

FCMAT has received numerous inquiries regarding proper accounting for payments from redevelopment agencies (RDAs) when calculating revenue limit funding for local educational agencies (LEAs)—school districts, county offices of education or community college districts.¹ RDA payments, particularly those received pursuant to AB 1290, may have a significant impact on the calculation of state aid funding received through the principal apportionment. Because a majority of LEA funding is generated from state aid and property taxes, accuracy in accounting for RDA payments is important. This area of accounting can be complex and requires that the RDA or county auditor communicate information to the LEA in a clear and concise manner.

Redevelopment

Redevelopment agencies are governed by provisions in the California constitution and the Health and Safety Code (HSC). RDAs may be created by city or county governments, and the legislative body for most RDAs is the same as that of the city or county: the city council or the county board of supervisors.

Most of an RDA's powers are limited to the boundaries of a redevelopment project area (project).

A single RDA may have multiple project areas. City projects must be entirely within city boundaries, and county projects must include incorporated areas only. All projects may include non-contiguous sub-areas and may be expanded by subsequent amendment of the project's redevelopment plan.

As set forth in statute, the fundamental purposes of redevelopment include the following: (i) eliminate blight which cannot reasonably be expected to be reversed or alleviated by private enterprise or governmental action, or both, without redevelopment; (ii) expand the supply of low- and moderate-income housing; and (iii) expand employment opportunities for jobless, underemployed and low-income persons.

In accordance with HSC 33670, redevelopment is funded in large part by tax increment financing within project areas. This can include, for example, the diversion to RDAs of future increases in local property tax revenue (compared to a base year) from the affected taxing entities, including school districts, community college districts and county superintendents of schools.² Tax increment revenues received by RDAs are not subject to the limitations imposed by the Gann Limit.

Except for basic aid districts and districts that are 100% locally funded, an LEA's share of RDA tax increment—that is, every dollar of future tax increment diverted to RDAs from LEAs—is typically made up by an equal increase in state aid. This means that growth in the tax base induced by RDAs

1 Community college districts are subject to revenue levels, not revenue limits. However, state aid funding mechanisms and RDA payment entitlements for community college districts are sufficiently similar to those of other LEAs that college districts are included in this discussion.

2 Fiscal authority for the county office of education actually resides in the county superintendent of schools, not the county board of education. However, throughout this discussion, the phrase "county office of education" is used in place of county superintendent of schools.

should have no *operating impacts* on LEAs, because new students generated by RDA-induced growth should be funded to the full extent of the LEA's revenue limit.³

However, LEAs have various entitlements to payments from RDA projects to help fund the *facilities impacts* of RDA-induced growth, which are *not* mitigated by funds from the state. These include contractual entitlements (for example, pass-through agreements pursuant to former HSC 33401) and statutory entitlements (such as 2 % payments pursuant to former HSC 33676, and AB 1290 entitlements pursuant to HSC 33607.5 and 33607.7).

RDA Pass-Through Entitlements

Prior to passage of AB 1290, which became effective in 1994, pass-through entitlements were typically negotiated with RDAs, with corresponding agreements almost always limiting the use of pass-through payments to the funding of educational facilities. In most counties, payments from pass-through agreements and other negotiated entitlements are received from RDAs directly via warrant.⁴

As an alternative to negotiated agreements, former HSC 33676(a) required that school and college districts (including county offices of education) shall elect to be allocated 2% payments, unless a pass-through agreement was entered into in accordance with former HSC 33401. Two percent payments are the inflationary revenues resulting from growth in the base year value of real property within a project area, as set forth in Revenue and Taxation Code section 110.1(f). This statutory requirement is consistent with Proposition 13 and subsequent initiatives, which state that, in the absence of new construction or certain changes in ownership, assessed value increases in the current fiscal year may not exceed 2% or the annual percentage of increase in the California CPI (from October of the current year to October of the previous year), whichever is less.

However, this statutory requirement applies only to projects adopted between January 1, 1985 and December 31, 1993. Moreover, in the absence of a *formal* 2% resolution adopted by an LEA board prior to approval of the redevelopment plan, many LEAs have not received the 2% payments to which they were entitled. This problem was presumably remedied in *Santa Ana Unified School District v. Orange County Development Agency*, 90 Cal. App. 4th 404 (2001) (Santa Ana decision), in which the court held that 2% payments from projects adopted between 1985 and 1994 were *mandatory* for all LEAs without pass-through agreements, even in the absence of a board resolution. However, some LEAs may have to ask county auditors to implement the Santa Ana decision in their county.

Two percent payments should be received directly from county auditors in a manner similar to regular property taxes. However, county auditors may not identify 2% payments as such, and almost never identify the project areas from which 2% payments are generated. Therefore, LEAs may be receiving 2% payments without knowing it, or may be treating 2% payments as regular property taxes, which they are not.

Prior to passage of SB 617 in 1992, there was no statutory requirement that RDA payments be subject to *revenue limit offset*, whether such payments were received pursuant to pass-through agreements per former HSC 33401 or as 2% payments per former HSC 33676. As noted previously, almost all pass-through agreements contained contractual restrictions limiting the use of pass-through payments to the

³ This is not the case for basic aid districts, for which lost property tax growth diverted to RDAs is not backfilled by the state. This is also not the case for non-basic aid districts when state aid is subject to deficit factors, as was the case during much of the 1990s.

⁴ However, in a few counties County Auditors may make agreement payments on behalf of some RDAs. This is especially likely when the agreement involves a *County* RDA, rather than a *City* RDA.

funding of educational facilities. In addition, prior to SB 617, 2% payments were invariably treated as regular property taxes, which were subject to revenue limit offset.

SB 617 (Revenue Limit Offset)

SB 617 (Chapter 699 of the Statutes of 1992) became effective as an urgency measure on September 14, 1992. Among other things, SB 617 added paragraph (6)—formerly paragraph (7)—to Education Code (EC) Section 42238(h). This paragraph provides for revenue limit offset for amounts received from RDAs:⁵

Except for any amount received pursuant to [former HSC] 33401 or [former HSC] 33676 . . . that is used for land acquisition, facility construction, reconstruction, or remodeling, or deferred maintenance.

This means that amounts received by LEAs pursuant to pass-through agreements or 2% payments are *not* subject to revenue limit offset as long as they are used for educational facilities.

AB 1290

AB 1290 (Chapter 942 of the Statutes of 1993) eliminated the statutory authority to negotiate new pass-through agreements or receive 2% payments in new project areas adopted or added after January 1, 1994. In their place AB 1290 created new statutory pass-through entitlements (i) in post-1994 Projects (per HSC 33607.5); (ii) in pre-1994 projects (per HSC 33607.7) which are subsequently amended to extend certain time or financial limits (but only if no agreement exists that requires payments to the affected taxing entity); and (iii) in pre- or post-1994 projects for LEAs that are basic aid or 100% locally funded (per HSC 33676(b)).^{6 7}

In many counties, AB 1290 payments are made directly by the RDA via warrant. In these counties, AB 1290 payments are often made *in the year following the year for which the payments are due*. And in some cases, RDAs may owe AB 1290 payments but not make them.

In some other counties, AB 1290 payments are made by the county auditor on behalf of RDAs, in a manner similar to 2% payments and regular property taxes. In yet other counties, AB 1290 payments are made by the county auditor for some projects and by the RDA for other projects. As is the case with 2% payments, AB 1290 payments made by the county auditor may not be identified by project area.⁸

5 The provisions of EC 42238(h)(6) presumably do not apply to other contractual RDA payments that involve expenditures by RDAs (e.g., facilities or development agreements) for the benefit of LEAs, that are not deemed to be “received” by LEAs.

6 AB 1290 expressly grandfathers pass-through agreements executed prior to January 1, 1994, and the Santa Ana Decision confirms that LEAs are still entitled to receive 2 percent payments from eligible Projects in the absence of a pass-through agreement.

7 Statute prohibits receipt of AB 1290 payments and pass-through agreement payments from the same Project and for the same year. *However, there is no prohibition on simultaneous receipt of AB 1290 payments and 2 percent payments*. Hence, some LEAs (e.g., in Contra Costa County) receive AB 1290 payments per HSC 33607.7 and 2 percent payments per former HSC 33676(a) from the same Projects adopted between 1985 and 1994.

8 For LEAs that receive both AB 1290 payments and 2 percent payments from the County Auditor, not identifying the Project generating the payments may present a special challenge. As noted below, AB 1290 payments are subject to partial revenue limit offset (while 2 percent payments are not).

For non-basic aid districts, AB 1290 also amended EC 42238(h)(6) to provide for revenue limit offset for AB 1290 payments received pursuant to HSC 33607.5 and 33607.7:⁹

Except for any amount received pursuant to . . . paragraph (4) of subdivision (a) of [HSC] 33607.5, or . . . 33607.7 . . . that is allocated exclusively for educational facilities.

For purposes of the revenue limit computation, HSC 33607.5(a)(4)(A)-(D) specifically states the percentage of AB 1290 payments to school districts, community college districts, and county offices of education that shall be considered property taxes and the percentage that shall not be considered property taxes and shall be available for educational facilities.

The following table provides the percentages for AB 1290 payments to each type of non-basic aid LEA as well as applicable sections of the Health and Safety Code and Education Code:¹⁰

LEA	Health and Safety Code	Education Code	% Property Tax	% Non-Property Tax
School District	33607.5(a)(4)(A)	42238 (h)(6)	43.3%	56.7%
Community College District	33607.5(a)(4)(B)	84751(d)	47.5%	52.5%
County Office of Education/ Special Education	33607.5(a)(4)(C)-(D)	2558(c)	19.0%	81.0%

The above percentages apply to AB 1290 payments *received* by a non-basic aid LEA per HSC 33607.5 or 33607.7. Therefore, if an RDA underpays its AB 1290 obligation (which is often the case), the property tax percentages shown above only apply to the amount the LEA actually receives.

In summary, each RDA payment entitlement has its own revenue limit offset requirements, including zero percent offset for pass-through agreements and 2% payments, depending on the type of LEA. Moreover, an LEA’s ability to properly identify the specific revenue limit offset requirement may depend on whether payments are made by the RDA or the county auditor.

When LEAs receive payments directly from the RDA, the RDA should provide a remittance advice identifying each payment or payment component by type of entitlement and by project area. The RDA should also identify the fiscal year *for* which the payment is made, as well as provide backup documentation showing how the payments were calculated.

When LEAs receive payments directly from the county auditor, the county auditor and county office of education should use the correct object code in posting the payment to the LEA’s general ledger (see below) and identify each posting by type of entitlement and project area. The county auditor should also identify the fiscal year *for* which the payment is made and provide backup documentation showing how the payments were calculated.

FCMAT is providing guidance in this area to ensure that LEAs are consistent in applying the statutes to the revenue limit calculations involving RDA payments. In addition, it is critical that LEAs follow up with each RDA or county auditor when the situation warrants such a discussion.

⁹ AB 1290 or subsequent clean up legislation similarly amended EC 2558(c) and 56712 for county offices of education and special education, and EC 85751(d)—formerly paragraph (e)—to provide for partial revenue limit (level) offset for these LEAs.

¹⁰ For basic aid LEAs, 100 percent of AB 1290 payments may be used for operations or facilities (or both) without any offset in the revenue limit (level). Basic aid LEAs are also entitled to additional AB 1290 payments per current EC 33676(b).

Accounting Recommendations

When an LEA receives a warrant from the RDA or a notice from the county office of education that RDA payments have been deposited in the county treasury, the LEA should post RDA payments received to the appropriate accounts. For the portion of RDA payments received which are subject to revenue limit offset, the correct object code for a school district or county office of education is 8047, Community Redevelopment Funds. For the portion of RDA payments received which is not subject to revenue limit offset, the appropriate object code is 8625, Community Redevelopment Funds Not Subject to Revenue Limit Deduction. However, object code 8625 is restricted in the general fund or may be used with Resource 0000 in Fund 21 (Building Fund) or Fund 25 (Capital Facilities Fund).¹¹

In some counties, county auditors post revenue limit offset amounts from RDA payments on behalf of LEAs. This can be convenient; however, care must be taken to ensure that such revenue limit offset postings are made correctly.

In some counties, county auditors also use form J-29 or form CCFS-329 to report on behalf of LEAs the revenue limit offset amounts from RDA payments. However, because there are no line items on these forms to report RDA-related revenue limit offsets, county auditors will typically include such offsets in secured property taxes or in some other manner not apparent to either LEAs or the state. Therefore, care must also be taken to ensure that RDA-related revenue limit offsets made by county auditors are reported correctly and not duplicated by LEAs or by county offices of education on behalf of LEAs.

¹¹ For community college districts, the portion of RDA payments received which are not subject to revenue level offset should be posted using Object Code 8890, as restricted in Fund S12, or Capital Projects Fund 40 (or Capital Outlay Projects Fund 41). The portion of RDA payments which are subject to revenue level offset doesn't have its own object code, but should presumably be posted using (say) object code 8811 to the District's General Fund using Fund S11.