

# STATE OF MINNESOTA

Office of the State Auditor



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State Auditor

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## TAX INCREMENT FINANCING COUNTY GUIDE

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# **TAX INCREMENT FINANCING COUNTY GUIDE**

Welcome to the Office of the State Auditor's Tax Increment Financing (TIF) County Guide.

We've updated the guide to help county officials identify and administer the TIF Act as it applies directly to them. When using the guide, please keep the following in mind.

First, the TIF Act changes during most legislative sessions. Some of these changes are retroactive, while others are not. It is always important to make sure that the correct version of the law is being used.

Second, this guide covers the main rights and obligations that counties have under the TIF Act, but there may be specific issues that are not addressed in these materials. Again, please check the TIF Act or consult with an advisor if you have questions about a specific situation.

Finally, please do not hesitate to contact the Office of the State Auditor (651-296-2551) if you require further assistance. TIF Division personnel can be reached by calling one of the numbers shown below or by sending an e-mail to [tifdivision@osa.state.mn.us](mailto:tifdivision@osa.state.mn.us).

## **Alternative Format**

This document can be made available in alternative formats upon request. Call (651) 296-2551 [voice] or (800) 627-3529 [relay service] for assistance or visit the Office of the State Auditor's website at [www.osa.state.mn.us](http://www.osa.state.mn.us).

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## **Introduction**

The Office of the State Auditor (OSA) has received requests for general guidelines to assist counties in administering tax increment financing (TIF) districts. The information provided below includes most, if not all, of the TIF Act provisions applicable to counties. The Department of Revenue also has information on its website to help counties in their administration of these complicated statutes. Please remember that the law changes frequently. The information contained in this guide is current as of June 2008. However, it is important to ensure that there have not been any subsequent changes in the law before acting on the information contained in this guide.

### **A. Opportunity to Comment on Proposed New TIF Districts**

Before formation of a TIF district, the TIF authority must provide the county auditor and clerk of the school board with the proposed tax increment financing plan for the district and the authority's estimate of the fiscal and economic implications of the proposed TIF district. The auditor and clerk must provide copies of these documents to their respective boards. This information must be provided to the county auditor and the clerk of the school board at least 30 days before the public hearing. The public hearing must be conducted by the city council or other municipal governing body before it approves the TIF district. The 30-day requirement is waived if the county and school boards submit written comments on the proposal to the TIF authority after receipt of the information. The fiscal and economic implications may be included as a part of the TIF plan. The TIF Act identifies the fiscal and economic implications of the proposed TIF district that must be provided under this subdivision. Furthermore, if a county or school district has not adopted standard questions in a written policy on information requested for fiscal and economic implications, a county or school district may request additional information no later than 15 days after receipt of the TIF plan. The request does not require an additional 30 days of notice before the public hearing.<sup>1</sup>

If the proposed district is a housing or redevelopment district, at least 30 days before the publication of the notice of the public hearing the authority must also provide written notice of the proposed TIF district to each county commissioner who represents part of the area proposed to be included in the district. The notice must contain a general description of the boundaries of the proposed district, the proposed activities to be financed by the district, an offer by the authority to meet with the county commissioner, and a solicitation of the commissioner's comments with respect to the district. The commissioner may waive the 30-day requirement by submitting written comments on the proposal and any modification of the proposal to the TIF authority after receipt of the information.<sup>2</sup>

### **B. Municipality Approval**

A county auditor may not certify the original net tax capacity of a district until the TIF plan

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<sup>1</sup> Minn. Stat. § 469.175, subd. 2.

<sup>2</sup> Minn. Stat. § 469.175, subd. 2a.

proposed for that district has been approved by the municipality in which the district is located. If the authority that proposes to establish a TIF district and the municipality are not the same, the authority must obtain the approval of its TIF plan from the municipality before the authority may use tax increment financing. The municipality may approve a TIF plan only after having a public hearing. The notice of the public hearing must be published in a newspaper of general circulation in the municipality at least once not less than 10 days, nor more than 30 days, prior to the date of the hearing. The notice must include a map of the TIF district from which tax increment may be collected and a map of the project area in which tax increments may be expended.<sup>3</sup>

### **C. Opportunity to Comment on Proposed TIF-Plan Modifications**

A TIF authority may modify a TIF plan, but if the modification enlarges the geographic area of the TIF district or project area, or reduces the geographic area of the TIF district or project area so as to cause an increase in the captured net tax capacity, increases the amount of bonded indebtedness to be incurred, including a determination to capitalize interest on the debt if that determination was not a part of the original plan, increases the portion of the captured net tax capacity to be retained by the authority, increases the estimate of the cost of the project that will be paid or financed with tax increment from the district, or designates additional property to be acquired by the authority, the modification may only be approved upon the notice and after the discussion, public hearing, and findings required for approval of the original TIF plan.<sup>4</sup>

If an authority changes the type of district to another type of district, this change is not a modification. It requires the authority to follow the procedures for adoption of a new TIF plan, including certification of the net tax capacity of the district by the county auditor.<sup>5</sup>

The geographic area of a TIF district may be reduced, but not enlarged, after five years following the date of certification of the original net tax capacity by the county auditor or after August 1, 1984, for TIF districts authorized prior to August 1, 1979.<sup>6</sup>

### **D. Recovering County Costs**

#### **1. County Road Costs**

When the county receives a copy of a plan for a proposed TIF district or a TIF-plan modification for an existing TIF district, it should examine the impact of the proposal on county roads. The county board may require the authority to pay all or a portion of the cost of county road improvements out

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<sup>3</sup> Minn. Stat. § 469.175, subd. 3.

<sup>4</sup> Minn. Stat. § 469.175, subd. 4(a) and (b).

<sup>5</sup> Minn. Stat. § 469.175, subd. 4(c).

<sup>6</sup> Minn. Stat. § 469.175, subd. 4(f).

of tax increment revenues if: (1) the proposed TIF plan or an amendment to the plan contemplates construction of a development that will, in the judgment of the county, substantially increase the use of county roads requiring construction of road improvements or other road costs, and (2) the road improvements or other road costs are not scheduled for construction within five years under the county capital improvement plan or another formally adopted county plan, and would not be needed within the reasonably foreseeable future if the tax increment financing plan were not implemented.<sup>7</sup>

If the county elects to use tax increments to finance the road improvements, it must notify the authority and municipality within 45 days after receipt of the proposed TIF plan. The notice must include the estimated cost of the road improvements and a schedule for construction and payment of the cost. The authority must include the improvements in the tax increment financing plan. The improvements may be financed with the proceeds of tax increment bonds or the authority and the county may agree that the county will finance the improvements with county funds to be repaid in installments, with or without interest, out of tax increment revenues. If the cost of the road improvements and other project costs exceed the projected amount of the tax increment revenues, the county and the authority must negotiate an agreement, modifying the development plan or proposed road improvements that will permit financing of the costs before the TIF plan may be approved.<sup>8</sup> If the county and TIF authority or municipality cannot reach a negotiated agreement about financing county road improvements with tax increment, either party may elect to have the dispute resolved by binding arbitration.<sup>9</sup>

## **2. County Administrative Expenses**

A county may require a TIF authority to reimburse the county's actual expenses arising from the administration of the authority's TIF districts. The amount of these payments is not required to be set forth in the TIF plan. The county may require payment of those expenses by February 15 of the year after the year in which the expenses are incurred. To obtain payment for actual administrative expenses, the county auditor must submit to the authority a record of costs incurred by the county auditor related to the administration of the authority's TIF districts.<sup>10</sup>

Similar to county road costs, if the county and TIF authority or municipality cannot agree on the amount of the county's actual administrative costs to be reimbursed, either party may elect to have the dispute resolved by binding arbitration.<sup>11</sup>

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<sup>7</sup> Minn. Stat. § 469.175, subd. 1a(a). *See also* Minn. Stat. § 469.176, subd. 4h(b).

<sup>8</sup> Minn. Stat. § 469.175, subd. 1a(b).

<sup>9</sup> Minn. Stat. § 469.1762.

<sup>10</sup> Minn. Stat. § 469.176, subd. 4h(a).

<sup>11</sup> Minn. Stat. § 469.1762.

### **3. Multi-County Use Prohibited**

If a TIF district is located in a municipality, parts of which are situated in more than one county, tax increment from parcels located in one county must be spent for the direct and primary benefit of a project located or conducted within that county, unless the county boards of each of the counties involved agree to waive this requirement.<sup>12</sup>

### **E. Request for Certification of a New/Expanded TIF District**

After a TIF authority adopts and a municipality approves a TIF plan for a new TIF district, or a modification of an existing TIF district that expands the geographic area of the district, the TIF authority must request certification of the parcels in the TIF district.

#### **1. Date Certification Request Received**

A request for certification of a new TIF district or a modification to an existing TIF district received by the county auditor on or before June 30 of the calendar year is recognized by the county auditor in determining local tax rates for the current and subsequent levy years. Requests received after June 30 of the calendar year are not recognized in determining local tax rates for the current levy year but are recognized in determining local tax rates for subsequent levy years.<sup>13</sup>

#### **2. Prior Planned Improvements**

A TIF authority must include with its request for initial certification or its notice of a district enlargement to the county auditor a list of building permits that have been issued for properties within the TIF district during the 18 months immediately preceding approval of the tax increment financing plan by the municipality. The county auditor must increase the original net tax capacity of the district by the net tax capacity of each improvement for which a building permit was issued.<sup>14</sup>

#### **3. Parcels not Includable in TIF Districts**

A parcel or part of a parcel that qualified under the provisions of section 273.111 or 273.112 or chapter 473H (agricultural and open space preservation statutes) for taxes payable in any of the five calendar years before the filing of the request for certification may be included in the TIF district only for: (1) a district in which 85% or more of the square footage of the planned buildings and facilities are used as a qualified manufacturing facility or a qualified distribution facility or a combination of both; or (2) a housing district.

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<sup>12</sup> Minn. Stat. § 469.176, subd. 4i.

<sup>13</sup> Minn. Stat. § 469.177, subd. 6.

<sup>14</sup> Minn. Stat. 469.177, subd. 4.



A distribution facility means buildings and other improvements to real property that are used to:

- (i) store or warehouse tangible personal property;
- (ii) take orders for shipment, mailing, or delivery;
- (iii) prepare personal property for shipment, mailing, or delivery; and
- (iv) ship, mail, or deliver property.

A manufacturing facility includes space used for manufacturing or producing tangible personal property, including processing resulting in the change in condition of the property, and space necessary for and related to the manufacturing activities.

To be a qualified facility, the owner or operator of a manufacturing or distribution facility must also agree to pay at least 90% of the facility's employees at a rate equal to or greater than 160% of the federal minimum wage for individuals over the age of 20.<sup>15</sup>

#### **4. Certification of Original Net Tax Capacity and Original Local Tax Rate**

Upon request of the TIF authority, the county auditor must certify the original net tax capacity of a tax increment financing district and that portion of the district overlying any subdistrict as described in the TIF plan. In each subsequent year, the auditor must certify the amount by which the original net tax capacity has increased or decreased as a result of, for example:

- (i) a change in tax exempt status of property within the district and any subdistrict;
- (ii) a reduction or enlargement of the district; or
- (iii) changes in prior planned improvements.

Effective for certification requests made after June 30, 2008, the county auditor must certify the amount within 30 days after receipt of the request and sufficient information to identify the parcels included in the district.<sup>16</sup>

At the time of the initial certification of the original net tax capacity for a TIF district or a subdistrict, the county auditor must certify the original local tax rate that applies to the district or subdistrict. The original local tax rate is the sum of all the local tax rates that apply to a property in the district or subdistrict, and is the rate in effect for the same taxes payable year applicable to the tax capacity values certified as the district's or subdistrict's original tax capacity. The resulting tax capacity rate is the original local tax rate for the life of the district or subdistrict.<sup>17</sup>

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<sup>15</sup> Minn. Stat. § 469.176, subd. 7.

<sup>16</sup> Minn. Stat. § 469.177 subd. 1.

<sup>17</sup> Minn. Stat. § 469.177 subd. 1a.

The original local tax rate and any other tax rate or amount used to calculate the amount of tax increment does not include any rate or amount attributable to a state levy.<sup>18</sup>

## 5. Adjustments to Original Net Tax Capacity

If the classification of property located in a district changes to a classification with a different assessment ratio under Minnesota Statutes, Section 273.13, the original net tax capacity of that property must be redetermined at the time its use is changed. The redetermined original net tax capacity should be set as if the property had originally been in the same class in which it is classified after its use is changed.<sup>19</sup>

If previously tax exempt real property in a TIF district becomes taxable, the amount to be added to the original net tax capacity of the district equals the net tax capacity of the real property as most recently assessed under Minnesota Statutes, Section 273.18. If that assessment was made more than one year prior to the date of title transfer rendering the property taxable, the amount to be added equals the net tax capacity assessed by the assessor at the time of the transfer.<sup>20</sup>

If previously taxable property in a TIF district becomes tax exempt or is removed from the district, the amount to be subtracted from the original net tax capacity of the district is the amount of original net tax capacity initially attributable to the property in question.<sup>21</sup>

If the net tax capacity of a property increases because it no longer qualifies under the Minnesota Agricultural Property Tax Law, the Minnesota Open Space Property Tax Law, or the Metropolitan Agricultural Preserves Act, or because platted, unimproved property is improved or three years pass after approval of the plat under section 273.11, subdivision 1, the increase in net tax capacity must be added to the original net tax capacity.<sup>22</sup>

If a parcel of property contains a substandard building that was demolished or removed and if the authority elects to treat the parcel as occupied by a substandard building under section 469.174, subdivision 10, paragraph b, the county auditor must certify the original net tax capacity of the parcel using the greater of: (1) the current net tax capacity of the parcel; or (2) the estimated market value of the parcel for the year in which the building was demolished or removed, but applying the class rates for the current year.<sup>23</sup>

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<sup>18</sup> Minn. Stat. § 469.177, subd. 1b.

<sup>19</sup> Minn. Stat. § 469.177, subd. 1(b).

<sup>20</sup> Minn. Stat. § 469.177, subd. 1(c).

<sup>21</sup> Minn. Stat. § 469.177, subd. 1(e).

<sup>22</sup> Minn. Stat. § 469.177, subd. 1(d).

<sup>23</sup> Minn. Stat. § 469.177, subd. 1(f).

For a redevelopment district qualifying under section 469.174, subdivision 10, paragraph (a), clause (4), as a qualified disaster area, the auditor must certify the value of the land as the original tax capacity for any parcel in the district that contains a building that suffered substantial damage as a result of the disaster or emergency.<sup>24</sup>

## **6. Certification of Captured Net Tax Capacity**

The county auditor must certify the amount of the captured net tax capacity to the authority each year, along with the proportion that the captured net tax capacity bears to the total net tax capacity of the real property within the tax increment financing district and any subdistrict for that year. An authority may retain part or all of the captured net tax capacity, but the portion that the authority intends to retain must be clearly stated in the TIF plan.<sup>25</sup>

## **7. Tax Increment, Relationship to Chapters 276A and 473F**

a. Unless the governing body elects pursuant to paragraph (b) the following method of computation applies to a district, other than an economic development district, for which the request for certification was made after June 30, 1997:

(1) The original net tax capacity and the current net tax capacity shall be determined before the application of the fiscal disparity provisions of chapter 276A or 473F. Where the original net tax capacity is equal to or greater than the current net tax capacity, there is no captured net tax capacity and no tax increment determination. Where the original net tax capacity is less than the current net tax capacity, the difference between the original net tax capacity and the current net tax capacity is the captured net tax capacity. This amount less any portion thereof which the authority has designated, in its tax increment financing plan, to share with the local taxing districts is the retained captured net tax capacity of the authority.

(2) The county auditor shall exclude the retained captured net tax capacity of the authority from the net tax capacity of the local taxing districts in determining local taxing district tax rates. The local tax rates so determined are to be extended against the retained captured net tax capacity of the authority as well as the net tax capacity of the local taxing districts. The tax generated by the extension of the lesser of (A) the local taxing district tax rates or (B) the original local tax rate to the retained captured net tax capacity of the authority is the tax increment of the authority.<sup>26</sup>

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<sup>24</sup> Minn. Stat. § 469.177, subd. 1(g).

<sup>25</sup> Minn. Stat. § 469.177, subd. 2.

<sup>26</sup> Minn. Stat. §§ 469.177, subd. 3(a)(1) and (2).

b. The following method of computation applies to any economic development district for which the request for certification was made after June 30, 1997, and to any other district for which the governing body makes an election by resolution approving the TIF plan:

(1) The original net tax capacity shall be determined before the application of the application of the fiscal disparity provisions of chapter 276A or 473F. The current net tax capacity shall exclude any fiscal disparity commercial-industrial net tax capacity increase between the original year and the current year multiplied by the fiscal disparity ratio determined pursuant to section 276A.06, subdivision 7, or 473F.08, subdivision 6. Where the original net tax capacity is equal to or greater than the current net tax capacity, there is no captured net tax capacity and no tax increment determination. Where the original net tax capacity is less than the current net tax capacity, the difference between the original net tax capacity and the current net tax capacity is the captured net tax capacity. This amount less any portion thereof which the authority had designated, in its tax increment financing plan, to share with the local taxing districts is the retained captured net tax capacity of the authority.

(2) The county auditor shall exclude the retained captured net tax capacity of the authority from the net tax capacity of the local taxing districts in determining local taxing district tax rates. The local tax rates so determined are to be extended against the retained captured net tax capacity of the authority as well as the net tax capacity of the local taxing districts. The tax generated by the extension of the lesser of (A) the local taxing district tax rates or (B) the original local tax rate to the retained captured net tax capacity of the authority is the tax increment of the authority.<sup>27</sup>

An election by the governing body pursuant to paragraph (b) must be submitted to the county auditor by the authority at the time of the request for certification.<sup>28</sup> The method of computing tax increment remains the same for the duration of the district, except that the governing body may elect to change its election from the method of computation in paragraph (a) to the method in paragraph (b).<sup>29</sup>

## **F. Assessment Agreements**

An authority may enter into a written agreement that establishes a minimum market value of land, existing improvements, or improvements to be constructed in a district. The minimum market value

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<sup>27</sup> Minn. Stat. §§ 469.177, subd. 3(b)(1) and (2).

<sup>28</sup> Minn. Stat. § 469.177, subd. 3(b)(3).

<sup>29</sup> Minn. Stat. § 469.177, subd. 3(c).

established by an assessment agreement may be fixed, or increase or decrease in later years from the initial minimum market value. The assessment agreement must be presented to the county assessor (or city assessor as applicable). The assessor must review all relevant records and may, if appropriate, certify that the market value assigned to land and improvements are reasonable. The assessment agreement should be filed and recorded in the office of the county assessor or the registrar of titles of each county where the real estate or any part thereof is situated.<sup>30</sup>

### **G. Distribution of Excess Taxes on Captured Net Tax Capacity**

For TIF districts with certification request dates after May 1, 1988, the county auditor must certify the original local tax rate for the district. Applying the local taxing jurisdictions' tax rates to the net tax capacity captured by the TIF district may yield an amount of tax revenue that is greater than the limited amount of tax increment. The difference between the amount of tax revenue generated by applying the local taxing district tax rates to the captured net tax capacity and the limited amount of tax increment is excess taxes. Excess taxes are not tax increment, although the sum of excess taxes and the net tax increment from a TIF district sometimes is called the district's gross tax increment. The excess taxes are distributed to the local taxing districts whose local tax rate increases produced the excess taxes.<sup>31</sup>

Excess taxes due to the increase in the tax rate over the rate in effect when the TIF district was certified are to go to the county, city, and school district based on the increase in their respective rates.

Within 30 days after making a distribution of excess taxes to a school district, the county auditor must report to the commissioner of education the amount of excess taxes the school district received, so that the school district's state aid may be adjusted downward.<sup>32</sup>

TIF authorities have told the OSA that the computer software used by many counties to compute and generate reports regarding property tax settlements labels distributions of excess taxes on captured net tax capacity as "excess TIF." This label has led some TIF authorities to believe these excess taxes are tax increment, which they are not, and to record the deposit of them into funds containing tax increment. This confusion has resulted in some TIF authorities improperly failing to segregate tax increment from these excess taxes, contrary to the statutory requirement to segregate tax increment.<sup>33</sup>

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<sup>30</sup> Minn. Stat. § 469.177, subd. 8.

<sup>31</sup> Minn. Stat. § 469.177, subd. 9(a).

<sup>32</sup> Minn. Stat. § 469.177, subd. 9(c).

<sup>33</sup> Minn. Stat. § 469.177, subd. 5.

## **H. Deduction for OSA's TIF Enforcement Activities**

The county treasurer must deduct a percentage of any increment distributed to an authority or municipality and pay it to the commissioner of finance for deposit in the state general fund. The amounts deducted and paid are appropriated to the state auditor for the cost of (1) financial reporting of TIF information and (2) the cost of examining and auditing of authorities' use of tax increment financing. The Department of Revenue has calculated the TIF enforcement deduction rate for taxes payable in 2002 and thereafter to be 0.36 percent.<sup>34</sup>

## **I. Adjustments to Date of Decertification and Early Decertification**

A county auditor should be aware of certain TIF authority actions or TIF Act provisions that may affect the maximum duration limit of a TIF district or parcels that make up the TIF district.

### **1. Waiving Receipt of Tax Increment**

Typically, a request to waive or decline a tax increment payment occurs in an early year of a district when only a small amount of tax increment is generated. Tax increment is waived or declined in an attempt to delay by one or more years the maximum duration limit of the district, if the district's statutory maximum duration limit is based on the first receipt of tax increment.

An action by the authority to waive or decline to accept a tax increment payment has no effect on a district's duration limit. The authority is deemed to have received a tax increment payment for any year in which it waived or declined to accept the payment, regardless of whether the increment was paid to the authority.<sup>35</sup> This provision only applies to new economic development, renewal and renovation, and soils condition districts with certification requests dates after June 30, 2000.<sup>36</sup> As a result, the statutory maximum duration limits of economic development, renewal and renovation, and soils condition districts with initial certification request dates on or before June 30, 2000, may be affected by waiving or declining tax increment. As a practical matter, however, this law has no impact on the statutory maximum duration limit of many economic development districts, because their statutory maximum duration limits are frequently measured from approval of the TIF plan rather than first receipt of tax increment.<sup>37</sup>

The law also did not affect statutory maximum duration limits for housing or redevelopment districts with certification request dates after May 31, 1993, or hazardous substance subdistricts. The only

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<sup>34</sup> Minn. Stat. § 469.177, subd. 11.

<sup>35</sup> See Laws of Minnesota for 2000, ch. 490, art. 11, sec. 25.

<sup>36</sup> The new law does not apply to geographic enlargements of TIF districts, provided the district's initial request for certification was on or before June 30, 2000.

<sup>37</sup> See Laws of Minnesota for 1997, ch. 231, art. 10, sec. 6.

way to delay receiving tax increment from such housing or redevelopment districts or a hazardous substance subdistrict, and thus the only way to affect the statutory maximum duration limits of these districts and subdistricts, was to have included a provision in the TIF plan setting a minimum market value.<sup>38</sup> The authorization to include a minimum market value in a TIF plan, and thereby delay the receipt of the first tax increment from a housing or redevelopment district or a hazardous substance subdistrict, was repealed effective for TIF districts with certification request dates after July 31, 2001.<sup>39</sup> Therefore, for redevelopment or housing districts or hazardous substance subdistricts with certification request dates after July 31, 2001, the statutory maximum duration limit cannot be adjusted by setting a minimum market value in the TIF plan or waiving tax increment.

Because of the confusing provisions noted above, a new law went into effect for districts other than economic development districts for which the request for certification is made after June 30, 2008. A TIF authority may specify in the TIF plan the first year in which it elects to receive tax increment, up to four years following the year of approval of the district.<sup>40</sup> This election will affect the statutory maximum duration limits of all new TIF districts, other than economic development districts.

## **2. Municipality Approval**

A municipality may, at the time it approves the initial TIF plan, provide for one or both of the following: (1) a shorter duration limit than the maximum specified in the TIF Act, (2) an election as provided under section 469.175, subdivision 1, paragraph (b), relating to the election of the first year of tax increment receipt.<sup>41</sup> Because of this provision, the county auditor should review all TIF plans to determine the correct duration limits of all TIF districts.

## **3. Three-Year “Knockout” Rule**

If a TIF district has no qualifying activity within three years after certification of the district, the county auditor must decertify the district. A qualifying activity can be the sale of certain bonds, the authority’s acquisition of property within the district, or the construction of public improvements within the district.<sup>42</sup> Activity that takes place before a TIF district is certified is not a qualifying activity for purposes of the three-year rule, and the rule applies to the entire district and not individual parcels.

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<sup>38</sup> See Minn. Stat. §§ 469.175, subd. 1(b) and 469.176, subd. 1b(a)(4), 1b(c), and 1e.

<sup>39</sup> See Laws 1 Sp. 2001, ch. 5, art. 15, sec. 7, 10, and 11.

<sup>40</sup> Minn. Stat. § 469.175, subd. 1(b).

<sup>41</sup> Minn. Stat. § 469.176, subd. 1(a).

<sup>42</sup> Minn. Stat. § 469.176, subd. 1a.

The three-year knock-out rule was repealed in 2005, and the effective date language specifies that the rule is deemed satisfied for existing districts if the qualifying activity occurred before the end of the three year period, regardless of whether the activity was undertaken before or after certification of the district.<sup>43</sup>

#### **4. Four-Year “Knock Down” Rule**

The county auditor is required to enforce the four-year “knock down” rule:

If, after four years from the date of certification of the original net tax capacity of the tax increment financing district pursuant to section 469.177, no demolition, rehabilitation, or renovation of property or other site preparation, including qualified improvement of a street adjacent to a parcel but not installation of utility service including sewer or water systems, has been commenced on a parcel located within a tax increment financing district by the authority or by the owner of the parcel in accordance with the tax increment financing plan, no additional tax increment may be taken from that parcel, and the original net tax capacity of that parcel shall be excluded from the original net tax capacity of the tax increment financing district. If the authority or the owner of the parcel subsequently commences demolition, rehabilitation, or renovation or other site preparation on that parcel including qualified improvement of a street adjacent to that parcel, in accordance with the tax increment financing plan, the authority shall certify to the county auditor that the activity has commenced, and the county auditor shall certify the net tax capacity thereof as most recently certified by the commissioner of revenue and add it to the original net tax capacity of the tax increment financing district. The county auditor must enforce the provisions of this subdivision. The authority must submit to the county auditor evidence that the required activity has taken place for each parcel in the district. The evidence for a parcel must be submitted by February 1 of the fifth year following the year in which the parcel was certified as included in the district. For purposes of this subdivision, qualified improvements of a street are limited to (1) construction or opening of a new street, (2) relocation of a street, and (3) substantial reconstruction or rebuilding of an existing street.<sup>44</sup>

This provision applies to each parcel individually rather than the TIF district as a whole. Demolition, rehabilitation, renovation, or other site preparation, including qualifying street improvements, must be made on each parcel in accordance with the TIF plan within four years after certification of the TIF district.

The TIF authority must submit evidence of each parcel’s qualifying activity to the county auditor. The evidence must be submitted by February 1 of the fifth year following the year in which the parcel was certified as included in the district. Because the qualifying activity must be authorized by

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<sup>43</sup> See Laws 2005, ch. 152, art. 2, sec. 31.

<sup>44</sup> Minn. Stat. § 469.176, subd. 6.



the TIF plan, the county auditor should review the TIF plan and the evidence provided to see if the two are consistent and should require information from the authority that is sufficient to make this evaluation.

If no demolition, rehabilitation, renovation or other site preparation has taken place on a parcel, or if the activity that did occur was not authorized by the TIF plan, the original net tax capacity of the parcel must be excluded from the TIF district. If subsequent qualifying activity takes place, the most recent net tax capacity of the parcel is added back to the original net tax capacity of the TIF district.

## **J. Decertification**

The county auditor is required to decertify each TIF district at the appropriate time:

The county auditor shall decertify a tax increment financing district when the earliest of the following times is reached:

(1) the applicable maximum duration limit under section 469.176, subdivisions 1a to 1g;

(2) the maximum duration limit, if any, provided by the municipality pursuant to section 469.176, subdivision 1;

\* \* \*

(4) upon completion of the required actions to allow decertification under section 469.1763, subdivision 4; or

(5) upon receipt by the county auditor of a written request for decertification from the authority that requested certification of the original net tax capacity of the district or its successor.

Minn. Stat. § 469.177, subd. 12.

## **K. Maximum Duration Limits and Delinquent Taxes After Termination**

1. A TIF authority is not entitled to receive tax increment after the following deadlines in each of the listed districts:

### **a. Renewal and Renovation District**

15 years after receipt by the authority of the first tax increment.

### **b. Soils Condition District**

20 years after receipt by the authority of the first tax increment.

**c. Economic Development District**

8 years after receipt by the authority of the first tax increment.

**d. Housing and Redevelopment District**

25 years from the date of receipt by the authority of the first increment.

Minn. Stat. § 469.176, subd. 1b(a).<sup>45</sup>

For purposes of determining a duration limit that is based on the receipt of increment, any increment from taxes payable in the year in which the district terminates shall be paid to the authority. This does not affect a duration limit calculated from the date of approval of the TIF plan or based on the recovery of costs or to duration limits of pre-1979 districts, nor does it supersede the restrictions on the payment of delinquent taxes after termination.<sup>46</sup>

**2. Pre-1979 Districts**

For TIF districts created prior to August 1, 1979, no tax increment may be paid to the authority after the later of April 1, 2001, or the term of a nondefeased bond or obligation that was outstanding on April 1, 1990, secured by increment from the district or project area. In addition, in no case may tax increment from such a district be paid to an authority after August 1, 2009. If a district's termination date is extended beyond April 1, 2001, because bonds outstanding on April 1, 1990, had maturities extending beyond April 1, 2001, no increment collected from the district may be expended after April 1, 2001, except to pay or repay: (1) bonds issued before April 1, 1990; (2) bonds issued to refund the principal of the outstanding bonds and pay associated issuance costs; (3) administrative expenses of the district; (4) transfers permitted for pooling for deficits; and (5) any advance or payment made by the municipality or the authority after June 1, 2002, to pay obligations listed in 1 or 2 above. When sufficient money has been received to pay in full or defease obligations listed in 1, 2, and 5 above, the tax increment project or district must be decertified.<sup>47</sup>

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<sup>45</sup> For economic development districts for which the request for certification was received by the county auditor on or before June 30, 2000, the maximum duration limit is after nine years from the date of the first receipt of increment or 11 years from approval of the tax increment financing plan, whichever is less. *See* Laws of Minnesota for 2000, ch. 490, art. 11, sec. 25.

<sup>46</sup> Minn. Stat. § 469.176, subd. 1b(b).

<sup>47</sup> Minn. Stat. § 469.176, subd. 1c.

### **3. Hazardous Substance Subdistricts**

If a parcel of a district is part of a designated hazardous substance site or a hazardous substance subdistrict, tax increment may be paid to the authority from the parcel for longer than the period otherwise provided for the overlying district. The extended period for collection of tax increment begins on the date of receipt of the first tax increment from the parcel that is more than any tax increment received from the parcel before the date of the certification under Minnesota Statutes, section 469.174, subdivision 7, paragraph (b), and received after the date of certification to the county auditor described in Minnesota Statutes, section 469.174, subdivision 7, paragraph (b). The extended period for collection of tax increment is the lesser of: (1) 25 years from the date of commencement of the extended period; or (2) the period necessary to recover the costs of removal actions or remedial actions specified in a development response action plan.<sup>48</sup>

Receipt by a hazardous substance subdistrict of an increment as a result of a reduction in the original net tax capacity under Minnesota Statutes, section 469.174, subdivision 7, paragraph (b), does not constitute receipt of increment by the overlying district for the purpose of calculating the duration limit for the overlying district.<sup>49</sup>

### **4. Effect of Modifications**

Modifying a tax increment financing plan typically does not extend the duration of a TIF district.<sup>50</sup>

### **5. Extension to Recover Cleanup Costs**

If approved by the municipality, an authority may extend the duration of a district beyond the limit that otherwise applies if: (1) contamination, hazardous substances, pollution, or other material requiring removal or remediation are found in the district after its established; (2) the authority elects not to create a hazardous substance subdistrict; and (3) the municipality pays for the cost of removal, cleanup, or remediation with non-TIF funds. The maximum duration extension permitted by this subdivision is the lesser of ten years after the district otherwise would have terminated or the number of additional years necessary to collect increment equal to the cleanup costs paid the municipality out of funds other than tax increments. Cleanup costs are limited to actual costs of removal and remediation, including testing and engineering, and do not include financing or interest costs. Cleanup costs must be reduced by any reimbursements or amounts recovered from private parties or other responsible parties.<sup>51</sup>

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<sup>48</sup> Minn. Stat. § 469.176, subd. 1e.

<sup>49</sup> Minn. Stat. § 469.176, subd. 1b(d).

<sup>50</sup> Minn. Stat. § 469.176, subd. 1d.

<sup>51</sup> Minn. Stat. § 469.176, subd. 1g.

## 6. Interest Reduction Programs

Tax increment may be collected for only a fixed number of years if it is used to fund an interest reduction (IR) program:

Revenues derived from tax increment may be used to finance the costs of an interest reduction program operated pursuant to section 469.012, subdivisions 7 to 10, or pursuant to other law granting interest reduction authority and power by reference to those subdivisions only under the following conditions: (1) tax increments may not be collected for a program for a period in excess of 15 years after the date of the first interest rate reduction payment for the program, (2) tax increments may not be used for an interest reduction program, if the proceeds of bonds issued pursuant to section 469.178 after December 31, 1985, have been or will be used to provide financial assistance to the specific project which would receive the benefit of the interest reduction program, and (3) tax increments may not be used to finance an interest reduction program for owner-occupied single-family dwellings.<sup>52</sup>

This limitation applies to IR programs established after December 31, 1985, and TIF districts with certification request dates after December 31, 1985. IR programs financed with tax increment prior to December 31, 1985, were not subject to this provision.

In 1996, the duration limit on TIF-financed IR programs was increased from 12 years to 15 years.<sup>53</sup> This increase was effective for TIF districts with certification request dates after April 30, 1996. For TIF districts created earlier, however, TIF authorities were authorized to make an irrevocable election to have the longer time period apply to those earlier TIF districts by adopting a resolution to that effect on or before December 31, 1996.<sup>54</sup> The county auditor should obtain copies of these resolutions.

An IR program may be the only activity of a district or it may be one of many activities within a district. If a TIF plan for a TIF district authorizes tax increment from that district to be used only for funding an IR program, then any tax increment that the TIF authority receives from that district after the IR-program limit has expired is excess increment and must be returned to the county auditor. On the other hand, if the TIF plan authorizes the use of tax increment for other purposes, then increment received after the IR-program limit has expired may be used for those other purposes.

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<sup>52</sup> Minn. Stat. § 469.176, subd. 4f.

<sup>53</sup> See Laws 1996, ch. 471, art. 7, sec. 15.

<sup>54</sup> See Laws 1996, ch. 471, art. 7, sec. 35.

## **L. Delinquent Taxes After Decertification**

A county auditor may distribute property tax revenue from a parcel formerly in a TIF district to the TIF authority as tax increment if the revenue is collected after the TIF district was decertified and if three conditions are met. First, the parcel on which the property taxes were paid must have been part of the TIF district at the time it was decertified. Second, the property taxes must have been delinquent, not merely past due, at the time the TIF district was decertified.<sup>55</sup> Third, the failure to pay the delinquent property taxes when they were due must have either caused the TIF authority to be unable to pay obligations or must have forced it to use non-TIF funds to pay the obligations.<sup>56</sup> If the delinquent property taxes collected after a TIF district was decertified do not meet these requirements, the county auditor should distribute the funds as ordinary property tax revenue, not excess tax increment.

## **M. Distribution of Excess Tax Increment**

The TIF authority must annually determine the amount of excess increment, if any, for a TIF district. The determination must be based on the TIF plan in effect on December 31 of the year and the increments and other revenues received as of December 31 of the year. The authority must spend or return the excess increment within nine months after the end of the year. The authority may use excess increment only to: (1) prepay any outstanding bonds; (2) discharge the pledge of tax increment for any outstanding bonds; (3) pay into an escrow account dedicated to the payment of any outstanding bonds; or (4) return the excess amount to the county auditor who must distribute the excess amount to the city or town, county, and school district in which the TIF district is located in direct proportion to their respective local tax rates. For purposes of this subdivision, outstanding bonds means bonds which are secured by tax increments from the district.<sup>57</sup> Furthermore, within 30 days after making a distribution of excess tax increment to a school district, the county auditor must report to the commissioner of education the amount of excess tax increment distributed to a school district.<sup>58</sup>

## **N. Distribution of Violation Payments**

If a TIF authority improperly receives, spends, or transfers tax increment from a TIF district, and the violation occurred after December 31, 1990, the TIF authority must pay the county auditor an amount equal to the tax increment improperly collected, spent, or transferred.<sup>59</sup> If the TIF authority

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<sup>55</sup> Past-due property taxes become delinquent on the first business day in January of the year after the year in which the property taxes were payable. *See* Minn. Stat. § 279.02.

<sup>56</sup> Minn. Stat. § 469.176, subd. 1f.

<sup>57</sup> Minn. Stat. § 469.176, subd. 2(f).

<sup>58</sup> Minn. Stat. § 469.176, subd. 2(e).

<sup>59</sup> Minn. Stat. §§ 469.1771, subds. 2 and 3.

does not have sufficient money available to make the payment, the municipality that approved the TIF district must use any available money to make the payment including the levying of property taxes.<sup>60</sup> The payment received by the county auditor must be distributed as excess increment. If the county auditor receives the violation payment after (1) 60 days from a municipality's receipt of the OSA's notice of noncompliance requiring the payment, or (2) the commencement of an action by the county attorney to compel the payment, then no distributions may be made to the municipality that approved the TIF district.

Whenever a county auditor receives a payment from a TIF authority or municipality related to a TIF district, the county auditor should contact the TIF authority, municipality, and/or the OSA's TIF Division for guidance in determining the nature of the payment and which statute controls its redistribution.

### **O. Suspension of Distribution of Tax Increment**

A TIF authority must provide copies of annual disclosure statements to the county board, the county auditor, the state auditor, and, if the authority is other than the municipality, the governing body of the municipality on or before August 1 of the year in which the statement must be published. At the same time, the authority must file annual TIF reports for each TIF district with the state auditor, the county auditor, and the municipality, if different than the authority.<sup>61</sup>

The failure to file the annual disclosure statement or submit TIF reports to the OSA within the prescribed time period results in a written notice from the OSA to the TIF authority. The OSA must mail the notice on or before the third Tuesday of August of the year in which the disclosure or reports were required to be made or submitted. If the OSA has not received a copy of the disclosure or reports by the first day of October of the year in which they are due, the OSA notifies the county auditor to hold the distribution of tax increment from districts not in compliance.

Upon receiving the written notice, the county auditor must hold:

- (1) 100% of the amount of tax increment that otherwise would be distributed, if the distribution is made after the first day of October but during the year in which the disclosure or report was required to be made or submitted; or
- (2) 100% of the amount of tax increment that otherwise would be distributed, if the distribution is made after December 31 of the year in which the disclosure or report was required to be made or submitted.

Upon receiving the delinquent reports, the OSA must mail the county auditor a written notice lifting the hold and authorizing the county auditor to distribute any tax increment. The OSA must mail the

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<sup>60</sup> Minn. Stat. § 469.1771, subd. 5.

<sup>61</sup> Minn. Stat. § 469.175, subd. 5 and 6.

written notice within five working days after receiving the last outstanding item. The county auditor must distribute the tax increment within 15 working days after receiving the OSA's notice. Interest accrued on the tax increment during the holding period may be retained by the county.<sup>62</sup>

#### **P. Documentation for County TIF Files**

The county should, at a minimum, obtain and keep on file the following information for each TIF district:

1. The original TIF plan adopted by the TIF authority and approved by the municipality.
2. Any modifications or amendments to the original TIF plan.
3. The municipality's resolution approving the TIF plan or modifications.
4. Documentation supporting the certification request date.
5. Dates the county auditor certified the TIF district and any geographic enlargements.
6. Copies of other documentation related to the district:
  - a. County notification to the commissioner of education.
  - b. Special legislation.
  - c. Other relevant correspondence.
7. Statutory deadline dates:
  - a. The date the district must be decertified.
  - b. If applicable, the date the three-year rule applies.
  - c. The date the four-year knockdown rule applies, as measured from the certification date.
8. Settlement information, including the date the TIF district first received tax increment.

#### **Q. Record Retention Requirements for County Auditor TIF Files**

Minnesota Statute, sections 15.17 and 138.17-.19 require that records be retained indefinitely unless disposed of in accordance with a records retention schedule or other form approved by the Records Disposition Panel. There are four options regarding record retention:

- (1) Have records available forever.
- (2) Get approval on an "Application for Authority to Dispose of Records" to dispose of certain specific records. (An example of specific records would be check #'s 15883 through 18288 written from 3/14/92 through 6/18/94).
- (3) File a "Notification of Adoption of General Record Retention Schedule" with the MN Historical Society, after the governmental unit officially adopts the General Record Retention Schedule. The MN Historical Society signs and returns the notification form to the governmental unit.

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<sup>62</sup> Minn. Stat. § 469.1771, subd. 2a(c) and (d).

- (4) Develop and adopt a specific schedule. This schedule is reviewed by the Department of Administration, then is sent to the OSA, Archives, and the Attorney General's Office for approval. The schedule is then returned to the governmental unit. Records must be retained according to this schedule.

Records not listed on the General Schedule cannot be destroyed without submitting either an "Application for Authority to Dispose of Records" (PR-1) or a "Minnesota Records Retention Schedule" (RM-00058).

The General Record Retention Schedule for Counties includes the Tax Increment File in the Auditor section of the schedule and requires that records be retained for 20 years after the year the record originates. This includes the information that the county auditor maintains about TIF districts. If the county or county HRA have districts of their own, the TIF district information is required to be retained for 10 years after the expiration of the TIF district.

## **R. Dealing With Deficits**

The TIF Act contains four special provisions for dealing with deficits in a TIF district.

### **1. Special Deficit Authority**

This special authority applies only to an authority with a preexisting TIF district for which: (1) the increments from the district are insufficient to pay preexisting obligations as a result of the class rate changes and/or the elimination of the state-determined general education property tax levy; or (2) the authority has a binding contract, entered into before August 1, 2001, with a person and the authority is unable to pay the full amount of the contract because of class rate changes and/or elimination of the state-determined general education property tax levy under Laws 2001, First Special Session Chapter 5.

An authority with a district that meets these requirements may elect either or both of the following actions: (1) the original local tax rate does not apply to the district; and (2) the fiscal disparities contribution will be computed under section 469.177, subdivision 3, paragraph (a), regardless of the election that was originally made for the district.<sup>63</sup>

The authority may take these actions only after the municipality approves the action, by resolution, after notice and public hearing in the manner provided for the creation of a new TIF district. To be effective for taxes payable in the following year, the resolution must be adopted and the county must be notified of the adoption on or before July 1 of the year before the year in which the election is to be effective.

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<sup>63</sup> Minn. Stat. § 469.1792.



## **2. Pooling Permitted for Deficits.**

This TIF Act subdivision applies only to districts for which the request for certification was made before August 1, 2001. The municipality for a TIF district may transfer available increment from other TIF districts located in the municipality, if the transfer is necessary to eliminate a deficit in the district to which the increments are transferred. The municipality may transfer increments without regard to whether the transfer or expenditure is authorized by the TIF plan for the district from which the transfer is made. This authority to spend tax increment outside the area of the district from which the tax increments were collected is an exception to multiple TIF Act provisions.<sup>64</sup>

The municipality may require a development authority, other than a seaway port authority, to transfer increments currently available to make up for an insufficiency in another district in the municipality regardless of whether the district was established by the development authority or another development authority. The municipality may use this authority, however, only after it has used all available increments of the receiving authority to eliminate the insufficiency and exercised the action permitted by Minnesota Statutes § 469.1792, subd. 3.

## **3. Duration Extension to Offset Deficits**

An authority may extend the maximum duration limit of a TIF district up to four years, if the increments from the district are insufficient to pay qualifying obligations because of changes in the class rates and elimination of the state-determined general education property tax levy of 2001. However, the authority must first exercise its options under Minnesota Statutes §§ 469.1763 and 469.1792 before this provision applies.<sup>65</sup>

## **4. Special Taxing District**

A city may establish a special taxing district within a TIF district only if it has determined that total increments from a TIF district will be insufficient to pay the amounts due in a year on preexisting obligations, and this insufficiency resulted from a reduction in property class rates enacted in the 1997 and 1998 legislative sessions. The city must also agree to transfer any available increments from other TIF districts in the city to pay preexisting obligations of the district allowed under the pooling permitted for deficits provisions discussed above.<sup>66</sup>

If the TIF district does not qualify under these provisions, the city may still establish a special taxing district. If the city elects this provision, increments from the TIF district and the tax proceeds imposed by this provision may only be used to pay preexisting obligations and reasonable administrative expenses of the authority.

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<sup>64</sup> Minn. Stat. § 469.1763, subd. 6.

<sup>65</sup> Minn. Stat. § 469.1794.

<sup>66</sup> Minn. Stat. § 469.1791.

## **S. Correction of Errors**

In the past, if an error or mistake was made, for example, certifying a district, decertifying a district, or improperly calculating tax increment, the only avenue available to a county or city was to seek special legislation.

At the end of the 2008 legislative session, a technical amendment was enacted that added subdivision 13 to Minnesota Statutes section 469.177. The Correction of Errors amendment provides an alternative to seeking special legislation by allowing a county auditor to take one or more actions to correct errors or mistakes that were made. The county auditor may:

- (1) certify the original tax capacity of the affected parcels at the appropriate value for a later taxes payable year and extend the duration of the district, in whole or in part to compensate;
- (2) recertify the affected parcels and extend duration of the district, in whole or in part, to compensate;
- (3) recertify or correct the original tax capacity rate for the district;
- (4) adjust the tax rates of one or more of the taxing districts imposing taxes in the tax increment financing districts for one or more years to recoup amounts advanced by the county or other entity to the authority to replace the reduced increments; or
- (5) take other appropriate action so that the amount of increment compensates for or offsets the error or mistake and correctly reflects application of the law.

At least 30 days before exercising its authority under this subdivision, the county auditor must notify the authority and municipality, in writing, of its intent to do so, and provide supporting information to describe the reason for the proposed action. If the city or authority objects before expiration of the 30-day period, the matter must be submitted to the commissioner of revenue for a decision or resolution of the dispute. The county auditor must also notify the commissioner of revenue and the Office of the State Auditor of corrections made under this subdivision in the form and manner prescribed by the commissioner.

This amendment applies to all tax increment districts, regardless of when the request for certification was made or when the error occurred.

### **Conclusion**

It is well understood by TIF practitioners that each TIF district has unique characteristics and, as such, situations will arise that are not covered by the information contained in this guide. Furthermore, this guide is not intended to be an all inclusive reference source; the TIF Act should be reviewed for specifics before any significant action is taken. Finally, the OSA is always available to discuss TIF issues and provide assistance as needed.

*Minnesota State Auditor's TIF Checklist for County Officials*

This checklist is a part of the Minnesota State Auditor's Tax Increment Financing County Guide. It highlights some of the most important things that a county must do with regard to administering a TIF district. Please consult the Guide for a more complete description of a county's TIF rights and duties.

**Approval**

- 30 days before municipality's approval of TIF plan - county and school boards receive information regarding plan and invitation to comment (boards may waive notice period)
- 45 days after receiving TIF plan - deadline for county to notify TIF authority of request for reimbursement for county road costs

**Certification**

- Certification request received on or before June 30 recognized for determining local tax rates for **current and subsequent** levy years
- Certification request received after June 30 recognized for determining local tax rates for **subsequent** levy years
- Original net tax capacity of TIF district must be adjusted to reflect building permits issued within 18 months preceding approval of TIF plan
- If applicable, assessment agreement reviewed and approved

**Management**

- County may require TIF authority to reimburse county for expenses related to county administration of TIF district
- Three-year rule – if no qualifying activity within three years after district certification, district must be decertified
- Four-year rule – if authority does not provide evidence of qualifying work undertaken on a parcel within four years of certification, original net tax capacity of that parcel must be excluded from the TIF district
- Percentage of tax increment (.36%) must be deducted before increment is paid to TIF authority and sent to the state treasurer

*Minnesota State Auditor's TIF Checklist for County Officials*

**Documentation for County Files**

- Initial TIF plan adopted by the TIF authority and approved by the municipality
- Any modification or amendments to the TIF plan
- Resolution approving TIF plan, including date of TIF plan approval
- Documentation supporting the certification request date
- Dates the county auditor certified the TIF district and any geographic enlargements of the TIF district
- Copies of other documentation related to the district:
  - County notification to the Department of Education
  - Special legislation
  - Other relevant correspondence
- Statutory deadline dates:
  - Date that the district must be decertified
  - Date three-year knockout rule applies
  - Date four-year knockdown rule applies
- Settlement information, including date TIF district first received tax increment

**CONFIRMATION OF DECERTIFIED TIF DISTRICT**

The auditors from the TIF, Investment & Finance Division of the Office of the State Auditor (OSA) are reviewing our compliance with requirements of the TIF Act relating to decertification of the following TIF district. Please complete the information requested below in Part A and then forward the form to the County Auditor to be certified in Part B. Once the information has been completed by both the authorized TIF representative and the County Auditor, please return the form to the TIF Division of the OSA at the address listed below:

**Office of the State Auditor - TIF, Investment & Finance Division  
525 Park Street, Suite 500 St. Paul, MN 55103**

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**PART A. To be completed by the TIF authorized representative:**

County Auditor/Treasurer's Name: \_\_\_\_\_ Date: \_\_\_\_\_

County Name: \_\_\_\_\_ County Address: \_\_\_\_\_

TIF Authority Name: \_\_\_\_\_

TIF District # and Name: \_\_\_\_\_

TIF District Type: \_\_\_\_\_ TIF Plan Approval Date: \_\_\_\_\_

Certification Request Date: \_\_\_\_\_ Certification Date: \_\_\_\_\_

Required Decertification Date: \_\_\_\_\_ Decertification Based On: \_\_\_\_\_

**(Information to be confirmed by the County Auditor but completed by the TIF Authority:)**

1. Actual decertification date: \_\_\_\_\_
2. Date of first tax increment received: \_\_\_\_\_
3. Final tax increment distribution date \_\_\_\_\_ and amount \$ \_\_\_\_\_
4. Amount of excess tax increment returned to the county, if any \$ \_\_\_\_\_ and date \_\_\_\_\_

**Please note: If the district is decertifying early, please forward a copy of the resolution with this form to both the County Auditor and the TIF Division.**

\_\_\_\_\_  
Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Name and title of TIF authorized representative: \_\_\_\_\_

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**PART B: To be completed by the County Auditor or representative:**

On behalf of the County Auditor/Treasurer, I certify that the above information, specifically information provided in questions 1-4, is correct with the following exceptions, if any:

\_\_\_\_\_  
Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Name and title of the county representative: \_\_\_\_\_

Phone: \_\_\_\_\_ Exceptions?  No  Yes If yes, please describe below:

\_\_\_\_\_  
\_\_\_\_\_

DETERMINING DURATION LIMITS WORKSHEET

Authority: \_\_\_\_\_

Date: \_\_\_\_\_

District: \_\_\_\_\_

Initials: \_\_\_\_\_

**PERTINENT FACTS -- COMPLETE THIS SECTION BEFORE CONTINUING**

\_\_\_\_\_ First Tax Increment (TI) Received \_\_\_\_\_ Certificaton Request Date (CRD)  
\_\_\_\_\_ TIF Plan Approval Date \_\_\_\_\_ Type of District

**STATUTORY APPLICATION -- SELECT DISTRICT TYPE, MATCH CRD DATE, AND CALCULATE (see footnotes 1 and 2 also)**

**ECONOMIC DEVELOPMENT**

\_\_\_ CRD Between 8/1/79 and 5/31/93  
\_\_\_\_\_ 8 years from date of the receipt of first TI<sup>1</sup>  
\_\_\_\_\_ 10 years from approval of the TIF Plan<sup>2</sup>  
\_\_\_\_\_ Which is less?  
\_\_\_ CRD Between 6/1/93 and 6/30/00  
\_\_\_\_\_ 9 years from date of the receipt of first TI<sup>1</sup>  
\_\_\_\_\_ 11 years from approval of the TIF Plan<sup>2</sup>  
\_\_\_\_\_ Which is less?  
\_\_\_ CRD On or After 7/1/00  
\_\_\_\_\_ 8 years from date of the receipt of first TI<sup>1</sup>  
\_\_\_\_\_ Required Decertification Date

**RENEWAL AND RENOVATION**

\_\_\_ CRD Between 4/1/90 and 4/30/90  
\_\_\_\_\_ 15 years after receipt of first TI<sup>1</sup> provided none of the following actions were taken by June 1, 1991:  
1) authority entered into a development agreement for a site located in the district;  
2) bonds were issued to finance project costs; or  
3) authority acquired property in the district after 4/1/90  
\_\_\_ CRD On or After 5/1/90  
\_\_\_\_\_ 15 years after receipt of first TI<sup>1</sup>  
\_\_\_\_\_ Required Decertification Date

**REDEVELOPMENT**

\_\_\_ CRD Between 8/1/79 and 5/31/93  
\_\_\_\_\_ 25 years from date of the receipt of first TI<sup>1</sup>  
\_\_\_ CRD Between 6/1/93 and 7/31/01  
\_\_\_\_\_ 20 years from date of first TI<sup>1</sup> pursuant to 469.175 subd 1(b)  
\_\_\_\_\_ 25 years from date of receipt of first TI<sup>1</sup> if no provision has been made under 469.175, subd 1(b)  
\_\_\_ If minimum market value identification is being used, see next page.  
\_\_\_ CRD On or After 8/1/01  
\_\_\_\_\_ 25 years from date of the receipt of first TI<sup>1</sup>  
\_\_\_\_\_ Required Decertification Date

**SOILS CONDITION**

\_\_\_ CRD Between 5/2/88 and 6/30/97  
\_\_\_\_\_ 12 years from approval of the TIF Plan<sup>2</sup>  
\_\_\_ CRD On or After 7/1/97  
\_\_\_\_\_ 20 years after receipt of first TI<sup>1</sup>  
\_\_\_\_\_ Required Decertification Date

**HOUSING**

\_\_\_ CRD Between 8/1/79 and 5/31/93  
\_\_\_\_\_ 25 years from date of the receipt of first TI<sup>1</sup>  
\_\_\_ CRD Between 6/1/93 and 7/31/01  
\_\_\_\_\_ 20 years from date of the receipt of first TI<sup>1</sup>  
\_\_\_\_\_ 25 years from date of receipt of 1st TI<sup>1</sup> if no provision has been made under 469.175, subd 1(b)  
\_\_\_ If interest reduction program is being used, see next page.  
\_\_\_ If minimum market value identification is being used, see next page.  
\_\_\_ CRD On or After 8/1/01  
\_\_\_\_\_ 25 years from date of the receipt of first TI<sup>1</sup>  
\_\_\_\_\_ Required Decertification Date

**PRE-1979**

\_\_\_ CRD On or Before 7/31/79  
\_\_\_\_\_ April 1, 2001 or the term of a nondefeased bond or obligation outstanding on April 1, 1990, secured by increments from the district or project area, whichever time is greater, provided that in no case will TI be paid to an authority after August 1, 2009.  
\_\_\_\_\_ Required Decertification Date

<sup>1</sup> IF THE REQUIRED DECERTIFICATION DATE IS RELATED TO THE RECEIPT OF THE FIRST TAX INCREMENT, THE REQUIRED DECERTIFICATION DATE IS 12/31/YR.

<sup>2</sup> IF THE REQUIRED DECERTIFICATION DATE IS RELATED TO THE TIF PLAN APPROVAL DATE, THE REQUIRED DECERTIFICATION DATE IS THE SAME MM/DD AS THE TIF PLAN APPROVAL. Ex. 5/30/YR

DETERMINING DURATION LIMITS

**HAZARDOUS SUBSTANCE SUBDISTRICT**

**Created CRD Between 5/9/88 and 5/31/93**

If a parcel of a district is part of a designated hazardous substance site or a hazardous substance subdistrict, tax increment may be paid to the authority from the parcel for LONGER than the duration limit of the overlying district. The extended period for collection of tax increment BEGINS on the DATE OF RECEIPT OF THE FIRST TI from the parcel that is more than any tax increment received from the parcel BEFORE the DATE OF THE CERTIFICATION (under 469.17[4], subd. 7(b)) and received AFTER the DATE OF CERTIFICATION to the county auditor described in 469.17[4], subd. 7(b). The EXTENDED period for collection of TI is the lesser of:

- \_\_\_\_\_ 25 years from the date of commencement of the extended period; or
- \_\_\_\_\_ The period necessary to recover the costs of removal actions or remedial actions specified in a development action plan.

**Created CRD Between 6/1/93 and 7/31/01**

If a parcel of a district is part of a designated hazardous substance site or a hazardous substance subdistrict, tax increment may be paid to the authority from the parcel for longer than the duration limit of the overlying district. The EXTENDED period for collection of TI BEGINS on the DATE OF RECEIPT OF THE FIRST TI from the parcel that is more than any tax increment received from the parcel BEFORE the DATE OF CERTIFICATION (under 469.174, subd. 7(b)) and received AFTER the DATE OF CERTIFICATION to the county auditor described in 469.174, subd. 7(b). The EXTENDED period for collection of tax increment is the lesser of:

- \_\_\_\_\_ 25 years from the date of commencement of the extended period; or
- \_\_\_\_\_ 20 years if the authority elects under 469.175, subd. 1(b) to:
  - \_\_\_\_\_ Defer receipt of the first increment; or
  - \_\_\_\_\_ The period necessary to recover the costs of removal actions or remedial actions specified in a development response action plan.

\_\_\_\_\_ If minimum market value identification is being used, see next page.

**Created CRD On or After 8/1/01**

\_\_\_\_\_ 25 years from date of the receipt of first TI<sup>1</sup>

\_\_\_\_\_ Required Decertification Date

**ADDITIONAL INFORMATION**

- \* CRD = Certification request date for the TIF district
- \* TI = Tax increment
- \* Other than **Economic Development districts, Soils Condition districts** with a CRD between 5/2/88 and 6/30/97, and **Renewal & Renovation** with a CRD between 4/1/90 and 4/30/90, any duration limit that is based on the receipt of tax increment, the authority may receive any tax increment from taxes payable in the year in which the district terminates.
- \* See TIF Memoranda 97-0621-01 for more information
- \* For a **Housing district, Redevelopment district**, or a **Hazardous Substance Subdistrict**, the TIF authority may elect in the TIF Plan to provide for the identification of a minimum market vaule in the plan, development agreement, or assessment agreement, and provide that increment is first received by the authority when (1) the market value of the improvements as determined by the assessor reaches or exceeds the minimum market value, or (2) four years has elapsed from the date of certification of the original net tax capaity of the taxable real property in the TIF district or subdistrict by the county auditor, whichever is earlier. 469.175, subd. 1(b) (Suppl 1993).



REBECCA OTTO  
STATE AUDITOR

# STATE OF MINNESOTA

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### Statement of Position Redistribution of Tax Increment

The Tax Increment Financing Act (TIF Act)<sup>1</sup> requires that tax increment financing (TIF) revenues of an authority be returned to the county for redistribution (i) when an amount is paid to the county auditor for TIF expenditures made in violation of the TIF Act;<sup>2</sup> (ii) when TIF revenues generated exceed the total costs authorized for expenditure in a district's TIF plan;<sup>3</sup> or (iii) when TIF revenues have been distributed after the maximum duration limit of a TIF district.<sup>4</sup>

When TIF revenues are returned to the county in which a development authority is located, the county will return the TIF revenues to the city or town, county, and school district in direct proportion to their respective local tax rates for the year in which the redistribution is to be made.<sup>5</sup> Special taxing districts are not included in the redistribution.

#### Violations of the TIF Law

If an authority expends TIF revenues for a purpose not permitted under the TIF Act, because (i) TIF revenues were collected from a property that did not qualify for inclusion or retention in a TIF district, (ii) TIF revenues were expended for a non-qualifying purpose, or (iii) TIF revenues were expended on activities outside the geographic area authorized, the authority or the municipality must pay to the county auditor an amount equal to the expenditures made in violation of the law.

The county auditor is not to distribute to the municipality that approved the TIF district any money paid to the county auditor by the authority or municipality for violations of TIF law *if* the TIF authority did not make payment within sixty days after receiving a notice of noncompliance from the Office of the State Auditor requiring the payment, or the authority or municipality made payment only after a county attorney commenced an action to compel the payment.<sup>6</sup> If the authority or municipality makes a payment prior to expiration of the 60-day time period or commencement of legal action to compel payment, the municipality will receive its proportional share when the county auditor distributes the money.

<sup>1</sup> Minn. Stat. §§ 469.174 - .1799, inclusive, as amended.

<sup>2</sup> *See id.* § 469.1771, subd. 3 (Violations).

<sup>3</sup> *See id.* § 469.176, subd. 2 (Excess Increment).

<sup>4</sup> *See id.* § 469.1771, subd. 4a (Increment received after duration limit).

<sup>5</sup> *Id.* § 469.176, subd. 2(b)(4).

<sup>6</sup> *Id.* § 469.1771, subd. 5.



## Excess Tax Increment

TIF revenues are to be returned to the county for redistribution when excess increment exists. In any year in which TIF revenues remain after a TIF district has paid all debt obligations and other financial commitments authorized by its TIF plan for the life of the district, the authority must return the excess tax increment to the county auditor.<sup>7</sup>

Authorities are to annually determine the amount of excess increment as of December 31 of the year. The determination must be based on the TIF plan in effect on December 31 and on the increments and other revenues received as of December 31 of that year. The authority must then return the excess increments to the county auditor within nine months after the end of the year.<sup>8</sup>

The county auditor is responsible for distributing the excess tax increment to the municipality, county, and school district in which the TIF district is located.<sup>9</sup> After the county auditor distributes the money in direct proportion to the local tax rates of the municipality, county, and school district, the county auditor must report the amount of any excess tax increment distributed to a school district to the Commissioner of Education within 30 days of the distribution.<sup>10</sup>

## After Duration Limits

If the county auditor distributes TIF revenues for a TIF district (i) after the maximum duration limit for the district, or (ii) for delinquent property taxes paid on a parcel in a TIF district after the decertification of the district and the district has no outstanding obligations, repayment is required.<sup>11</sup>

If nonpayment of property taxes on a parcel in the district, however, caused the district's outstanding bonds or contractual obligations to be paid by sources other than TIF revenues or to go unpaid, the county auditor shall pay the appropriate amount to the district to cover these costs. The authority is to provide the county auditor with information regarding the payment of outstanding bonds or other contractual obligations.<sup>12</sup>

If the authority does not have sufficient increments or other available money to make repayment of the amount received after the duration limit of the TIF district, the municipality that approved the TIF district must use any available money to make payment, including the levying of property taxes.<sup>13</sup>

The authority or municipality may enter into an agreement with the county to repay these amounts in installments, without interest, over a period not to exceed three years. If the amounts are paid voluntarily, the distributions by the county auditor to the local taxing jurisdictions will include payment to the municipality.<sup>14</sup>

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<sup>7</sup> *Id.* § 469.176, subd. 2(c)(4).

<sup>8</sup> *Id.* § 469.176, subd. 2(a).

<sup>9</sup> *Id.* § 469.176, subd. 2(c)(4).

<sup>10</sup> *Id.* § 469.176, subd. 2(e).

<sup>11</sup> *Id.* § 469.1771, subd. 4a.

<sup>12</sup> *Id.* § 469.176, subd. 1f.

<sup>13</sup> Minn. Stat. § 469.1771, subd. 5.

<sup>14</sup> Minn. Stat. § 469.1771, subd. 4a(c).



REBECCA OTTO  
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### Statement of Position TIF Market Value Homestead Credit

In 2001, the Minnesota legislature created a market value homestead credit as part of its property tax restructuring. The restructuring dramatically reduced the class rates for commercial/industrial property, apartments, and, to a lesser extent, the upper tier of home values, causing a flattening of tax rates. These changes would have shifted the tax burden onto the lower tier of home values. The credit, which was created and tied directly to properties with a market value below \$72,000, was intended to neutralize this result. The state-paid credit is formulated on a sliding scale, with the credit equaling zero for homes with a market value in excess of \$413,778.<sup>1</sup>

Since enactment, the Office of the State Auditor has taken the position that, to the extent the market value homestead credit is part of the taxes paid by the captured net tax capacity, as computed under Minn. Stat. § 469.177, it meets the definition of "tax increment. In the 2005 legislative session, the definition of tax increment was amended to clarify that market value homestead credit is indeed tax increment."<sup>2</sup>

Section 469.177 explains how the market value homestead credit is to be accounted for to ensure that the total amount of taxes on a parcel of land is paid. After the amount of taxes owed is determined, the credit is applied and the property owner pays the remaining amount. The state then reimburses the applicable taxing jurisdictions for the amount of the credit. In this way the total amount of taxes owed on a parcel is paid in full.

The full amount of the market value homestead credit is not paid to a city. It is proportionately distributed among the different taxing jurisdictions in two different installments: One installment on October 31<sup>st</sup>, and the second installment on December 26<sup>th</sup>.<sup>3</sup> The reimbursements related to tax increments, however, are paid in full to the city in one installment on December 26<sup>th</sup>.<sup>4</sup>

Because the market value homestead credit is tax increment, it is subject to the restrictions of the TIF Act. The funds need to be segregated and otherwise treated as tax increment.

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<sup>1</sup> Minn. Stat. § 273.1384, subd. 1.

<sup>2</sup> Minn. Stat. § 469.174, subd. 25(6).

<sup>3</sup> Minn. Stat. § 273.1384, subd. 4(a).

<sup>4</sup> *Id.*

Reviewed: May 2007

Revised: NA

2007-3001

## Excess Increment Calculation Report For The Year Ended December 31, 2007

Tax Increment Financing District Name		County Number(s)
TIF Authority	Municipality That Approved TIF District	
County Where TIF District is Located	City/Town Where TIF District Is Located	
TIF Authority's Authorized Representative	Title	Phone Number
Employer of Authorized Representative (if different from TIF authority)	Fax Number	
Address	E-mail Address	
City	<b>MN</b>	Zip Code

Please note the excess increment statute was amended during the 2005 Legislative Session. There were three significant changes.

- Nine-month time limit. The Legislature introduced a nine-month time limit in which excess increment must be spent or returned to the county for redistribution.
- Transfers for deficit pooling. The Legislature included transfers made to eliminate deficits in other districts as part of the excess increment calculation. These transfers are authorized expenditures under the TIF Act and should be taken into account when calculating excess increment.
- Excess increment applies to Pre-1979 TIF Districts. The Legislature established specific rules regarding pre-1979 TIF districts. The excess increment statute states that "excess increments equal the amount of increments on hand on December 31, less the principal and interest obligations due on outstanding bonds or advances, qualifying under subdivision 1c, clauses (1), (2), and (5), after December 31 of the year and not prepaid under paragraph (c)." In other words, if no outstanding obligations exist as of December 31, any tax increment that remains

	Formula	Value
1. Total tax increment received		\$ 0
2. Excess increments repaid in prior years	-	\$ 0
3. Subtract line 2 from line 1	=	\$ 0
4. Total costs authorized to be paid with tax increment		
5. Total authorized costs paid from other sources		
6. Total non-TIF funds dedicated to pay authorized costs	+	
7. Total bond principal and interest outstanding	+	
8. Add lines 5 through 7	=	\$ 0
9. Amount from line 4		\$ 0
10. Amount from line 8	-	\$ 0
11. Total transfers of increment to reduce deficits made by 12/31/2007	+	
12. Subtract line 10 from line 9 and add 11 (If negative number, show -0-)	=	\$ 0
13. Amount from line 3		\$ 0
14. Amount from line 12	-	\$ 0
15. Subtract line 14 from line 13 (If negative, show 0) Excess Tax Increment	=	\$ 0
16. Amount of excess increment used to prepay outstanding bonds		
17. Amount of excess increment paid into escrow dedicated to payment of outstanding bonds	+	
18. Amount of excess increment returned to the county	+	
19. Add lines 16 through 18	=	\$ 0

# EXCESS INCREMENT CALCULATION REPORT (EIC)

## For The Year Ended December 31, 2007

The following is a line-by-line description for the Excess Increment Calculation Report. An Excess Increment Calculation Report must be completed for each active TIF district. Please contact our office at (651) 296-4716 or by email at: [tifdivision@auditor.state.mn.us](mailto:tifdivision@auditor.state.mn.us). We are happy to assist you in making this process more understandable.

Please note that the excess increment statute (Minn. Stat. § 469.176, subd. 2) was amended during the 2005 Legislative Session. There were three significant changes that are outlined below.

- (1) **Nine-month time limit.** The Legislature introduced a nine-month time limit in which excess increment must be used or returned to the county for redistribution. The clock starts each year on December 31.
- (2) **Transfers for deficit pooling.** The Legislature included transfers made to eliminate deficits in other districts as part of the excess increment calculation. These transfers are authorized expenditures under the TIF Act and should be taken into account when calculating excess increment.
- (3) **Excess increment applies to Pre-1979 TIF Districts.** The Legislature established specific rules regarding pre-1979 TIF districts. The excess increment statute states that “excess increments equal the amount of increments on hand on December 31, less the principal and interest obligations due on outstanding bonds or advances, qualifying under subdivision 1c, clauses (1), (2), and (5), after December 31 of the year and not prepaid under paragraph (c).” In other words, if there are no outstanding obligations as of December 31, any tax increment that remains is considered excess tax increment.

**1. Total Tax Increment Received.** The total tax increment received from this district through December 31, 2007, will be populated automatically from the data in the district report. The total includes the following amounts:

- the amount of "raw" tax increment reported on line 26, column C + D;
- the amount of MVHC reported on line 27, column C + D;
- the amount of interest/investment earnings reported on Line 66, "On or After 7/2/1997" ;
- the amount of proceeds from the sale or lease of property reported on line 67, "On or After 7/1/1997"; and
- the amount of proceeds from the repayments of advances and loans reported on line 68, "On or After 7/1/1997".

**2. Excess Increments Repaid in Prior Years.** Indicate the amount, if any, of excess increment repaid to the county in prior years.

**3. Subtract Line 2 from Line 1.** The total will populate automatically.

**4. Total Costs Authorized to be Paid With Tax Increment.** Indicate the total costs authorized by the TIF plan to be paid with tax increment from this district. This number is taken from the TIF Plan as modified by any TIF-plan modifications in effect as of December 31, 2007. Modifications to the

TIF plan after December 31, 2007, cannot be considered when completing the report for 2007. Note that all TIF plans and modifications approved after June 30, 2003 must contain an estimate of the costs of the project that will be paid or financed with tax increments from the district. For all TIF plans approved on or before June 30, 2003 that do not contain such an estimate, the total estimated tax increment expenditures are determined by considering all of the information in the TIF plan and exhibits to the plan regarding estimated sources and uses of the funds. For purposes of calculating excess increments, the terms "estimate of the costs of the project that will be paid or financed with tax increments," "estimated tax increment expenditures," and "total costs authorized by the TIF plan to be paid with tax increment" are synonymous.

If your TIF plan authorizes the issuance of bonds and those bonds are actually issued, this line should include bond principal and interest payments as well as the development costs. Any development costs or capitalized interest paid with bond proceeds should be listed on line 5. If your TIF plan authorized bonds, but the bonds were not issued, bond principal or interest should not be included on this line. If your TIF plan authorizes interest payments on a developer note (Pay-As-You-Go), the interest should be included on this line even if the TIF plan did not specify the amount of interest.

**5. Total Authorized Costs Paid from Other Sources.** Indicate the total amount of the costs listed on line 4 that have been paid with funds other than tax increment from this district. This would include any costs that are included on line 4 and paid with bond proceeds, or any funds other than tax increment (as defined in Minn. Stat. § 469.174, subd. 25).

**6. Total Non-TIF Funds Dedicated to Pay Authorized Costs.** Indicate the total amount of revenues, other than tax increment from this district, that are dedicated or otherwise required to be used to pay costs listed on line 4. A typical example would be a grant used in place of costs listed on the TIF plan as authorized costs to be paid with tax increment.

**7. Total Bond Principal and Interest Outstanding.** Indicate the amount of principal and interest obligations due on outstanding bonds after December 31, 2007. Include any financial obligations that meet the definition of "bonds" in Minn. Stat. § 469.174, subd. 3. This includes interfund loans, notes, and other obligations issued under Minn. Stat. § 469.178.

**8. Add Lines 5 through 7.** The total will populate automatically.

**9. Amount from Line 4.** The total will populate automatically.

**10. Amount from Line 8.** The total will populate automatically.

**11. Total Transfers of Increment to Reduce Deficits Made by December 31, 2007.**

Indicate any amount transferred to other districts to eliminate deficits under Minn. Stat. § 469.1763, subd. 6 (the deficit pooling law), made by December 31, 2007.

**12. Subtract Line 10 from Line 9 and add Line 11.** The total will populate automatically.

**13. Amount from Line 3.** The total will populate automatically.

**14. Amount from Line 12.** The total will populate automatically.

**15. Subtract Line 14 from Line 13 (Excess Increment).** The total will populate automatically.

This is the amount of excess increment for this district as of December 31, 2007.

Excess increments must be used only to: (1) prepay any outstanding bonds; (2) discharge the pledge of tax increment for any outstanding bonds; (3) pay into an escrow account dedicated to the payment of any outstanding bonds; or (4) be returned to the County Auditor.

**16. Amount of Excess Increment Used to Prepay Outstanding Bonds.** Indicate the amount of excess increment used to prepay outstanding bonds.

**17. Amount of Excess Increment Paid into Escrow.** Indicate the amount of excess increment paid into an escrow account dedicated to the payment of outstanding bonds.

**18. Amount of Excess Increment Returned to the County.** Indicate the amount of excess increment returned to the county.

**19. Add Lines 16 through 18.** The total will populate automatically.

### *Example*

**Facts:** The TIF plan for the City of New Dublin's TIF 17 contains the following budget:

Land Acquisition:	\$220,000
Administrative Expenses:	\$20,100
Contingency:	\$1,000
Bond Discount:	\$5,300
Capitalized Interest:	<u>\$38,600</u>
Total Project Costs:	\$285,000

The TIF plan authorizes the city to issue bonds in the amount of \$285,000, and states that TIF bond proceeds and tax increment revenue will be used to pay for all project costs. When the city issues the bonds, the debt service schedule shows total bond interest payments to be \$291,147. The bonds are non-callable. As of December 31, 2007, the city's records indicate that the city received and spent the following:

Revenues and OFS:	
Tax increment:	\$489,460
Interest on tax increment:	\$127,181
Bond proceeds:	<u>\$285,000</u>
Total	\$901,641
Expenditures and OFU:	
Land:	\$194,705
Bond principal:	\$170,000
Bond interest:	\$241,875
Administration:	\$35,361
Transfers for deficit pooling:	<u>\$36,451</u>
Total	\$678,392

Of the \$127,181 interest on tax increment, \$51,538 was received after July 1, 1997, and \$75,643 was received before July 2, 1997. The city has returned \$0 of excess increment to the county in prior years. All bond proceeds and all interest on tax increment received before July 2, 1997, have been expended.

**Calculation:**

Excess increment is equal to:

(Total tax increment received from the district – excess tax increments from the TIF district repaid to the county in prior years) – (total TIF-plan costs authorized to be paid with tax increment from the district -- (costs paid from non-tax increment sources + non-tax increment funds dedicated to pay authorized costs + bond principal and interest outstanding))<sup>1</sup>

$$(\$540,998^2 - \$0^3) - (\$861,147^4 - (\$360,643^5 + \$0^6 + \$164,272^7)) =$$

$$\$540,998 - (\$861,147 - \$524,915 + \$36,451^8) = \$540,998 - \$372,683 = \$168,315$$

**Conclusion:**

This district has \$168,315 of excess increment. Of this amount, \$164,272 must be paid into an escrow account dedicated to the payment of the outstanding bonds (because the bonds are non-callable) and \$4,043 must be returned to the County Auditor.

<sup>1</sup> See Minn. Stat. § 469.176, subd 2(b).

<sup>2</sup> Total tax increment received is the amount received from the county (\$489,460) plus the amount of interest on tax increment received after July 1, 1997 (\$51,538).

<sup>3</sup> No excess increment was returned to the county in previous years.

<sup>4</sup> Total costs authorized to be paid with tax increment are the development costs (\$285,000), the bond principal repayment (\$285,000), and the bond interest (\$291,147).

<sup>5</sup> Total authorized costs paid with non-tax increment are the costs paid with the bond proceeds (\$285,000) and interest on tax increment received before July 2, 1997 (\$75,643).

<sup>6</sup> There are no non-tax increment funds dedicated to pay authorized costs (the TIF bond proceeds have been expended).

<sup>7</sup> Total bond principal and interest outstanding is the \$285,000 issue amount minus the \$170,000 principal payments plus the \$291,147 total interest from the debt service schedule minus the \$241,871 bond interest payments made.

<sup>8</sup> Amount transferred to other TIF districts to eliminate deficits under Minn. Stat. § 469.1763, subd. 6.

**SEE NEXT PAGE FOR EXAMPLE**

The Excess Increment Calculation Report for New Dublin's TIF 17 should look like this:

	Formula	Value
1. Total tax increment received		\$540,998
2. Excess tax increments repaid in prior years	-	\$0
3. Subtract line 2 from line 1	=	\$540,998
4. Total costs authorized to be paid with tax increment		\$861,147
5. Total authorized costs paid from other sources		\$360,643
6. Total non-TIF funds dedicated to pay authorized costs	+	\$0
7. Total bond principal and interest outstanding	+	\$164,272
8. Add lines 5 through 7	=	\$524,915
9. Amount from line 4		\$861,147
10. Amount from line 8	-	\$524,915
11. Total transfers of increment to reduce deficits made by December 31, 2005	+	\$36,451
12. Subtract line 10 from line 9 and add Line 11 (If negative number, show -0-)	=	\$372,683
13. Amount from line 3		\$540,998
14. Amount from line 12	-	\$372,683
15. Subtract line 14 from line 13 (Excess Tax Increment)	=	\$168,315
16. Amount of excess increment used to prepay outstanding bonds		\$0
17. Amount of excess tax increment paid into escrow dedicated to payment of outstanding bonds	+	\$164,272
18. Amount of excess tax increment returned to the county	+	\$4,043
19. Add lines 16 through 18	=	\$168,315