analyst, ORA
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DATE: January 29, 2013

SUBJECT: Background on District Programs that Use Tax Policy to Promote Economic Development

The Tax Revision Commission's February 4, 2013, meeting will include a presentation on the District's use of tax code tools to spur economic development over the past fifteen years. This memo provides more extensive background on the programs and issues that will be discussed in that presentation, divided into three categories:

I. Debt Financing,
II. Tax Incentives, and
III. Private Activity Bonds

This background and the analysis to be presented on February 4th will be combined into a paper to be submitted to the Commission in March 2013.

I. DEBT FINANCING – PROGRAMS AND RELATED ISSUES

Tax Increment Financing (TIF) Program

Tax Increment Financing (TIF) is a public financing tool that has been commonly used in the United States in recent decades to fund economic development projects. TIF programs vary widely across states and municipalities, but the basic principle is the same – using estimated future revenue streams to finance the current improvements that are expected to generate those future revenue increases.

The District first established its TIF Program with the *Tax Increment Financing Authorization Act of 1998* (as amended, the "TIF Act").[1] The TIF Act authorizes the District to designate a development project as a TIF Area and to issue tax increment bonds or notes ('TIF bonds") to pay a portion of the costs of the project in the TIF Area. The debt service on the TIF bonds is paid from the incremental increase in the dedicated real property and sales tax revenues generated from the project TIF Area. TIF bonds by law are not general obligation debt of the District, and do not carry a pledge of the taxing power or the full faith and credit of the District. However, they do count against the District's debt ceiling, as discussed further below.

The District's TIF program is geographically limited. Originally, TIFs were allowed in sections of the District defined by the TIF Act as "priority development areas."[2] The *Retail Incentive Act of 2004* expanded the TIF program to include "Retail TIF bonds" that can fund a portion of the costs of retail development projects in certain designated "Retail Priority Areas," and it defined the Downtown Retail Priority Area for TIF use.[3] Subsidies of up to $5 million per project have been provided to defray the cost of tenant improvements for several apparel shops and entertainment destinations in the Downtown Retail Priority Area. Subsequent Council bills, most notably the *Great Streets Neighborhood Retail Priority Areas Approval Resolution of 2007*, have defined Retail Priority Areas in neighborhood commercial centers outside downtown DC and authorized bond amounts specific to each.[4] In some cases the District has pledged some of the incremental tax revenues from the Downtown TIF Area as additional security for some TIF bonds for the purposes of credit enhancement, but Downtown TIF Area incremental tax revenues are not set aside from the General Fund for this purpose, and TIFs cannot be approved unless the expected incremental revenue from the TIF Area for the project is sufficient to cover the debt service. The map in Appendix A shows the areas of the District where TIF can be used.

The project-specific orientation of the District's TIF program makes it unusual among TIF programs in the United States. Under the District's program, the TIF Area is generally the footprint of the property to be developed, so the TIF bonds are paid from the additional revenues the District would realize as a direct result of the development. TIF bond proceeds are used to pay project costs including, but not limited to, land acquisition and preparation costs, costs of constructing buildings and infrastructure, soft costs such as architecture and engineering, and financing costs. In many other cities, TIF has been used more commonly to fund public infrastructure improvements that allow certain areas of a city to develop. In such programs, a much larger TIF area is drawn, and TIF bonds finance improvements such as public transit, roadways, or utility lines that are considered necessary up-front investments to induce development in the TIF area. In turn, the incremental revenues from all properties within the TIF area, which presumably will be increasing as property values rise with development, are set aside to pay bond debt service. One result of the District program's project-specific orientation

[1] Effective April 27, 1999 (D.C. Law 12-143; D.C. Official Code §2-1217.02(b)).
[2] Defined on Page 4 of the TIF Act, available at http://dcclims1.dccouncil.us/images/00001/CP12/089895587_1.PDF.
[3] Effective September 8, 2004 (D.C. Law 15-185; D.C. Official Code § 2-1217.71(5)).
[4] Effective July 10, 2007 (Res. 17-257; 54 DCR 7194).

is that if a TIF project has a beneficial effect on the property values of neighboring properties, the incremental increases in tax revenue on those properties go to the District's General Fund, not to pay off the TIF bonds. In theory, then, TIF investments in the District may have a more immediate positive impact on District revenues than do TIF investments in municipalities with more traditional programs.

The aggregate of TIF bonds authorized by the TIF Act and Retail TIF bonds is subject to a $500 million cap, but the District has been able to issue debt in excess of that $500 million cap by authorizing its most recent TIF bonds through separate project-specific legislation. The most important constraint on further TIF bond authorizations is in fact the District's Debt Ceiling, discussed in detail below, not the TIF bond cap. The following is a list of all TIFs currently authorized in the District.

Project Name	Initial Issuance Amount	Outstanding as of 8/1/2012	Authorization Remaining	Fiscal Year Issued
Authorized Under the Tax Increment Financing Authorization Act of 1998 (as amended)				
Capitol Hill Towers TIF	10,000,000	1,605,523	-	2007
Embassy Suites Hotel TIF	11,000,000	-	-	2006
Gallery Place TIF	73,650,000	52,365,000	-	2002
International Spy Museum TIF	6,900,000	-	-	2001
Mandarin Oriental Hotel TIF	45,990,000	21,969,739	-	2002
NCRC Revenue Bonds (DC USA Garage Project)	46,900,000	14,838,747	-	2006
Shakespeare Theatre TIF Note	10,000,000	-	-	2006
Waterfront Arts Project TIF Note	10,000,000	11,482,727	-	2009
Subtotal	**214,440,000**	**102,261,736**	**-**	
Authorized Under the Retail Incentive Act of 2004 (as amended)				
Downtown Retail Priority Area TIF Notes (total)	*18,473,210*	*12,580,747*	*6,526,790*	
H&M	2,966,250	-		2006
Forever 21	4,985,000	3,904,713		2011
Natl. Crime & Punishment Museum	3,000,000	2,997,883		2008
Madame Tussauds	1,300,000	695,266		2008
Zara	1,750,000	681,627		2008
Clydes	4,471,960	4,301,258		2012
Fort Lincoln Retail Priority Area TIF Note (total)	*10,000,000*	*10,000,000*	-	
Fort Lincoln Retail Priority Area TIF	10,000,000	10,000,000		2012
Great Streets Retail Priority Area TIF Notes (total)	*5,934,731*	*5,894,541*	*69,065,269*	
Georgia Avenue Retail Project (CVS)	1,934,731	1,894,541		2010
Howard Theatre	4,000,000	4,000,000		2011
Subtotal	**34,407,941**	**28,475,288**	**75,592,059**	
Authorized Under Other Acts				
Convention Center Hotel TIF/Revenue Bonds (bonds issued for hotel less refunding portion)	218,000,000	218,000,000	-	2011
O Street Market TIF	38,650,000	38,650,000	3,000,000	2012
Southwest Waterfront TIF/PILOT	-	-	198,000,000	future
Subtotal	**256,650,000**	**256,650,000**	**201,000,000**	
Totals	**505,497,941**	**387,387,024**	**276,592,059**	

Payments in Lieu of Taxes (PILOT) Program

The District's Payments In Lieu of Taxes (PILOT) program complements and is very similar to its TIF program. The *Payments in Lieu of Taxes Act of 2004* (the "PILOT Act") created the program as a financing mechanism for development projects on land that was previously exempt from real property taxation.[5] Under the PILOT program, if previously tax-exempt land is being transferred to private control for redevelopment, the District may negotiate a PILOT arrangement in which the land remains technically tax-exempt for a period of time, but the new private property owners and/or leasehold owners must pay as a PILOT the equivalent of what the real property tax would be on the property. The District then issues PILOT revenue bonds and notes ("PILOT bonds") to help finance the project costs of the development project. The PILOT payments, like TIF incremental revenues, are used to pay debt service on the PILOT bonds rather than deposited in the District's General Fund. Once the PILOT bonds are paid off, the property begins paying real property tax as a normal privately-owned property. An important difference between PILOT and TIF is that PILOT payments are only the equivalent property tax payments – any increases in sales tax revenue from PILOT projects go to the General Fund, whereas incremental sales tax revenues generated by TIF projects are captured for payment of TIF bonds.

The PILOT Act originally capped the program at $250 million in authorized issuances. In 2006, the Council amended the PILOT Act to raise the cap to $500 million (to match the TIF cap) and to require that at least $200 million of those issuances be for projects located outside the central business district.[6] The PILOT program can be used anywhere in the District, not just in the areas where TIF is active.

The District's PILOT program is something of a misnomer, because it is not a true PILOT program like those that exist in many other American municipalities. In DC, the "payment in lieu of tax" essentially *is* the real property tax payment owed by a newly-taxable property, only it is used to service bonds instead of deposited in the General Fund with other tax payments. In other cities, "payment in lieu of taxes" programs allow the municipality to negotiate payments from universities, nonprofit hospital systems, or other similar institutions that are otherwise tax-exempt. The justification for such programs is typically that these institutions benefit from the infrastructure and services provided by the municipality, so they should make a contribution even if they are exempt from direct taxation. The District's program is much different in that it can apply only in cases where otherwise the property would be subject to real property tax. Moreover, like the District's TIF program, the PILOT program generally finances improvements that directly benefit the project that supports the debt service.

Following is a list of the PILOT bond issuances to date and those authorized but not yet issued:

[5] Effective April 5, 2005 (D.C. Law 15-293; D.C. Official Code § 1-308.05).

[6] *PILOT Authorization Increase and Arthur Capper/ Carrollsburg Public Improvements Revenue Bonds Approval Act of 2006*, effective March 8, 2007 (D.C. Law 16-244; D.C. Official Code § 1-308.05).

Project Name	Initial Issuance Amount	Outstanding as of 8/1/2012	Authorization Remaining	Fiscal Year Issued
Authorized Under the Payment In Lieu of Taxes Act of 2004 (as amended)				
Anacostia Waterfront Corporation PILOT Revenue Bonds	111,550,000	84,085,000	-	2007
Capper/Carrollsburg PILOT Revenue Bond Anticipation Notes	29,000,000	29,000,000	26,000,000	2010
Rhode Island Station PILOT Note	7,200,000	7,200,000	-	2013
Southeast Federal Center PILOT Note (Foundry Lofts)	5,660,000	5,607,103	84,340,000	2011 + future
Total	**153,410,000**	**125,892,103**	**110,340,000**	

Additional Debt Financing for Economic Development Projects

In addition to TIFs and PILOTs, the District has supported several other large-scale economic development projects through similar revenue bond financing mechanisms. Construction of the Washington Convention Center and the Washington Nationals Ballpark, and the renovation of the Verizon Center, were funded in part through revenue bonds that were to be paid off using expected revenue streams. In these cases, however, the repayment revenue is not from real property tax or general sales tax, but from specific revenue streams created or targeted for the projects. These projects are important to note here not just as significant economic development interventions in the District, but also because these large scale financings have a significant impact on the District's debt ceiling (discussed further below), and thus on the District's ability to use TIF, PILOT, and debt financing in the future.

Washington Convention Center

In 1998, the Washington Convention and Sports Authority (formerly the Washington Convention Center Authority, "WCCA") was authorized to issue bonds to finance the construction of a new convention center in the District.[7] That year WCCA issued $524.5 million in bonds for the convention center, which were backed by a 4.45% add-on to the District hotel tax and a 1% addition to the gross receipts tax on restaurant meals and alcohol. It is worth noting that the Washington Convention Center is a tax-exempt use, so even had the TIF program been active at the time of the WCCA financing, it would not have been a viable financing alternative. By contrast, in October 2010, the Washington Convention and Sports Authority issued $249.2 million in bonds to help fund the convention center hotel across the street from the Washington Convention Center. The vast majority of these bonds are the TIF bonds listed above, as the hotel will be a revenue-producing use. Indeed, TIF is a particularly powerful tool for financing hotels, because the revenue from the hotel tax becomes part of the tax increment.

Washington Nationals Ballpark

The *Ballpark Omnibus Financing and Revenue Act of 2004* (the "Ballpark Financing Act")[8] provided public financing for the construction of a baseball stadium in the District, to be owned by the District and leased to the owners of the Washington Nationals.[9] The Ballpark Financing

[7] *Washington Convention Center Authority Financing Amendment Act of 1998* (D.C. Law 12-142; D.C. Official Code §47-2202 *et seq.*).
[8] Effective April 7, 2005 (D.C. Law 15-320; D.C. Official Code §10-1601.02(c)).
[9] The bill also provided funding for the renovation of RFK Stadium for use by the Nationals.

Act created the Ballpark Revenue Fund within the General Fund, which is pledged as the source of payment for the District's Ballpark Revenue Bonds, which were issued in the amount of $534.8 million in May 2006. The Ballpark Revenue Fund is the repository for revenues from four designated sources:

1. The Ballpark Sales Tax – a 4.25% additional sales tax on ticket sales, parking, and concessions of food, beverages, and merchandise at the Ballpark (entire sales tax amount from these activities goes to support bond payments);
2. The Ballpark Fee – an additional gross receipts tax on corporations and partnerships within the District that have $5 million or more in annual District gross receipts;
3. The Ballpark Utilities Tax – an additional tax on gross receipts from sales to non-residential customers by companies selling telephone service, natural gas, heating oil, and artificial gas that equals (i) one-eleventh of the existing 11% commercial rate gross receipts tax, and (ii) $0.00707 per therm of electricity delivered to non-residential end-users in the District; and
4. The rent payments under the stadium lease.

Verizon Center Renovation

Pursuant to the *Verizon Center Sales Tax Revenue Bond Approval Act of 2007*,[10] the District issued in 2008 a $50 million taxable financing note to fund a renovation of the Verizon Center. The debt service on the note is paid from the revenue derived from an additional sales tax of 4.25% on tickets and non-food and beverage concessions sold at the Verizon Center. In the event such taxes are not sufficient, the note is further secured by incremental real property and sales tax revenues from the Downtown TIF Area.

Debt Ceiling

Section 603(b) of the Home Rule Act prohibits the District from issuing general obligation bonds ("GO Bonds") in any fiscal year if the issuance of bonds would result in the District's total GO Bond debt service exceeding 17% of its revenues for that fiscal year.[11] TIF and PILOT Bonds are not GO Bonds, and thus do not count against this borrowing limit.

In 2009, the District passed a stricter debt ceiling (the "Debt Ceiling") that prohibits the issuance of any District Bond debt if such issuance would result in total debt service in that fiscal year or any of the next six fiscal years on all outstanding District Bond debt exceeding 12% of the District's annual General Fund expenditures and transfers.[12] The Debt Ceiling legislation defines District Bonds as:

1. General obligation bonds issued pursuant to the Home Rule Act;
2. Treasury capital-project loans;

[10] Effective July 12, 2007 (D.C. Law 17-12).
[11] Further detail available in D.C. Official Code §1-206.03(b)(1).
[12] *Limitation on Borrowing and Establishment of the Operating Cash Reserve Act of 2008*, effective March 25, 2009 (D.C. Law 17-360; D.C. Official Code §47-334).

3. Tax-supported revenue bonds or notes, including TIF bonds or notes and bonds or notes financed by PILOTs, but excluding revenue bonds or notes issued for the purpose of funding water and sewer facilities, as described in section 490(a) of the Home Rule Act;
4. Certificates of participation; and
5. Lease-purchase financing bonds.

Enactment of the Debt Ceiling was driven in part by the desire among District policymakers to continue to improve the District's bond ratings. At the time, the District's debt service payments were above 10% of expenditures, and the CFO had warned that rating agencies prefer to see municipalities with debt ratios of 10% or lower. Moreover, as noted at the time by the DC Fiscal Policy Institute:

> Bond rating agencies understand that debt creates long-term obligations for states and cities, and they examine the totality of a jurisdiction's debt — including debt for economic development projects that generate new tax revenues — when setting bond ratings. Many other states have debt caps for this reason, and the caps often are below 10 percent. In Maryland, for example, debt payments cannot total more than 8 percent of revenue, and in Virginia the limit is 5 percent. [13]

A key goal of pursuing better bond ratings was to try to secure low interest rates on the debt the District would issue, thus making it more efficient and productive.

The Debt Ceiling took effect in March of 2009, as the recession was just beginning to take a toll on District revenues. As revenues continued to decline, expenditures declined to some extent as well. During the recession the District refinanced a significant amount of debt at lower rates, postponing some debt service to later years, and made use of fund balance to maintain necessary expenditures and stay within the Debt Ceiling in the short term. In the longer term, however, the District anticipates rising debt service costs for its GO Bonds. As debt service on the TIF and PILOT bonds already authorized continues to ramp up to approximately $60 million in FY 2016, and the ongoing costs of the District's special economic development projects remain high, there is little capacity left for issuing additional debt in the coming years. As a result, the Debt Ceiling is a significant limitation to further use of debt financing for economic development. The Office of Finance and Treasury's Debt Ceiling analysis now assumes that the District will not issue the full $500 million of authorized TIF Act bonds and Retail TIF bonds or the full $500 million of PILOT bonds. A summary of that analysis is provided in Appendix B.

II. <u>TAX INCENTIVES</u>

[13] Reed, Jenny. "Managing the District's Debt: How a Debt Cap Can Serve as an Important Fiscal Oversight Tool While Also Allowing the District to Achieve its Development Goals." Washington, DC: DC Fiscal Policy Institute, 2008. Accessed at http://dcfpi.org/wp-content/uploads/2008/10/10-24-08debtcap.pdf.

Tax incentives, such as abatements and credits, are used by states and localities to spur economic development by lowering the cost of doing business in the jurisdiction. Most often tax incentives are employed to attract and retain business or redevelop certain neighborhoods.

Tax abatements involve the forgiveness of taxes either completely or in part for some period of time. Tax credits are used to reduce a taxable entity's actual tax liability by some amount as a result of engaging in certain activities. Like most states and localities, the District uses two methods to provide economic development tax incentives. One method is to offer by-right or blanket tax relief to any business or development project that meets certain eligibility criteria codified in the law. To qualify for these incentive programs, a firm or development project must apply to and be approved by the administering governmental agency, which is usually the Deputy Mayor for Planning and Economic Development or the Office of Tax and Revenue. The second method is to offer discretionary tax incentives. Discretionary incentives are granted on a case-by-case basis to a specific firm or development project that does not qualify for relief under current law.

Economic Development Tax Incentive Programs

The District currently has six by-right economic development tax incentive programs. The structure and type of tax incentive programs offered by the District vary depending on the desired outcome. Programs focused on neighborhood redevelopment generally rely on property tax abatements to accomplish this goal, but can also include abatements for sales tax on construction materials. Programs aimed at business retention and attraction, on the other hand, leverage tax incentives that help to lower the cost of doing business, and can include property tax abatements but also income tax credits, sales tax exemptions, and other tax breaks. Because tax incentives for economic development are intended to kick start development, they are often time-limited and expire after some period of time.

Tax Incentive Programs for Neighborhood Redevelopment

The District's tax incentive programs aimed at redevelopment include tax abatements for 1) supermarkets, 2) new residential development, and 3) non-profits that locate in designated areas of the District. The *Supermarket Exemption Act of 2000*[14] (as amended) authorizes a 10-year property tax exemption and an exemption from sales and use tax on construction materials to qualified supermarkets that locate in underserved neighborhoods.[15]

The *Housing Act of 2002*[16] ("Housing Act") and the *NoMA Residential Development Tax Abatement Act of 2009*[17] ("NoMA Act") authorized 10-year real property tax abatements to new residential construction projects built in designated neighborhoods, including downtown, "Mount Vernon Square North", the NoMA Business Improvement District (NoMA BID), and

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[14] Effective October 4, 2000 (D.C. Law 13-166; D.C. Official Code § 47-3801; § 47-1002(23))

[15] The definition of "eligible areas" was modified through *Food, Environmental, and Economic Development in the District of Columbia Act of 2010* to reflect the current market conditions. There is no expiration date for the law.

[16] Effective April 19, 2002 (D.C. Law §47-857.01 – §47-857.10)

[17] Effective July 7, 2009 (D.C. Law 18-10; D.C. Official Code §47-859.05)

other parts of the District. Both programs aim to encourage mixed-use development by incentivizing residential development in neighborhoods that are predominately commercial. The Housing Act also aimed to promote mixed-income housing by including some affordable housing requirements. Both programs require development projects to meet minimum size and delivery date requirements in order to claim the abatements. The Housing Act capped the total amount that can be authorized annually at $8 million. The NoMA act capped annual authorization at $5 million annually and $50 million in aggregate. The Housing Act also capped annual spending by neighborhood.

The *Tax Abatement for Non-profit Organizations Locating in Emerging Commercial Neighborhoods Act of 2009*[18] provided 10-year real property tax abatements to non-profits that located in one of five emerging commercial neighborhoods in the District. The program requires non-profits to locate in the designated areas, occupy a minimum level of office space, and move into the new space by a certain date depending on the area. Additionally, the Act capped the total annual abatement at $500,000 and provided neighborhood-specific abatement caps as well. DMPED discontinued this abatement in 2011 due to low interest.[19]

Tax Incentive Programs for Business Attraction and Retention

The District's two largest business attraction and retention tax incentive programs are the Qualified High Technology (QHTC) program and the DC Certified Capital Company (CAPCO) program. The purpose of both programs is to attract and grow business in the District and thereby expand and diversify employment and the income tax base.

The QHTC program was established through the *New E-conomy Transformation Act of 2000*[20] *(*as amended, the "QHTC Act"). The purpose of the program is to encourage high technology companies to relocate to and grow in the District. The QHTC Act authorized a package of credits and abatements -- including income and corporate franchise tax credits, exemptions from property and sales and use taxes, and capital gains exclusions -- to high technology and social e-commerce companies that locate in the District, generate at least 51 percent of gross revenue from certain technology-related activities, and hire District workers.[21] There is no cap on the annual or aggregate amount of the incentives.

The *Certified Capital Companies Act of 2003*[22] (as amended, the "CAPCO Act") established the CAPCO program to encourage private capital investment in new or expanding small businesses in the District. The CAPCO Act authorizes insurance premium tax credits to insurance companies that invest in certified capital companies (CAPCOs). The tax credits are equal to the amount of the insurance company's total debt and equity investment in a CAPCO. CAPCOs are

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[18] Effective September 24, 2010 (D.C Law 18-223; D.C. Official Code §47-857.11 – §47-857.16

[19] "District of Columbia Tax Expenditure Report", Office of Revenue Analysis, July 27, 2012, pp. 207-208 http://cfo.washingtondc.gov/cfo/cwp/view,a,1420,q,647559.asp,

[20] Effective April 3, 2001, (D.C. Law 13-256; D.C. Official Code §47-1817; §47-1803)

[21] D.C. Code §47-1817.1(5)(A)(iii)

[22] Effective March 17, 2005 (D.C. Law 15-262; D.C. Official Code §31-5233)

then required to invest in small businesses that can demonstrate that 25 percent of their employees live in the District and 75 percent of their employees work in the District. The CAPCO program differs from the other tax abatement and credit programs in that it does not provide the tax incentives directly to small businesses, but instead provides them indirectly through insurance companies. There is an aggregate cap of $50 million on the total amount of premium tax credits, and an annual cap of $12.5 million. The Act, as amended, also requires CAPCOs to invest all of their certified capital within 10 years of receiving the tax credits. Tax year 2009 was the first year insurance companies could claim the credits.

In addition to QHTC and CAPCO, the District's incentives for supermarkets and non-profits as discussed above would also be considered business retention and attraction tools -- while the primary goal of these programs is to incentivize mixed-use development, a secondary outcome is a broadening of the employment base in the District. The reason business attraction and retention goals are considered secondary is that neither program includes local hiring requirements for qualification.

The following is a list of the economic development tax incentive programs the District has offered:

Name of Tax Incentive Program	Type of Incentive	Sunset for incentive	Sunset for program	Program cap (in millions)	Avg. annual expenditure	Aggregate expenditure
Tax incentives qualified supermarkets (2000)	Property & sales tax exemption	10 years	none	none	$1,563,011	$15,740,193
Tax Incentives for qualified high technology companies (2000)	Sales & property exemptions, capital gains exclusions, income & corporate franchise tax credits	5 years for income and corporate franchise tax credit	none	none	$6,885,196	$72,738,348
Tax abatements for new residential development (2002)	Real property tax abatement	10 years	Building permits due 2001	$8.5 annual	$2,010,280	$21,007,185
Tax credits for certified capital investment (CAPCO) (2004)	Insurance premium credit	None	Expires when aggregate cap reached	$12.5 annual /$50 aggregate	$6,880,293	$25,201,467

Tax abatements for new residential developments in NoMA (2009)	Real property tax abatement	10 years	Application due before December 2012	$5 annual /$50 aggregate	$1,972,035	$3,199,139
Tax abatements for nonprofit organizations in emerging neighborhoods (2010)	Real property tax abatement	10 years	discontinued	$0.5 annual	$153,168	$153,168

Discretionary Tax Incentives for Economic Development

As mentioned above, the District also grants tax incentives on a firm-specific or project-specific basis. This requires the introduction and passage of special legislation authorizing the tax incentives for a specific firm or project. The majority of discretionary relief the District provides are property tax abatements. The District has used property tax abatements much in the same way it has employed TIFs, which is to help finance specific development projects.

Tax abatements for development projects have been structured in various ways. Most often project-specific abatements are for property taxes, but can also be for sales tax on the purchase of construction materials, and deed recordation and transfer taxes. Additionally, the abatements are often on the incremental property taxes expected to be generated by the project, and the property taxes are phased-in over a period of time until the amount owed is 100 percent. Similar to the by-right programs, the act authorizing the incentive will sunset after some period of time; however the time period can vary significantly from 10 to 30 years, depending on the project. It is also common to cap the total value of the abatement in order to control the overall cost to the District.

Not surprisingly, the discretionary tax incentives authorized for business attraction and retention have also been used primarily to target non-profits and high-technology companies, as is the case with the by-right programs. For non-profits, the incentive is property tax abatements, given that this is their largest area of local tax liability. But for for-profit companies, the incentives are property tax abatements as well as income tax credits and other tax breaks that lower business costs.

To date, the District has not included “claw back” provisions requiring a recipient to pay back the value of the incentives if the company fails to meet the terms outlined in the legislation. However, legislation authorizing discretionary tax incentives typically includes some requirements the recipient must meet in order to qualify for the incentives. The majority of tax abatements granted for residential housing developments require some amount of housing to be set aside for low to moderate income residents if the whole project is not already considered affordable housing. Discretionary tax incentives offered to businesses typically require the firm to hire a certain number or percentage of District residents during the time period of the abatements. For example, the *Social E-Commerce Job Creation Act of 2012* authorized a package of tax incentives to encourage LivingSocial to locate its headquarters in the District. In exchange of the tax breaks, LivingSocial is required to hire 1000 DC residents, rehabilitee and occupy a minimum level of office space, and remain in the District for the entire abatement period.

District law does not cap the total amount that can be spent on discretionary tax incentives annually. However, before enacting tax incentive legislation, the estimated revenue impact estimated in the fiscal impact statement must be included in the District's four-year financial plan before the bill can be enacted. Additionally, the Office of the Chief Financial Officer (OCFO) is required to prepare a tax abatement financial analysis (TAFA), as per *the Exemptions and Abatements Information Requirements Act of 2011*.[23] TAFAs are often referred to as "but-for" tests and are intended to offer an advisory opinion as to whether the recipient could be reasonably expected to meet its fiscal needs in the absence of the proposed exemption or abatement. TAFAs include an estimate of the amount of exemption or abatement, if any, that would be necessary for the project to move forward. These analyses are issued prior to the public hearing on any such bill. Prior to the TAFA Act, no such analysis or review was required before authorizing discretionary tax incentives. The requirement for TAFA grew out of the Council's concern that they did not have adequate information available to know whether or not a proposed tax incentive was needed to further a specific economic development project.

In addition to its role producing TAFAs, the OCFO produces twice annually the Unified Economic Development Report (UEDR). These reports, required by the Council in the *Unified Economic Development Budget Transparency and Accountability Act of 2010*[24], are designed to provide greater transparency regarding the District's total spending on economic development incentives. The first report for each fiscal year catalogues all economic development incentive spending for the coming fiscal year as included in the Mayor's budget proposal and all previously authorized expenditures. The second report for each fiscal year is issued after the fiscal year is over, and catalogues what the District paid for all economic development incentives. Both reports provide analysis on spending by agency, spending by ward, spending by incentive type, and so forth. Between project-specific TAFAs and the UEDR, there is now significantly more information available to the public on the District's economic development programs than there has been in the past.

III. PRIVATE ACTIVITY BONDS

Private Activity Bonds

[23] Effective September 14, 2011 (D.C. Law 19-21; D.C. Official Code § 47-4701)
[24] Effective September 24, 2010 (D.C. Law 18-223; D.C. Official Code § 2-1208.02)

The District has used private activity bonds since the 1980s to issue tax-exempt bonds to finance private capital projects. The federal government provides the authority for states and the District to issue private activity bonds, and places some restrictions on their use by setting an annual volume cap and also limiting the types of activities that qualify.[25]

The federal government sets an annual volume cap for each state and the District using a per capita basis of $95, or a minimum of $291.87 million in authority, whichever is more generous.[26] The District's receives the minimum level of $291.87 million, which translates to a volume cap of approximately $472 per capita. The annual volume cap, however, does not apply to all of the qualified private activities; therefore the total annual amount of private activity bonds issued by the District may exceed the $291.87 million cap. Additionally, the District has the ability to carry over any unused allocation for a period of three years.

The majority of the District's private activity bonds are issued through the Deputy Mayor for Planning and Economic Development (DMPED) Industrial Revenue Bond (IRB) Program. IRBs are a type of private activity bond used primarily to finance capital projects for manufacturing companies and qualifying non-profits, which are typically activities not subject to the volume cap. Given that there is very little manufacturing activity in the District, the vast majority of IRB issuances to date have been for non-profits in the education, healthcare and social service sector. DMPED is actively looking for ways to increase its portfolio of industrial revenue bonds transactions.[27] IRBs can also be used to provide up to $15 million in tax-exempt bond financing to some commercial businesses located within a DC Enterprise Zone (EZ).[28] The financing of commercial activity in EZs is subject to the District's annual volume cap.

DMPED receives the District's federal allotment of private activity bonds each year. However because the majority of projects financed through the IRB program are not subject to the volume cap, with the exception of the EZ Bonds and some other activities, DMPED retains a relatively small portion of the total federal allotment[29], and transfers the rest to the District's Housing Finance Authority (DCHFA) to finance qualified housing projects that are subject to the volume cap.

All private activity bond issuances must be approved by the Council and the Mayor through resolution. Finally, it is important to note that the District's use of private activity bonds does

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[25] The Revenue and Expenditure Contract Act of 1968 (P.L. 90-364) and the Tax Equity and Fiscal Responsibility Act of 1982 (P.L. 97-248) are the two congressional acts that authorize and shape states' authority to issue tax-exempt private activity bonds.

[26] Jennifer DePaul, "Private Activity Bond Cap to Increase 1.1% or $349.01M in 2013," The Bond Buyer, December 31, 2012.

[27] FY 2012 Performance Plan, Office of the Deputy Mayor for Planning and Economic Development, published February 2012. http://oca.dc.gov/sites/default/files/dc/sites/oca/publication/attachments/DMPED12.pdf

[28] Deputy Mayor of Planning and Economic Development, "Enterprise Zone Programs", http://dmped.dc.gov/DC/DMPED/About+DMPED/Publications/Enterprise+Zones

[29] Phone conversation with William Liggins, Director of the Industrial Revenue Bond Program, District of Columbia, on January 29, 2013.

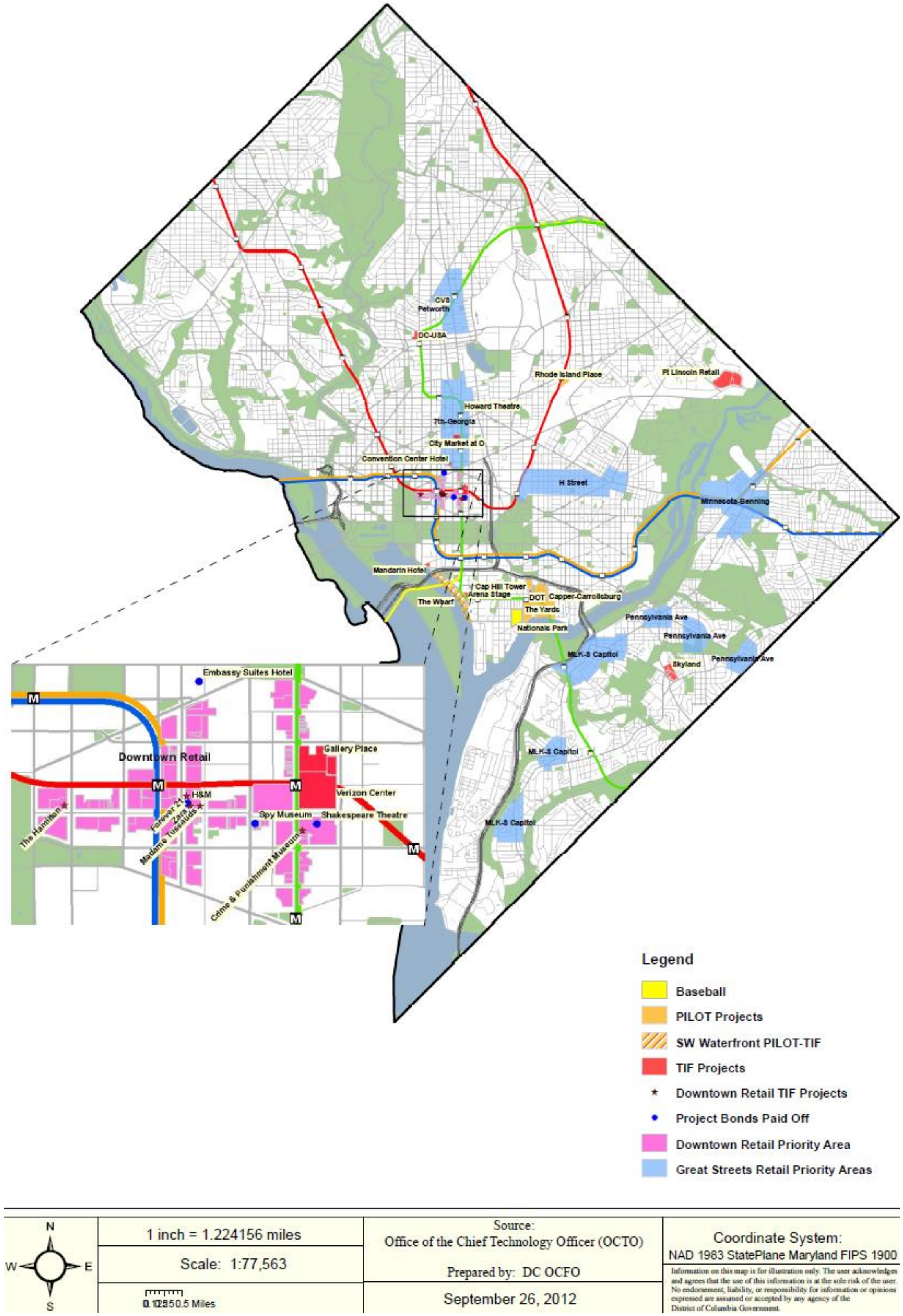
not count towards the statutory debt limit because the repayment of private activity bonds is the responsibility of the private user and not the District.

Below is the annual volume of IRBs issued by the District since 1994; these amounts do not include the annual amount of private activity bonds issued by DCHFA:

District's IRB Issuance by Fiscal Year, including IRBs issued for Enterprise Zones		
FY	IRBs	EZ Bonds
1994	$72,650,000	$0
1995	$52,000,000	$0
1996	$125,535,000	$0
1997	$258,045,000	$0
1998	$373,895,000	$0
1999	$884,120,000	$11,250,000
2000	$584,950,000	$17,040,000
2001	$740,268,654	$22,600,000
2002	$262,555,000	$34,480,000
2003	$143,125,000	$0
2004	$122,790,000	$15,000,000
2005	$515,800,000	$26,500,000
2006	$452,076,000	$0
2007	$567,910,065	$0
2008	$852,103,000	$15,000,000
2009	$424,750,000	$0
2010	$429,716,987	$2,000,000
2011	$711,938,425	$0
2012	$321,687,000	$0
2013	$217,145,000	$0

Source: District of Columbia's Industrial Revenue Bond Program

Appendix A – Map of DC Debt Financing Programs



Appendix B – Debt Ceiling Analysis

Debt Ceiling Analysis - FY 2013-2021

As of 8/29/2012 -- FY 2013 Revised Budget

	FY 2013 Estimate	FY 2014 Estimate	FY 2015 Estimate	FY 2016 Estimate	FY 2017 Estimate	FY 2018 Estimate	FY 2019 Estimate	FY 2020 Estimate	FY 2021 Estimate
Total G.O./I.T. Bonds Debt Service	$469,752,780	$522,308,784	$563,614,656	$599,832,253	$626,015,323	$682,848,486	$701,263,970	$747,017,277	$765,044,412
School Modernization Fund	$8,625,713	$11,862,513	$11,411,713	$14,275,513	$13,522,513	$8,749,175	$8,750,925	$8,749,675	$8,750,175
Prospective Paygo Capital Account	$0	$0	$0	$0	$1,970,000	$6,656,250	$14,095,750	$24,339,625	$37,486,750
Certificates of Participation	$32,541,713	$24,619,294	$24,620,075	$24,622,431	$24,620,269	$24,620,738	$24,622,938	$24,621,863	$24,618,250
Master Lease Equipment Purchases	$50,035,750	$40,285,177	$34,092,025	$29,959,702	$23,414,960	$20,086,265	$19,624,856	$19,967,235	$18,274,509
Capital Leases[2]	$2,792,500	$2,792,500	$2,792,500	$2,792,500	$1,396,250	$0	$0	$0	$0
Housing Production Trust Fund	$8,220,857	$10,868,058	$13,515,963	$15,979,947	$15,980,350	$15,976,463	$15,980,988	$15,977,913	$15,981,025
TIF/PILOT Bonds Issued & Authorized[3]	$36,723,943	$57,279,020	$49,509,527	$60,100,000	$60,189,678	$60,047,180	$59,773,382	$59,517,413	$59,424,125
Special Projects (projects below)	$81,063,532	$82,021,126	$82,322,659	$75,934,483	$74,887,235	$73,973,430	$72,875,014	$72,650,243	$73,547,198
Ballpark Bonds[4]	*$32,579,589*	*$33,509,654*	*$32,798,587*	*$24,556,220*	*$23,519,562*	*$22,621,357*	*$21,543,497*	*$20,548,758*	*$21,464,758*
Verizon Center Revenue Bonds	*$3,411,038*	*$3,447,417*	*$3,481,162*	*$3,517,274*	*$3,550,423*	*$3,585,609*	*$3,622,503*	*$3,660,775*	*$3,695,098*
Convention Center Hotel Financing	*$11,984,580*	*$11,984,580*	*$13,055,435*	*$14,903,314*	*$14,909,276*	*$14,909,239*	*$14,898,539*	*$15,680,234*	*$15,677,617*
Convention Center Bonds	*$33,088,325*	*$33,079,475*	*$32,987,475*	*$32,957,675*	*$32,907,975*	*$32,857,225*	*$32,810,475*	*$32,760,475*	*$32,700,725*
Total Debt Service on Tax-Supported Debt	**$689,756,788**	**$752,036,472**	**$781,879,117**	**$823,496,828**	**$841,996,578**	**$892,957,986**	**$916,987,823**	**$972,841,243**	**$1,003,126,444**
Total Expenditures as of June 22, 2012[5] (incl. UDC Total Exp)	**$6,639,367,950**	**$6,787,821,599**	**$6,931,075,814**	**$7,112,873,107**	**$7,290,694,935**	**$7,472,962,308**	**$7,659,786,366**	**$7,851,281,025**	**$8,047,563,051**
Ratio of Total Debt Service to Total Expenditures (Debt Ceiling is 12%)	10.39%	11.08%	11.28%	11.58%	11.55%	11.95%	11.97%	12.39%	12.46%
Total Economic Development Debt (HPTF, TIF, PILOT, Special Projects)	$126,008,332	$150,168,204	$145,348,149	$152,014,430	$151,057,263	$149,997,072	$148,629,383	$148,145,568	$148,952,347
Percent Economic Development Debt	18.27%	19.97%	18.59%	18.46%	17.94%	16.80%	16.21%	15.23%	14.85%

1. Includes annual judiciary property tax payment to the District.
2. Does not include Judiciary Square COP which is also classified as a capital lease.
3. Actual Debt Service and new issuance projections based on 7.25.12 economic development analysis.
4. Assumes annual cash defeasances beginning in FY15 in accordance with the Ballpark Debt Repayment.
5. Assumes 2.5% GF Expenditure Growth beginning after 2016 based upon growth during final year of financial plan and consistent with Federal CBO annual projected GDP growth rates.