



## MEMORANDUM

To: Barbara Newton, President & CEO  
CalTravel

From: John Lambeth, President & CEO  
Civitas

Date: April 14, 2020

Subject: Assessment Deferrals – Tourism Recovery Districts

---

### **INTRODUCTION**

Due to the devastating impact that COVID-19 has had on the hotel and lodging industry, hotels across the United States are asking their elected officials, city and county government officials, and destination marketing organization executives about the ability to defer transient occupancy tax and Tourism Improvement District (“TID”) assessment payments. This memo seeks to explain that TID assessment payments may not be deferred by cities or counties, and to outline possible efforts to mitigate the effects of COVID-19 on lodging businesses.

### **BACKGROUND**

In California, most TIDs are created pursuant to the Property and Business Improvement District Law of 1994 (“94 Law”).<sup>1</sup> The 94 Law states that unlike taxes, the revenue generated from TID assessments may only be used for services to benefit the payors of said assessment:

“Assessments levied for the purpose of conferring special benefit upon the real property or a specific benefit upon the businesses in a business district are not taxes for the general benefit of a city, even if property, businesses, or persons not assessed receive incidental or collateral effects that benefit them.”<sup>2</sup>

Therefore, a jurisdiction is unable to divert TID funds to pay for general city or county services. Assessment revenue must always fund activities and improvements that seek to benefit only those businesses paying the assessment. Further, the assessment revenue must only be used for services outlined in the Management District Plan, as stipulated in the 94 Law.

---

<sup>1</sup> This memo does not address the ability of a city or county to defer TID payment assessments levied pursuant to the Parking and Business Improvement Area Law of 1989.

<sup>2</sup> California Streets & Highways Code §36601 (d).



## **MODIFYING THE MANAGEMENT DISTRICT PLAN**

Per the requirements of the 94 Law, all TIDs are governed by a Management District Plan (“MDP”). While it is possible to modify a TID’s MDP at any time, cities and counties have limited authority to modify TIDs without the request of the owners' association to city or county elected officials. The 94 Law states the process to modify the Management District Plan (“MDP”) as follows:

“Upon the written request of the owners’ association, the city council may modify the management district plan after conducting one public hearing on the proposed modifications.”<sup>3</sup>

The MDP dictates the time and manner for collecting assessments, and penalties and interest associated with collecting unpaid assessments. Pursuant to the aforementioned section of the 94 Law, this assessment collections process may be modified at the request of the owner’s association to the city or county for consideration and process. While it is not possible for jurisdictions to defer TID funds, and jurisdictions may not unilaterally alter the methodology of the assessment, there are possible avenues to work with the owner’s association to modify the MDP to address needs in the COVID era.

## **TOURISM RECOVERY DISTRICTS**

Many of our clients are investigating the opportunity of utilizing TID funds for tourism recovery. The designated recovery activities may be addressed in the MDP as written, or, if needed, may be added to an MDP. As part of the amendment process, TID boards can pursue modification of the current assessment rates, phasing of rate increases or decreases, and the addition of specific programs to help jump start recovery.

It is possible to design modifications as a temporary “overlay” to an existing district or as more permanent modifications.

Several destinations are communicating their modified effort as a “Tourism Recovery District”. Many business owners have expressed support for district modifications that will assist with a successful recovery.

## **CONCLUSION**

Pursuant to the requirements outlined in the 94 Law, cities and counties may not defer TID assessment revenue. However, as explained in this memo, cities and counties may work with owners’ associations to modify the MDP to address COVID-specific needs amid the current economic crisis.

---

<sup>3</sup> California Streets & Highways Code §36636 (a).