**Memorandum**

**To:**  **XYZ School District**

**From: Bricker & Eckler LLP/Rebecca Princehorn, Caleb Bell**

**Date: June 12, 2017**

**Re: Substitute Emergency Levies and Tax Abatements**

**Facts**

XYZ School District has an emergency property tax levy under RC 5705.194, which generates $6,200,000 annually. Such a levy was for 10 years (Tax Collection Years 2012-2021) and was approved by the voters on May 3, 2011.

**Questions**

1. **How does the cumulative nature of a Substitute Levy work?**
2. **How are tax abated properties handled?**

**Answers**

The cumulative nature of a Substitute Levy begins with the amount of the levy being substituted. In this case, this would be $6,200,000, and this amount would be collected from the levy for the initial year in which it is effective. In each subsequent year, the levy will collect the sum of the following:

* Amount of the levy in the prior year; PLUS
* Amount of the levy, taxed at the prior year’s rate, attributable to land or improvements new in the current year and not previously taxed, which shall not be less than zero.

Put another way, growth will be captured each year, and will stay captured or be “banked” going forward. But the pace of growth may not be the same every year.

Tax abated and TIF exempt properties will present themselves in a variety of ways, but the temporary exempted values will all be treated similarly. Note that almost all abatements exempt building improvement values only, whereas TIF exemptions can exempt increases in land value as well as increases in building value. The land values for tax abated properties and the base land values for TIF exempt properties will continue on the tax duplicate as usual and are subject to the Substitute Levy. The building improvement values for tax abated properties and the land improvement and building improvement values for TIF exempt properties will be exempted for a period of time and will not be subject to the Substitute Levy during the period of any temporary exemption. When an abatement or a TIF expires, the value of the improvements not previously taxed come on to the tax duplicate as a change in exemption and are treated just like new construction, i.e. non-carryover property, not as an inflationary increase in value. Additional revenue under the Substitute Levy would be generated from any previously exempt improvement values at that time.