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## FOR LOCAL OFFICIALS AND DEVELOPMENT PROFESSIONALS

8-5

MINNESOTA DEPARTMENT OF TRADE AND ECONOMIC DEVELOPMENT

1999-2000

## Table of Contents

Acknowledgments
What is Tax Increment Financing?
Who has Tax Increment Financing Powers?  7    Underlying Development Authorities and Powers  7    Cities  7    Housing and Redevelopment Authorities  7    Port Authorities  8    Economic Development Authorities  8    Rural Development Finance Authorities  9
Who are the Participants in the Tax Increment Financing Process?  10    Authorities and Municipalities  10    Developers and Redevelopers  10    Consultants and Lawyers  11
How are Tax Increment Financing Revenues Generated?
The Minnesota Property Tax System121997 and 1998 Classification Rate Changes13Original Tax Capacity14Captured Tax Capacity15Pooling Considerations16Fiscal Disparities (M.S. § 469.177, subd. 3, Ch. 473F and 276A)16LGA/HACA Reduction or Local Contribution (M.S. § 273.1399)18
What are the Tupes, Terms, and Limitations of Tax Increment Financing Districts?
What are the Types, Terms, and Limitations of Tax Increment Financing Districts?20Redevelopment Districts (M.S. § 469.174, subd. 10)20Renewal and Renovation Districts (M.S. § 469.174, subd. 10a)21Soils Condition Districts (M.S. § 469.174, subd. 19)21Housing Districts (M.S. § 469.174, subd. 19)21Underground Districts22Economic Development Districts (M.S. § 469.174, subd. 11)22Mined Underground Space Districts (M.S. § 469.174, subd. 12)23Mined Underground Space Districts (M.S. § 469.174, subd. 13)24Hazardous Substance Subdistricts (M.S. § 469.174, subd. 23)24Extending the Duration of a District Due to Hazardous Cleanup Costs24
$(M.S. \ \S \ 469.176, \ subd. \ 1g)$
General Limitations on the Use of Tax Increment Revenues (M.S. § 469.176, subd. 4)

What is the "But For" Test and How is it Analyzed?	27
The "But For" Test	. 27
The "But For" Analysis and Written Documentation (M.S. § 469.175, subd. 3(2))	
"But For" Analysis	
The Housing Exception	. 28
What is the Procedure for Establishing a Project and Tax Increment Financing District?	29
Defining the Relationship Between Project and District	
Establishing a District	
Required Findings	
Contents of a Tax Increment Financing Plan	
Modifications to a Tax Increment Financing Plan	
Certification	
Statutory Deadlines for Establishing a Tax Increment Financing District	
Decertification of a Tax Increment Financing District	. 34
What are the Financing Options Available for Tax Increment Financing Assistance?	35
Bonding	
General Obligation Bonds	
Revenue Bonds	
Pay-As-You-Go	
Tax-Exempt Versus Taxable Debt	
Special Taxing District	
Grant Program for Tax Increment Shortfall	
Additional Pooling Authority	. 38
What are the Other Elements of the Transaction?	39
<b>The Development or Redevelopment Agreement</b> (M.S. § 469.176, subd. 5)	
Job and Wage Requirements (M.S. § 116J.991)	
Payment and Performance Bonds $(M.S. § 574.26)$	
<b>Assessment Agreement</b> ( <i>M.S.</i> § 469.177, subd. 8)	
How do You Manage the Project and District?	42
<b>Certification of the District</b> ( <i>M.S.</i> § 469.177, subd. 6)	. 42
Annual Review	
Three-Year Knock Out	
Four-Year Knock Down	
Monitoring Tax Increment Funds and Development Activity	• • •
Tax Increment Revenues	
Qualified Costs	. 45
Administrative Costs	
Reporting Requirements	
Minnesota Department of Revenue	
Office of the State Auditor	
Annual Disclosure	• • •
Other Compliance Issues	
Income Limitations	
Square Footage/Use Requirements	. 49
,	

-

What are the Penalties for Illegal Use of Tax Increment Revenues?	50
What Financing Alternative to Tax Increment Financing is Available?	51
<b>Tax Abatement</b> ( <i>M.S.</i> §§ 469.1812 to 469.1815, as amended)	. 51

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Appendix A Glossary

- Appendix B Tax Increment Financing Case Studies
- Appendix C Sample TIF Policy
- Appendix D Reporting Forms
- Appendix E Chronology of Major TIF Law Changes
- Appendix F Sample TIF Application Forms
- Appendix G Office of the State Auditor Memorandums
- Appendix H Other Related DTED Publications

Bibliography

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Preface

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This handbook is the second in a series of guides for use by local and regional economic and community development leaders. The goal of this series of handbooks is to assist those leaders in identifying and effectively using all the resources and tools available to them.

The intent of this handbook is to encourage communities to use tax increment financing effectively to strengthen local economic development and redevelopment efforts. It explores and explains tax increment financing: what it is, its history, how it can be used to maximize economic development, and current rules and guidelines.

It is important for the reader to note that creating and administering tax increment financing districts has become an increasingly complex task. The rules are in continual flux, and older districts operate under different rules than newer districts. This handbook reflects rules that apply to districts established as of the 1998 legislative session. While it is our intent to update this manual as rules change, we suggest users of this handbook consult with their financial advisors and legal counsel to assure current rules are applied when establishing or modifying a district.

Creation of this handbook would not have been possible if not for the tireless efforts of co-authors Arlin B. Waelti and Pamela Frantum of Gray, Plant, Mooty, Mooty & Bennett, P.A. and Kristin A. Hanson of Ehlers & Associates, Inc.

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This publication should not be construed as financial or legal advice on any specific facts or circumstances relating to tax increment financing. The contents are intended for general information purposes only, and you are urged to consult your own financial advisor or public finance attorney concerning your own situation and any specific questions you may have. Neither the authors, their organizations, nor the State of Minnesota is responsible for any Statements made herein which may be found to be erroneous.

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What is TIF?

## What is Tax Increment Financing?

#### **Historic Overview**

Tax increment financing, also known as TIF, was first introduced in Minnesota in 1946 as a public development financing tool, but was not popularly used until the 1970s, when federally assisted housing and urban development programs began to be phased out. In many instances, projects were left midstream without funding. For local units of government with development projects pending but without federal funding, tax increment financing was often the only development financing tool left.

Public development authority powers were randomly scattered throughout Minnesota statutes, with each of these authorities containing vague and often conflicting procedures for the use of tax increment financing. By 1977, the fractured use of tax increment financing caused concern among legislators, resulting in a request to either repeal tax increment financing or enact specific procedures and safeguards for its use.

In 1979, the Legislature lifted the financing mechanism of tax increment financing from the underlying development statutes and inserted it into a separate act. The powers and limitations of public development were retained in the underlying statutes and the tax increment financing tool, complete with its own specified procedures and limitations, was incorporated into the Tax Increment Financing Act (M.S. §§ 469.174 - 469.1791, as amended). Since 1979, the Tax Increment Financing Act has been extensively amended. The purpose of most of these amendments has been to limit the use of tax increment financing in order to correct perceived abuses of its use. The numerous amendments have resulted in different rules governing different types of tax increment districts, depending on when the districts were created. Some amendments apply to all districts while other amendments apply only to districts created after adoption of the amendment.

This amending process can result in confusion for individuals working with tax increment financing. Previously created tax increment districts are subject to different rules than newly established districts. If a district is expanded, one set of rules applies to the original district while a second set applies to the expanded area. Given the frequent amendments made to the Tax Increment Financing Act, it is important for a practitioner to check (i) the date a district was created, (ii) the date certification of the district was requested, and (iii) the date the district was certified, and to apply the correct legal procedures and requirements. Attached in the Appendix to this handbook is a table which summarizes the legal rules that apply for districts created at certain times.

This handbook is meant to be prospective and addresses the provisions of current law as they apply to a newly established district or the expanded portion of an existing district. If you are working with an existing district, please make sure you review the table in the Appendix and determine under which rules you are operating.

#### **Public Purpose and Development Objectives**

**Public Purpose:** The main objective of tax increment financing is to encourage certain types of development or redevelopment that would not normally occur without the use of tax increment financing. The type of development or redevelopment that is assisted through tax increment financing must serve a public purpose.

The public purposes for which tax increment financing revenues can be expended include, but are not limited to, (i) expanding the property tax base, (ii) providing employment opportunities, (iii) redeveloping blighted areas, (iv) remediating polluted soils, and (v) constructing low- and moderate-income housing. Once the terms of the project have been met, the tax increment financing district is decertified and the property value of the tax increment district is returned to the tax rolls, thus increasing the tax base of the municipality, school district, and county. Local governmental services are primarily financed through property taxes generated within the local jurisdiction. By increasing the property tax base, local governments are better able to provide government services.

**Redevelopment:** The expenditure of tax increment financing revenues for the redevelopment of blighted areas often involves acquiring parcels of land containing blighted structures, removing the structures, preparing the site for redevelopment, and conveying the site to a redeveloper. The public purpose for assisting redevelopment of blighted areas is to conserve existing resources, particularly the public infrastructure of the community, and to encourage redevelopment.

Public infrastructure includes utilities such as water and sewer systems as well as public amenities such as sidewalks, alleys, roads, public parks and boulevards, parking ramps, street lights, and public facilities. Tax increment financing is used to conserve the investment that a community has already made and to preserve the architectural integrity and historical character for future generations. For example, an economic benefit could be to rehabilitate an existing building or remediate a polluted site in order to utilize the existing public infrastructure and contain the increasing cost of urban sprawl, rather than construct a new building on undeveloped land.

Remediation of Polluted Soils: Many of the underutilized areas of fully developed cities are not redeveloped because the soil is polluted or contains hazardous waste. Pollution does not respect property boundaries and can affect a large geographic area. Cleaning up polluted soil is often more expensive than redevelopment. The Tax Increment Financing Act has been amended to authorize the expenditure of tax increment financing revenues for pollution cleanup and the removal of hazardous waste.

**Employment Opportunities:** Manufacturing and industrial development creates more employment opportunities and tax base than does commercial development, which tends to move commercial businesses and employees from one location to another to meet consumer and producer needs. To assure that tax increment financing revenues are used to expand the tax base and create jobs, the Tax Increment Financing Act authorizes the use of tax increment financing revenues for public and qualifying improvements for manufacturing while severely restricting the use of tax increment financing for retail purposes.

Manufacturing is defined as "the manufacturing or production of tangible personal property, including processing resulting in the change in condition of the property." Warehousing, storage, and distribution of personal property resulting from manufacturing, research and development relating to production and distribution, and telemarketing are also included within the scope of manufacturing.

**Targeted Commercial Development:** Tax increment financing may be used for commercial development in limited circumstances where geographic location is an important element.

Tax increment financing revenues can be expended to assist in the development of tourism facilities in counties of the State where tourism is a primary industry but a sparse employment base and geographic distance from the consumer market precludes manufacturing as a viable economic option.

Small cities of 5,000 population or less which are located ten miles or more from a city of 10,000 population or more can locate a commercial facility of up to 15,000 square feet, such as a grocery store or fast food franchise establishment, within their jurisdiction to meet a public need and to create community economic viability. In addition, small cities in the State located one mile or less from another state or Canada are given expanded authority to use tax increment financing for commercial development. They may use tax increment financing to create "qualified border retail facilities" consisting of a shopping center or one or more retail stores containing at least 25,000 square feet of retail space. This development may contain new buildings or substantially rehabilitated existing buildings.

**Low- and Moderate-Income Housing:** The statistics of the Minnesota Housing Finance Agency show that a majority of all rental housing in Minnesota utilizes some form of public financial assistance. The primary public purpose for the expenditure of tax increment financing revenue for housing is to provide habitable and affordable housing based on the income or economic capacity of the occupant, whether the housing is owner occupied or rental housing. The low- and moderate-income criteria used in the Tax Increment Financing Act are defined by Section 143(f) or 142(d) of the Internal Revenue Code.

Other Public Purposes and Development Objectives: Tax increment financing may be used to assist with other development objectives such as the acquisition and site preparation of vacant, underutilized, or polluted railroad property or rights-of-way, the development of marginal land in cities with port authorities, or the development or redevelopment of mined underground space.

#### **Tax Increment Financing: Concept and Definition**

Tax increment financing is a method local governments use to pay for the costs of qualifying improvements necessary to create new development, redevelopment, or publicly assisted housing. The financing of the qualifying improvements is paid from the increased property taxes generated from the new development, redevelopment, or housing that would not occur "but for" such assistance. Tax increment is the difference between the existing property taxes on a parcel of land before development occurs and the increased property taxes created by the new development. The tax increment revenue is used by the local government for a term of years to finance qualifying improvements.

In 1997, the Tax Increment Financing Act was amended to define "increment, tax increment, tax increment revenues, and revenues derived from tax increment or other similar terms for a district" to include the revenues generated from captured tax increment, interest or other investment earnings on tax increment revenues, and proceeds from the sale or lease of property purchased by an authority with tax increment revenues.

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#### **Pros and Cons of Tax Increment Financing**

Tax increment financing has become an increasingly popular development and redevelopment tool in Minnesota. Along with its popularity come conflicting opinions about its uses, effectiveness and necessity. The following lists some of the perceived pros and cons of tax increment financing.

#### Pros

- 1. Tax increment financing creates tax base and employment that would not otherwise occur.
- 2. Tax increment financing allows financing of public improvements without an election.
- 3. Tax increment bonding is not included in the bonded indebtedness of a municipality.
- 4. Tax increment financing provides a municipality with control over its local development.
- 5. Tax increment financing provides administrative funds for operating authority programs and paying costs incurred for administering districts.
- 6. Authorities are protected by limitations contained in the Tax Increment Financing Act and by development agreements.
- 7. Municipalities have control over tax increment development activity.
- 8. Tax increment financing provides a competitive edge over other states and regions.
- 9. Tax increment financing requires a due process, including a public hearing in order to get citizen input.

#### Cons

- 1. The "but for" test is subjective and cannot really be quantified.
- 2. Tax increment financing provides a means to circumvent referendum requirements.
- 3. Rating agencies, such as Moody's Investors Service and Standard & Poor's, include tax increment financing bonding in their consideration of city risk.
- 4. Municipalities do not bear the true costs of projects financed with tax increment, so they may undertake projects where the benefits are outweighed by the true costs.
- 5. Municipalities use tax increment financing to acquire funds for municipal programs.
- 6. Authorities find ways to circumvent the Tax Increment Financing Act, or the Act is not followed due to ignorance of the law.
- 7. Municipalities use county property taxes and state funds without their consent.
- 8. New development is not created, old development is just moved around.
- Even though there is a public process, the public does not really have a say in the decision making, or the public process is not followed.

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Who has TIF powers?

Who has Tax Increment Financing Powers?

#### **Underlying Development Authorities and Powers**

Generally, tax increment financing may be used by development authorities or cities in order to finance certain types of development or redevelopment costs. These powers cannot be exercised without the approval of the municipality. Development authorities include cities, housing and redevelopment authorities (HRAs), port authorities, economic development authorities (EDAs), and rural development finance authorities (RDFAs).

Under certain circumstances, tax increment financing may also be undertaken by other governmental entities.

#### Cities

Cities have the power to establish tax increment financing districts in order to undertake activities within a development district, which a city may establish under the City Development Districts Act (M.S. §§ 469.124-469.134). Within a development district, a city may adopt a development program under which the city may provide an impetus for development, increase employment, protect pedestrians from vehicle traffic and inclement weather, provide off-street and peripheral parking facilities, provide open space within a development district, and other facilities which may be outlined in the development program.

#### **Housing and Redevelopment Authorities**

HRAs have the power to establish tax increment financing districts in order to undertake activities within redevelopment projects, housing projects or housing development projects, which an HRA may establish under the Housing and Redevelopment Authorities Act (M.S. §§ 469.001-469.047).

Within a redevelopment project, an HRA may adopt a redevelopment plan under which the HRA may acquire property for the purpose of removing, preventing or reducing blight, blighting factors or the causes of blight; install or construct streets, utilities and site improvements needed to use a site; incur preliminary costs related to redevelopment of a site; or conduct an urban renewal project. An urban renewal project would include activities to eliminate or prevent the development or spread of slums and may involve any redevelopment, rehabilitation or conservation work.

Under a housing development project an HRA may undertake activities needed in order to provide housing for moderate-income persons and their families, while under a housing project an HRA may undertake activities in order to provide for low-income persons and families. Activities may be those things necessary for utilities, site preparation, landscaping, administration, community, health, recreation, welfare or other purposes.

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#### **Port Authorities**

Port authorities have the power to establish tax increment financing districts in order to undertake activities within an industrial development district, which a port authority may establish under the Port Authorities Act (M.S. §§ 469.048-469.068).

Within an industrial development district, a port authority may sell or lease land for river, harbor or industrial development. If in the public interest, the port authority may build suitable buildings on land owned by it or furnish capital equipment to be permanently or exclusively located on such land, as long as the port authority intends to lease or sell the buildings and equipment to private parties. Individual port authorities are established through general legislation.

#### **Economic Development Authorities**

EDAs have the power to establish tax increment financing districts in order to undertake activities within an economic development district, which an EDA may establish under the Economic Development Authorities Act (M.S. §§ 469.090-469.108).

An economic development project area must meet the blight criteria of a redevelopment type of tax increment financing district. Within an economic development district, an EDA may undertake development and redevelopment activities, including acquisition of property, demolition, soil corrections, construction of public improvements, relocation, and preliminary activities relating to planning, engineering, legal and other services.

An EDA may also exercise the powers of an HRA or a city under the City Development Districts Act.

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#### **Rural Development Finance Authorities**

RDFAs have the power to establish tax increment financing districts within projects relating to the acquisition, construction, improvement and equipping of projects used or useful for producing, researching or processing agricultural products or related activities under the Rural Development Financing Authorities Act (M.S. §§ 469.142-469.151).

The following table summarizes the underlying development authorities.

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M.S. Section	Authority	Purpose
469.001-469.047	HRA	Provide a sufficient supply of adequate, safe and sanitary housing units; clear and redevelop blighted areas; remedy the shortage of housing for low- and moderate-income residents and redevelop blighted areas in situations in which private enterprise would not act without government participation or subsidies; and in first class cities, provide housing for persons of all incomes.
469.048-469.068	Port Authority	Promote the general welfare of the port district; increase commerce; promote the efficient, safe and economical handling of commerce; and provide or promote adequate docks, railroad and terminal facilities open to all on reasonable and equal terms for handling, storage, care and shipment of freight and passengers.
469.090-469.108	EDA	Promote economic development, as well as undertake activities for purposes under those development statutes relating to HRAs, port authorities, development districts and municipal industrial development.
469.124-469.134	City	Provide employment opportunities, improve the tax base and improve the general economy of the State in areas of a city that are already developed.
469.142-469.151	RDFA	Promote development, production and promotion of agricultural products and new job opportunities.
469.152-469.165	City, HRA, EDA, Port Authority	Promote the expansion and economic growth of blighted land areas, retain industry, improve the tax base and generally enhance the economy.

#### Table of Development Powers and Authorities

Who are participants in TIF process?

# Who are the Participants in the Tax Increment Financing Process?

#### **Authorities and Municipalities**

In order to establish a tax increment financing district, it is necessary that certain governmental entities participate in the process. The entire process for establishing or modifying a tax increment financing district is a public process that requires the municipality and the authority to meet certain statutory requirements. It is these entities that set the public process in motion. The municipality is responsible for informing the school board and county board of the fiscal and economic implications of the project, holding the public hearing on the proposed establishment or modification of a tax increment district, publishing the public hearing notice and map in the official newspaper of the municipality, and executing the ongoing administration of a district once it has been established. Without the involvement of the governmental entities in the process, there would be no tax increment financing.

#### **Developers and Redevelopers**

The developer is often the initiator of any tax increment project. The term "developer" may refer to a number of different types of entities that request assistance in the form of tax increment financing. Developer includes the following: (i) a traditional developer, (ii) a property or business owner, or (iii) the municipality or the authority.

A traditional developer is a company or individual who builds on behalf of someone else. The developer, not necessarily the ultimate owner of the project, may finance and build the project, then lease or sell it to another company or individual.

A property or business owner is someone who already owns the land and/or building and seeks to make improvements on or to the property. The municipality or authority may be the developer by building, financing and owning the project but leasing it to a private entity.

The developer, if it is not the municipality or authority, may have a different interest in the development than the governmental entities. It is the responsibility of the developer to build the building and/or make the improvements and to prove why tax increment financing is needed. The developer will identify the costs for which it seeks reimbursement. The type of developer will also influence which type of financing will be used.

#### **Consultants and Lawyers**

A municipality or authority may hire professional consultants to aid in the process of establishing and modifying tax increment financing districts. There is a variety of consultants providing assistance, including attorneys who specialize in tax increment financing, financial advisors and economic development consultants. Typically, a financial advisor or an economic development consultant prepares the cashflows, assists in evaluating the pro forma of the developer, and prepares the tax increment financing documents, including the tax increment financing plan. The attorney prepares the developer agreement, approving resolutions, and tax increment financing documents. There is overlap in the roles that the attorneys and the financial advisor/economic development consultants perform.

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## How are Tax Increment Financing Revenues Generated?

Tax increment is simply the difference between the property taxes being paid now and the future property taxes to be paid on new development or redevelopment, subject to the restriction in State law including: the use of property now, the use of the property after new construction, the number of years that the increment may be captured, the type of costs for which tax increment can be used, and the need for assistance. Through tax increment financing, a municipality or development authority is able to utilize the property taxes resulting from increased market value of new development or redevelopment to pay for the qualifying costs related to that development.

#### The Minnesota Property Tax System

The State of Minnesota has one of the most complicated property tax systems in the nation. Three factors affect a property owner's property tax: (i) the estimated market value of the property, (ii) the classification of the property (how the property is used), and (iii) the total local tax rate.

The estimated market value of the property is the value that the assessor places on the property. This value should closely reflect what a buyer would pay for the property if it were offered for sale. Each year, on January 2, the assessor reviews the market valuation of the property to determine if changes in the real estate market require a change in the estimated market value.

Each property type in Minnesota, i.e., residential homestead, commercial, agricultural homestead, is subject to a conversion from market value to tax capacity according to state statute. The conversion from market value to tax capacity is based on the classification, or use, of the property. Each property type is assigned a class rate, or percentage, as determined by the Legislature. Commercial, industrial and other business property tend to have higher class rates than residential and agricultural property.

The tax capacity is actually the taxable value of the property. Tax capacity is calculated by multiplying the estimated market value by the class rate. This value is multiplied by the local tax rate to determine the amount of property tax a property owner pays.

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#### 1997 and 1998 Classification Rate Changes

The 1997 and 1998 Legislatures made several changes to the property tax system. Among the major changes was a compression of the class rates. Most of the changes went into effect for taxes payable 1998, although additional changes were made by the 1998 Legislature for taxes payable 1999. The class rates for taxes payable on certain properties payable 1999 as compared to payable 1997 and 1998 are as follows:

Class	Pay 1997	Pay 1998	Pay 1999
1a - Homestead	< \$72,000 1.0%	< \$75,000 1.00%	< \$75,000 1.0%
(house, garage, land)	> \$72,000 2.0%	> \$75,000 1.85%	> \$75,000 1.7%
1d - Seasonal migrant worker housing	No applicable section	If criteria are met, housing uses 1a class rates.	If criteria are met, housing uses 1a class rates.
3a - Commercial/	< \$100,000 3.0%	< \$150,000 2.7%	< \$150,000 2.45%
Industrial	> \$100,000 4.6%	> \$150,000 4.0%	> \$150,000 3.5%
3a - Transit zones ci	<\$100,000 3.0%	< \$150,000 2.7%	< \$150,000 2.7%
	>\$100,000 4.0%	> \$150,000 0.85%	> \$150,000 0.85%
		of the second tier ci rate.	of the second tier ci rate.
4a - Apartments	3.4%	2.9%	2.5%
4b - Less than 4 rental units and does not qualify as 4bb	2.3%	2.1%	1.7%
4bb - One unit rental	2.3%	< \$75,000 1.9%	< \$75,000 1.25%
not seasonal		> \$75,000 2.1%	> \$75,000 1.7%
4c - Resorts Cabins	2.3%	2.1%	1.8%
	< \$72,000 1.75%	< \$75,000 1.4%	< \$75,000 1.25%
	> \$72,000 2.5%	> \$75,000 2.5%	> \$75,000 2.2%
4d - Low-income housing	2.0%	1.9% in pay 1998 for class 4d and 1.0% for qualifying property in pay 1999. Transition rates apply for 4d and 4c property that do not qualify in pay 1999 as low-income property.	1.0%
5 - Public utility	4.6%	4.0%	3.5%

Along with the class rate changes there were several related amendments that define the classes to include or exclude certain types of property or include qualifying criteria for the class.

The pay 1998 class rates were the initial steps in the class rate compression process. Due to a lack of revenue, the 1997 Legislature and the Governor agreed to establish statutory targets or goals for specific class rates. The targets were enacted by the 1998 Legislature.

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While the reduction in class rates has resulted in reduced property taxes, it has also resulted in a reduction of tax increment revenue generated by existing districts. See section entitled "Special Taxing District" regarding remedy if classification change causes shortfall in tax increment revenues for payment of prior existing obligations.

#### **Original Tax Capacity**

The original tax capacity of property within a tax increment financing district is the tax capacity of the property at the time the district is established. Once a tax increment financing district is approved, the county auditor should receive the tax increment financing plan and approving resolution along with the request for certification of the district.

According to the Tax Increment Financing Act, the county auditor will use property values for the current taxes payable year for districts whose request for certification was received on or before June 30. For districts whose request for certification is made after June 30, the original tax capacity is based on property values for the subsequent taxes payable year.

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 within the 18 months prior to approval of the tax increment financing plan. The original tax capacity may be changed during the life of a district due to changes in the taxable/exempt status of property, changes in the property classification rates of parcels in the district, and addition or removal of parcels. The taxes that are generated from the original tax capacity will continue to go to the various taxing jurisdictions in which the district is located.

In the event the classification rate to be applied to the new improvements is different than the current classification rate for the property to be certified, the classification rate for the new improvements will be used to determine the original tax capacity.

For economic development districts, an inflation factor, averaging the five year market value increase prior to the certification of the district, is applied each year to the original tax capacity of the district, effectively reducing the increment generated by the district. In computing this inflation factor, the auditor will exclude the market value, as estimated by the assessor, that is attributable to new construction; extension of sewer, water, roads, or other public utilities; or platting of the land.

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#### **Captured Tax Capacity**

Captured tax capacity is the total tax capacity of the parcels in the district less the original tax capacity. The total tax Capacity capacity is the sum of the tax capacity of the parcel prior to (re)development (original tax capacity, as previously

Captured Tax Capacity Original Tax Capacity

discussed) and the tax capacity of the constructed improvements. The captured tax capacity is

Total Tax

> multiplied by the local tax rate to determine the amount of tax increment for the current year.



#### **Pooling Considerations**

Pooling refers to the amount of tax increment that can be spent outside of the boundaries of a tax increment district but within the boundaries of a project area as defined in Appendix A, but may or may not be located in another tax increment district. Tax increment revenues from one district within a project area may be used to support development or redevelopment activities in other tax increment revenue districts within the same project area.

Tax increment from districts created before May 1, 1990 may be spent anywhere within the project area boundaries. The 1990 changes in the Tax Increment Financing Act placed restrictions on pooling. Further restrictions were enacted in 1995. For districts created after June 30, 1995, no more than 20 percent of the increment (25 percent in the case of redevelopment districts) may be spent outside the boundaries of the tax increment financing district. However, increment from housing tax increment financing districts may be spent to finance "housing projects" located anywhere in the broader project area. Administrative costs are considered to be expenditures made outside the tax increment financing district.

#### Fiscal Disparities (M.S. § 469.177, subd. 3, Ch. 473F and 276A)

Cities in the seven-county metropolitan region and municipalities in the taconite tax relief area participate in tax base sharing programs.

Under the seven-county metropolitan region fiscal disparities program, cities must contribute 40 percent of the growth in taxable value from commercial-industrial development since 1971 to that program. In return, cities receive a distribution in the form of a share of the commercial-industrial property taxes paid in the region.

Under the taconite tax relief area program, cities must contribute 40 percent of the growth in taxable value from commercial-industrial development since 1994 to that program. In return, cities receive a distribution in the form of a share of the commercial-industrial property taxes paid in the region.

Cities may elect to make the contribution from the captured value of a tax increment financing district, by reducing the captured value ("B" election), **or** by making the contribution for the tax increment financing district from the existing tax base of the city ("A" election). Under both options, when the property taxes are calculated for the various taxing jurisdictions, the fiscal disparities will be taken from the parcel first, then the tax increment, and if there is any tax remaining, the local taxing districts will receive their portion.

Cities may elect to use the existing tax base of the city, or the "A" election, to maximize the amount of tax increment revenues. With that option, in order for the tax increment financing district to receive the appropriate revenue, tax base for general property taxes will be reduced, requiring a higher tax rate for local revenue needs. Often, fiscal disparities and the tax increment combined is more than the total taxes for the parcel. In that event, every other parcel in the unique taxing area will contribute a portion of their property taxes to the tax increment financing district. The district in this situation is considered "underfunded." By choosing the "B" election option, the chances of an underfunded district are greatly reduced because the tax increment is lowered by the fiscal disparities amount. In the case of an economic development tax increment financing district, the "B" election must be made. Under the "B" election, fiscal disparities is taken from within the tax increment financing district. When the taxes are distributed, the fiscal disparities amount will be taken from the parcel first, then the increment, and if there is any tax left, the local taxing districts will receive their portion of the remainder.

Assumptions	"A" Election	"B" Election*
If Parcel is not in a TIF District:		
Total Taxes Generated	\$1,000	\$1,000
40 Percent for Fiscal Disparities	400	400
Remaining for Taxing Jurisdictions	600	600
If Parcel is in a TIF District:		
Total Taxes Generated	\$1,000	\$1,000
Taxes Generated from Base Value of District	200	200
Tax Increment (Total Taxes less Taxes from Base)	800	800
Settlement of Taxes:		
Fiscal Disparities	\$400	\$400
Tax Increment	800	400
Total Settlement	1,200	800
Total Taxes Generated	\$1,000	\$1,000
Difference between Taxes and Settlement	-\$200	\$200
• If negative, generation of the "underfunded" portion is		
spread over the other overlapping taxing jurisdictions.		
• If positive, the other overlapping taxing		
jurisdictions get their portions.		
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\* Fiscal disparities taken from captured value.

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#### LGA/HACA Reduction or Local Contribution (M.S. § 273.1399)

Since 1990, the State requires municipalities utilizing tax increment to pay a "penalty" in the form of a reduction in local government aid (LGA) or homestead and agricultural credit aid (HACA).

The LGA/HACA reduction is tied to the State's school aid formula. When a tax increment financing district is established, the municipality "captures" that portion of the tax increment revenues which result from the levies made by the taxing jurisdictions, including the school district. Through the school aid formula, the State has stepped in to pay for any income lost to the school district as a result of the captured property value not being available to the school district, in essence shifting the burden of a portion of school district financing from the local property tax system to the income tax and sales tax systems of the State. The State calculates how much less the schools aids would have been had the captured value been available to the

school district. That amount is then deducted from the LGA/HACA funds paid to the municipality by the State.

The LGA/HACA loss varies, but it usually equals approximately 30% of the tax increment collected annually. Tax increment revenues cannot be used to reimburse the general fund of the municipality to cover this lost aid. When the LGA/HACA reduction was first implemented, some municipalities obtained a reimbursement from the developer for the loss aid. For districts for which certification was requested on or after August 1. 1993, developer repayments cannot be used to cover the loss. Any such repayment now must be treated as tax increment revenue and can only be used for eligible activities within the district or project area and cannot be deposited into the general fund.

The LGA/HACA offset is applied differently, depending on the type of tax increment district.

#### Type of District

#### Impact on LGA/HACA

Redevelopment, Housing & Soils Condition Districts and Hazardous Substance Subdistrict	For the first five years after the original assessment year, there is no aid loss. In the sixth year, the loss is 6.25% of the maximum possible loss. Each year thereafter the loss increases in 6.25%
	increments until the full loss applies in year 2 1.
Renewal and Renovation District	For the first five years there is no aid loss. In the sixth year, the
	loss is 12.5% of the maximum possible loss. Each year thereafter
	the loss increases in 12.5% increments until the full loss applies in year 13.
Economic Development District	The maximum loss begins in the first year in which tax increment
-	is collected.
Qualified Housing District*	No LGA/HACA reduction is made.

\* Defined in Appendix A.

In 1995, municipalities were given an option to make a local contribution of revenues to pay project costs to avoid the State aid reduction.

The specific rules for compliance with the local contribution provisions continue to evolve. The statute describes certain elements of the requirements and leaves others subject to interpretation. The specific factors listed in the statute include:

- The local contribution must be made from *unrestricted money* of the authority or municipality, such as the general fund, a property tax levy, or a federal or state grant-in-aid which may be spent for general government purposes.
- The local contribution may not be made, directly or indirectly, with tax increments or developer payments as defined under M.S. § 469.1766.
- The local contribution must be used to pay *project costs* and cannot be used for general government purposes or for improvements or costs that the authority or municipality planned to incur absent the project.
- Other local governmental entities that benefit from activities within a district may provide revenues for the local contribution.
- The municipality may make a local contribution in excess of the required contribution for a year. If it does so, the municipality may credit the excess to a local contribution account for the district. The balance in the account may be used to meet the requirements for qualifying local contributions for later years.

The authority must annually submit a report (March 15) regarding its local contribution to the Commissioner of Revenue. Information needed to account for the local contribution includes: activity financed, source(s) of funds, amount of contribution, cumulative total contribution and required contribution. For any year, the total local contribution made for all districts within a municipality is limited to two percent of the net tax capacity of that municipality.

If the State contributes to the project costs either through a direct grant or similar incentive, 50 percent of that contribution may be applied as the local contribution.

The amount of the local contribution is dependent on the type of tax increment financing district. For an economic development district, a housing district, or a renewal and renovation district, the amount of the local contribution is ten percent of the tax increment revenue generated from the district. For a redevelopment district, a mined underground space district, a hazardous substance subdistrict, or a soils condition district, the local contribution is five percent of the tax increment revenue generated from the district.

	Percent
Type of	of Tax Increment
District	<u>Revenues</u>
Redevelopment	5
Renewal and Renovation	10
Soils Condition	5
TT	10

Housing*	10
Economic Development**	10
Mined Underground Space	5
Hazardous Substance Subdistrict	5

\* If a district is a "qualified" housing district, no local contribution is required. A qualified housing district is a district for a residential rental project that meets the requirement for a low-income housing credit under federal law.

\*\* If a district contains an ethanol production facility which meets certain statutory requirements, no local contribution is required.



## What are the Types, Terms, and Limitations of Tax Increment Financing Districts?

There are seven different types of tax increment districts:

- 1. Redevelopment
- 2. Renewal and renovation
- 3. Soils condition
- 4. Housing

- 5. Economic development
- 6. Mined underground space
- 7. Hazardous substance subdistricts.

#### Redevelopment Districts (M.S. § 469.174, subd. 10)

The purpose of a redevelopment district is to remove blighted buildings or improve marginal land to encourage redevelopment. Tax increment financing can be used to assist with the private redevelopment of areas containing substandard structures, including acquiring property and reselling or giving it to private developers and installing public improvements. Redevelopment districts are limited to "blighted" areas.

The criteria in state law for determining blighted conditions have changed several times since 1979. To qualify as a redevelopment district, all properties in the district must meet one of two criteria:

(1) Parcels consisting of 70 percent of the area of the district are occupied by buildings, streets, utilities, or improvements, and more than 50 percent of the buildings, not including outbuildings, are structurally substandard to a degree requiring substantial renovation or clearance. The municipality may not make a determination that the property is structurally substandard without an interior inspection of the property. An interior inspection is not required if (i) access cannot be made to the property despite best efforts by the municipality and (ii) evidence supports a reasonable conclusion the the property is structurally substandard. Written documentation of why an interior inspection was not done must be placed in the files; or

(2) The property consists of vacant, unused, underused, inappropriately used, or infrequently used railyards, rail storage facilities, or excessive or vacated railroad rights-of-way.

For districts consisting of two or more noncontiguous areas, each area must qualify as a redevelopment district under this definition to be included in the district, and the entire area of the district must satisfy the definition.

Tax increment revenues may be collected from a redevelopment district for up to 25 years after receipt of the first tax increment. Alternately, tax increment revenues may be collected for up to 20 years if the authority chooses to delay its initial receipt of tax increments (1) until a minimum market value is reached, or (2) for up to four years.

At least 90 percent of the tax increment collected must be spent to eliminate the blight conditions that justified creation of the redevelopment district. The qualifying expenditures include, but are not limited to, acquisition of sites containing substandard buildings or improvements or hazardous substances, pollution or contaminants, demolition of structures, clearing of land, and installation of utilities, roads, sidewalks, and parking facilities.

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#### Renewal and Renovation Districts (M.S. § 469.174, subd. 10a)

The purpose of a renewal and renovation district is similar to that of a redevelopment district except the degree of redevelopment may be less with the activity more closely related to inappropriate or obsolete land use.

To qualify as a renewal and renovation district, the properties in the district must meet certain blight criteria.

- 1. a. Parcels consisting of 70 percent of the area of the district are occupied by the buildings, streets, utilities, or other improvements;
  - b. 20 percent of the buildings are structurally substandard; and
  - c. 30 percent of the other buildings require substantial renovation or clearance to remove existing conditions such as:

inadequate street layout, incompatible uses or land use relationships, overcrowding of buildings on the land, excessive dwelling unit density, obsolete buildings not suitable for improvements or conversion, or other identified hazards to the health, safety, and general well-being of the community.

2. The qualifying conditions are reasonably distributed throughout the district.

Tax increment revenues may be collected from a renewal and renovation district for up to 15 years from receipt of the first tax increment.

At least 90 percent of the tax increment revenues must be used to correct the conditions that allowed the district to be designated as a renewal and renovation district.

#### Soils Condition Districts (M.S. § 469.174, subd. 19)

The purpose of a soils condition district is to assist in the redevelopment of property which is not developable due to the existence of hazardous substances, pollution or contaminants.

Hazardous substances, pollution, or contaminants requiring removal or remedial action must be present for land to qualify as a soils condition district. To qualify as a soils condition district, the following conditions must exist:

- 1. The presence of hazardous substances, pollution, or contaminants requiring removal or remedial action for use; and
- 2. The estimated cost of the proposed removal and remedial action exceeds the fair market value of the land before completion of the preparation.

Tax increment revenues may be collected from a soils condition district for up to 20 years after receipt of the first increment.

Tax increment revenues may only be used to:

- 1. acquire property containing the hazardous substances, pollution or contaminants requiring removal or remedial action;
- 2. pay the cost of the removal or remedial action; and
- 3. pay the administrative expenses of the district, including preparation of the development action response plan.

Tax increment revenues may not be used for cleanup or remediation of sites contaminated by petroleum products.

#### Housing Districts (M.S. § 469.174, subd. 11)

The purpose of a housing district is to encourage the development of housing for low- and moderate-income individuals and families. Housing districts need not be established on blighted property. In fact, housing districts can be created on bare land as long as the qualifying criteria are met.

To qualify as a housing district, a minimum of 80 percent of the fair market value of improvements must be for low- and moderate-income housing. Up to 20 percent of the fair market value of improvement may be for commercial uses or uses other than low- and moderate-income housing.

For owner occupied housing, 95 percent of the units must be initially purchased and occupied by persons whose income generally is equal to 115 percent or less of the applicable median family income.

For rental housing, one of the following tests must be met:

1. At least 20 percent of the units must be occupied by individuals whose income is 50 percent or less of the area median gross income; or

- 2. At least 40 percent of the units must be occupied by individuals whose income is 60 percent or less of the area median gross income; or
- At least 50 percent of the units must be occupied by individuals whose income is 80 percent or less of the area median gross income.

Tax increment revenues may be collected from a housing district for up to 25 years after receipt of the first tax increment. Alternately, tax increment revenues may be collected for up to 20 years if the authority chooses to delay its initial receipt of tax increments (i) until a minimum market value is reached, or (ii) for up to four years.

Tax increment revenues may be used to finance land purchase and site preparation, installation of public improvements, and administrative expenses, or to undertake an interest reduction program. Interest rate reduction programs are limited to rental housing and cannot exceed 15 years.

If the income requirements are violated, the term of a housing district is reduced to that of an economic development district.

#### **Qualified Housing Districts**

In 1993, the Legislature created a new type of housing tax increment financing district called a "qualified housing" district. A qualified housing district is the only type of district which does not carry an LGA/HACA reduction for the sponsoring municipality without the municipality using the option of providing a local match to the project.

The criteria for establishing a qualified housing district are much more comprehensive than for other types of tax increment financing districts. The project must meet federal low-income tax credit guidelines (which include both rent and income limitations). Only the properties receiving tax increment financing assistance must meet all the requirements for a low-income housing credit under federal law, regardless of whether the project actually receives a housing credit. The tax credit requirements are generally more stringent than the income requirements otherwise applicable to a housing tax increment financing district.

#### Economic Development Districts (M.S. § 469.174, subd. 12)

An economic development district is a tax increment financing district that does not meet the requirements of any other type of district. The municipality or authority must find the establishment of the district to be in the public interest because it will: (i) discourage commerce, industry or manufacturing from moving their operations to another state or city, (ii) increase employment in the state, or (iii) preserve and enhance the tax base of the state.

Tax increment revenues may be collected from an economic development district for up to 9 years from receipt of the first tax increment or 11 years from approval of the tax increment financing plan, whichever is less.

Tax increment revenues may not be used to assist developments if more than 15 percent of the square footage of the buildings and facilities is used for any purpose other than (i) manufacturing, (ii) warehousing, storage and distribution of tangible personal property (excluding retail sales), (iii) research and development related to the above activities, (iv) telemarketing, if that is the exclusive use of the property, (v) tourism facilities, (vi) qualified border retail facilities, or (vii) space necessary for and related to the above activities. See Appendix A for a definition of "tourism facility" and "qualified border retail facilities." Tax increment revenues may be used for site preparation and improvements for any type of development if (i) bedrock soils are present in 80 percent or more of the acreage of the district, (ii) the estimated costs of site preparation exceed the fair market value of the land before completion of the site work, and (iii) the tax increment is used only for the additional costs of preparing the site and installing public improvements because of the unstable soils and bedrock condition.

Tax increment revenues may be used to provide assistance for up to 15,000 square feet of any separately owned commercial facility located within a small city if tax increment is used only to directly assist the facility or pay administrative expenses. See Appendix A for a definition of "small city."

#### Mined Underground Space Districts (M.S. § 469.174, subd. 13)

The purpose of a mined underground space district is to provide a financing mechanism to encourage, promote and enable both public and private development of mined underground space and to protect both subsurface areas potentially suitable for development and existing mined underground space.

To qualify as a mined underground space district, the proposed district must consist of a project, or portion of a project, for the development or redevelopment of mined underground space. "Mined underground space" refers to space "resulting from, or which will result from, the excavation of subsurface areas by underground mining methods and having limited access from and to the surface and the supporting material surrounding the space."

Tax increment revenues may be collected from a mined underground space district for up to 25 years after receipt of the first tax increment.

Tax increment revenues may only be used to pay costs of (i) excavating and supporting the space, (ii) providing public access to the mined underground space, including roadways, and (iii) installing utilities, including fire sprinkler systems.

#### Hazardous Substance Subdistricts (M.S. § 469.174, subd. 23)

A hazardous substance subdistrict is an area within a tax increment financing district that consists of parcels containing pollution or contamination. Before an area is designated as a subdistrict, the authority must have entered into an agreement and have a development response action plan approved by the Pollution Control Agency that provides for cleanup of the hazardous substances. Revenues from a subdistrict may be used to finance (i) removal of pollution, pollution testing,and demolition required by the development response action plan, (ii) purchase of environmental insurance, and (iii) related administrative and legal costs. The duration of a hazardous substance subdistrict may extend beyond the duration of the overlying district. Tax increment revenues may be collected from the subdistrict (i) for 25 years from receipt of the first tax increment from the subdistrict, or 20 years if the authority defers receipt of the first tax increment, or (ii) the period necessary to recover the costs of the removal or remedial actions provided in the development response action plan, whichever is less.

### Extending the Duration of a District Due to Hazardous Cleanup Costs

(M.S. § 469.176, subd. 1g)

An authority, upon approval of the municipality, may extend the duration of a district beyond the statutory limits if:

- (i) contamination, hazardous substances, pollution, or other materials which need removal or remediation are located in a district after it has been established;
- (ii) the authority does not establish a hazardous substance subdistrict; and
- (iii) the municipality pays the costs of removal or remediation from its general fund or other available money, but not from tax increment revenue.

The term of a district may be extended for a period of (i) ten years beyond its statutory limit

or (ii) the number of additional years needed to collect tax increment revenue equal to the removal or remediation costs paid by the municipality, whichever is less. In order to extend the duration of a district, the tax increment financing plan would need to be modified.

The tax increment revenues collected during the extended period of the district may be used only to pay actual removal and remediation costs, including testing and engineering costs, but no financing or interest costs. Removal and remediation costs being reimbursed from tax increment revenues must be reduced by any amount the municipality is reimbursed from private parties or other responsible parties.

#### Parcels Not Includable in a District (M.S. § 469.176, subd. 7)

Generally, no property can be included within a district if during the prior five years it has been classified as either "green acres" (M.S. § 473H) or "agricultural homestead" (M.S. § 273.111 or § 273.112). Such property can be included in the district only if the property is to be included in a qualified housing district or if a manufacturing or distribution facility is to be developed within the district.

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#### General Limitations on the Use of Tax Increment Revenues

#### (M.S. § 469.176, subd. 4)

Generally, the limitations relating to tax increment financing are contained in Section 469.176 of the Tax Increment Financing Act. The following is an outline of general limitations.

Tax increment revenues must be used as provided in the tax increment financing plan.

Tax increment revenues may only be used to:

- 1. pay debt service on bonds issued to finance a project;
- 2. finance an activity or purpose authorized in the underlying development statute;
- 3. pay costs of developing and implementing a development action response plan; or
- 4. pay premiums for insurance or other security on bonds issued to finance a multifamily housing development or an industrial development bond or to finance a reserve.

Tax increment revenues may not be used for the acquisition, construction, renovation, operation or maintenance of a building used primarily and regularly for conducting the business of a local unit of government or state or federal government. Tax increment revenues may be used to construct or renovate a parking structure, public park, or social, recreational or conference facility.

In the case of municipalities or authorities which are located in more than one county, tax increment revenues generated from one county may not be expended for improvements undertaken in another county.

At least 80 percent of the tax increment revenues generated from a district must be expended within that district. Administrative expenses are considered to be activities outside a district.

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What is the "But For" Test and How is it Analyzed?

#### The "But For" Test

The "but for" test is one of the most important findings that a municipality must make in order to establish a tax increment financing district. This finding represents the very essence of tax increment financing. This finding states that the proposed development would not be reasonably expected to occur solely through private investment within the reasonably foreseeable future and therefore the use of tax increment financing is deemed necessary. Simply stated, the project would not go forward without the use of tax increment financing.

The 1996 report by the Office of the Legislative Auditor shows that cities interpret or apply the "but for" test differently. Some of the criteria used to justify tax increment use include:

**Cost:** the high cost of a proposed development makes the project too expensive without public assistance;

**Location:** to encourage development in a location that is consistent with the development goals of the municipality or to prevent a developer from locating in a different community;

**Timing:** to encourage development of the project sooner than would have happened otherwise;

**Scope and Quality:** to ensure development of a larger or better quality facility;

**Ultimatums:** reaction to an existing company that wishes to expand and threatens to go elsewhere if it does not receive assistance; and

**Public Improvements:** financing of public improvements, such as water and sewer utilities and road improvements, to encourage development or redevelopment.

#### The "But For" Analysis and Written Documentation (M.S. § 469.175, subd. 3(2))

In 1995, the Legislature made an effort to quantify the "but for" test. As part of the "but for" finding, a municipality is required to find "that the increased market value of the site that could reasonably be expected to occur without the use of tax increment financing would be less than the increase in the market value estimated to result from the proposed development after subtracting the present value of the projected tax increments for the maximum duration of the district permitted by the plan." In other words, a municipality must find that the use of tax increment financing will increase the estimated market value of the site over that which would occur without tax increment financing, as shown in the following example:

#### "But For" Analysis

**Example:** A developer is requesting tax increment financing to assist in the construction of a new telemarketing facility. The municipality is considering the establishment of an economic development type of tax increment district. The proposed estimated market value (EMV), or the new estimated market value (New EMV), of the project is **\$230,000**. The current estimated market value (Current EMV) of the land without the project is **\$55,000**. The difference between the New EMV and the Current EMV is **\$175,000**.

The present value of the tax increment (PV of tax increment) for the maximum life of the district, calculated at 7.5 percent, totals **\$42,191**. This present value calculation is based on nine years of tax increment, an average annual tax increment of \$7,555, and assumes an inflation factor of 1.08 percent. The difference in the increase in the market value as calculated above is **\$175,000**. To determine the value of what could reasonably be expected to occur on the site without the use of tax increment financing, subtract the present value of the tax increment from the difference in the increase in market value in the increase in the increase in the site without the use of tax increment financing, subtract the present value of the tax increment from the difference in the increase in market value: **\$175,000** less **\$42,191** totals **\$132,809**.

In this example, if development having a market value over \$132,809 could occur on the site without tax increment financing, this project does not meet the "but for" test and tax increment financing could not be used for this project.

#### Step One of Calculation:

New EMV Current EMV	\$230,000 \$55,000
Difference/Increase in EMV (New EMV less Current EMV)	\$175,000
Step Two of Calculation:	
Difference/Increase in EMV (from above) PV of Tax Increment	\$175,000 \$42,191
Difference/Increase in EMV less PV of Tax Increment	\$132,809

The tax increment financing law requires that a municipality include in the tax increment financing plan the identification and description of studies and analyses used to make the "but for" determination and set forth in writing the reasons and supporting facts for the "but for" finding. If a tax increment financing district is established, supporting documentation should be kept on the "but for" finding, such as a financial statement or project *pro forma* from the developer.

#### The Housing Exception

In 1996, the Legislature exempted qualified housing districts from the market analysis of the "but for" test.

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What is the procedure for establishing a project and TIF district?

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### What is the Procedure for Establishing a Project and Tax Increment Financing District?

#### **Defining the Relationship Between Project and District**

Because tax increment financing is primarily a financing tool to assist development or redevelopment, a tax increment financing "district" must be located within a "project" established under a development statute which authorizes the municipality or authority to undertake the activity to be financed. While a district is a specific geographic area from which tax increment financing revenues are generated, a project is a specific geographic area established under one of the development statutes described above in which public development revenues may be spent, sometimes referred to as a "project area."

When a municipality or authority begins to examine whether to provide assistance to a development, it must first look to the development statutes to determine which statutes allow the authority to provide the type of assistance needed. This determines the type of project area to be established.

Although the project area and tax increment financing district may be established at the same time, a district may be established within an existing project area. The geographic area of the project area is described in a development program or redevelopment plan created by an authority and approved by the municipality after a public hearing.

The following are some distinguishing characteristics between a tax increment financing district and a project area:

- A district can be either a contiguous or noncontiguous geographic area, while a project may be required to be contiguous, depending on the development statute under which the project area is established;
- 2. The geographic area of a district is described in the tax increment financing plan, while the geographic area of a project area is described in the development program or redevelopment plan;
- A district may be either the same size or smaller than a project area, but is always located within the geographic area of a project area;
- 4. The boundaries of a district may not be expanded after five years from the request for certification, while the boundaries of a project area may be expanded at any time;

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## Project Area = TIF District



#### **Project Area > TIF District**



- 5. A district may not overlap another district, while a project area may overlap another project area;
- 6. A district can exist for only a maximum term of years, while a project area has no term of years; and
- 7. While a district may have a financial impact on various taxing jurisdictions, a project area has no financial impact.

	Project Area	District	
Revenues	Area within which revenues may be expended	Area from which revenues are generated	
Area	May be contiguous or noncontiguous, depending on type of project area	May be contiguous or noncontiguous	
Size	May be coterminous with or larger than district	May be coterminous with or smaller than project area	
Expansion	May be expanded at any time	May not be expanded after five years	
Overlap	May overlap other project areas	May not overlap other districts	
Term	Has no maximum term	Has a maximum term	

#### **Establishing a District**

#### **Required Findings**

To establish a district, the approving municipality must make specific findings and elections. The reasons and supporting facts must be made in writing for each of the following findings:

- 1. *The type of district.* For each type of district, there is a specific set of findings, as defined by the Tax Increment Financing Act. If a district is a redevelopment or a renewal or renovation district, the documentation must be retained and available to the public until the district has been terminated.
- 2. The "but for" finding. That the proposed development or redevelopment would not reasonably be expected to occur solely through private investment within the reasonably foreseeable future and that the increased market value of the site expected without the use of tax increment is less than the increase in the market value expected, after subtracting the present value of all tax increments for the duration of the district. [See section on the "But For" finding.]

- 3. *Conformance to general plan*. That the tax increment plan conforms to the general plan for the municipality as a whole. This would refer to the comprehensive plan, if one existed.
- 4. *Opportunity and needs finding*. That the plan will provide the maximum opportunity for development or redevelopment of a project by private enterprise which is consistent with the needs of the municipality as a whole.

Additionally, the following elections must be made at the time of plan approval:

- 1. *Fiscal disparities election*. If applicable, the municipality must elect to have fiscal disparities contributions come from either inside or outside the district. (See section on Fiscal Disparities)
- 2. *Local contribution election*. The municipality must elect whether to make a qualifying local contribution or incur the state aid reduction. (See section on Local Contribution.)

#### Contents of a Tax Increment Financing Plan

As part of the process of establishing or modifying a district, a tax increment financing plan must be created for a new district and modified for an existing district.

The following information must be contained in a plan:

- 1. A statement of the objectives of the authority for the improvement of a project;
- 2. A statement as to the development program for the project, including the property within the project, if any, that the authority intends to acquire;
- 3. A list of any development activities that the plan proposes to take place within the project, for which contracts have been entered into at the time of the preparation of the plan, including the names of the parties

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to the contract, the activity governed by the contract, the cost stated in the contract, and the expected date of completion of that activity;

- 4. Identification or description of any other specific development reasonably expected to take place within the project, and the date the development is likely to occur;
- 5. Estimates of the following:
  - The cost of the project, including administration expenses;
  - The amount of bonded indebtedness to be incurred;
  - The sources of revenue to finance or otherwise pay public costs;
  - The most recent net tax capacity of taxable real property within the district;
  - The estimated captured net tax capacity of the district at completion; and
  - The duration of the district's or subdistrict's existence.
- 6. Statements of the authority's alternate estimates of the impact of tax increment financing on the net tax capacities of all taxing jurisdictions in which the district is located in whole or in part.

For purposes of one statement, the authority assumes that the estimated captured net tax capacity would be available to the taxing jurisdictions without creation of the district. For purposes of the second statement, the authority assumes that none of the estimated captured net tax capacity would be available to the taxing jurisdiction without creation of the district;

- Identification and description of studies and analyses used to make the "but for" determination; and
- 8. Identification of all parcels to be included in the district or any subdistrict.

#### **Approval Process**

It takes approximately six weeks to go through the procedural steps to establish a district. The procedural steps are listed below. The order of these steps may vary on a case by case basis.

- 1. \* The plan is drafted by or at the request of the authority.
- \*\* The planning commission meets to determine whether the plan is consistent with the comprehensive plan of the municipality.
- 3. \* The authority approves the plan.
- 4. The authority requests that the municipality call for a public hearing.
- 5. The municipality calls for a public hearing on the establishment or modification of a district.
- In the case of a housing or redevelopment \* 6. district, written notice must be provided to the county commissioner who represents the geographic area within which the district is to be located, at least 30 days prior to publication of the public hearing notice. Such notice must contain a general description of the proposed district's boundaries, the proposed activities to be financed, an offer to meet with the commissioner to discuss the proposed district and a request for the commissioner's comments with respect to the district.
- 7. \* The county board of commissioners and members of the school board are given estimates of the fiscal and economic implications of the proposed district at least 30 days prior to the public hearing. The authority provides an opportunity to the members of the county and school boards to meet with the authority and municipality.

- 8. \* Notice of the public hearing is published in a newspaper of general circulation within the community. The notice is published not less than 10 days nor more than 30 days prior to the public hearing. The published notice must include a map of the district, the area from which tax increments may be collected and, if the project area includes additional property, a map of the project area in which the tax increment revenue may be expended.
- 9. \* The municipality holds a public hearing and approves the plan.
- 10. \* The authority files a copy of the plan and the plan or program for the project area with the Commissioner of Revenue.
- 11. \* The county auditor is advised that the district has been established and is requested to certify the original net tax capacity and local tax rate of the district.

required by statute

\* required by statute depending on type of project area

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#### Modifications to a Tax Increment Financing Plan

A tax increment financing plan may be modified by an authority at any time during the life of the tax increment financing district. However, an authority must make the same findings required for approval of the original plan and hold a new public hearing if the anticipated modification includes any of the following:

- 1. reduction or enlargement of the geographic area of the tax increment financing district:
  - a. The geographic area of the tax increment financing district may be reduced but not enlarged after five years from the certification of the original net tax capacity by the county auditor;
  - b. The authority need not hold a public hearing if the only plan change is a reduction of the geographic area of the tax increment financing district and if the current net tax capacity equals or exceeds the original net tax capacity of the parcels being eliminated or the authority agrees that the original net tax capacity of the district will be reduced by no more than the current net tax capacity of the parcels;
  - c. If the district being enlarged is a redevelopment or a renewal and renovation district, the authority must show that the new parcels meet the minimum statutory criteria for creation of that type of district.
- 2. increase in the bonded indebtedness;
- 3. increase in the portion of the tax increment financing value to be retained by the municipality;
- 4. increase in total estimated tax increment expenditures;
- 5. acquisition of additional property by the authority; or
- 6. creation of a hazardous substance district.

If the authority decides to change a housing, redevelopment, or economic development district to another type of district, the authority must (i) decertify the existing district, (ii) create a new tax increment financing plan, and (iii) follow all procedures for creation of a new district, including county auditor certification.

#### **Certification**

A district is not established until the original tax capacity and the original local tax rate of the district have been certified by the county auditor. As is discussed further under the management of a district in this manual, it is key that a formal, written request for certification of the district be submitted to the county auditor as soon as practical after approval of the district, since **the date the request is received by the county auditor is considered the certification request date of the district.** 

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#### **Statutory Deadlines for Establishing a Tax Increment Financing District**

#### **Decertification of a Tax Increment Financing District**

Decertification of a tax increment financing district refers to the termination of the tax increment financing district which occurs when the county auditor removes all remaining parcels from the district.

(for housing and redevelopment TIF districts)

It is the responsibility of the county auditor to decertify the district. According to Minnesota Statutes, the district must be decertified upon the earliest of the following:

- 1. the applicable maximum duration as defined in statute has been met;
- 2. the maximum duration limit, if any, provided by the municipality;
- if the Commissioner of Revenue issues an order of noncompliance and the maximum duration limit for an economic development district has been exceeded;
- 4. upon completion of the required actions to allow decertification, i.e., the terms of outstanding bonds and contractual obligations have been met; or

5. upon receipt by the county auditor of a written request for decertification from the authority that requested certification of the district.

Early decertification of a district needs to be requested by the municipality or authority.The request should include the date decertification should take place. The Office of the State Auditor has suggested that there be a resolution from the authority decertifying the district for any reason, including the expiration of the district.

According to M.S. § 469.176, subd. 1(f), if there are delinquent taxes outstanding within a tax increment district after its decertification, it is the authority's responsibility to provide the county auditor with the information so that when the delinquent taxes are collected, the auditor can forward the tax increment portion to the authority. This provision applies only when the delinquent taxes had been pledged to outstanding bonds or contractual obligations.

What are the financing options available for TIF assistance?

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What are the Financing Options Available for Tax Increment Financing Assistance?

The payment of (re)development costs of a tax increment financing project may be financed on a pay-as-you-go basis or through debt financing, including general obligation bonds of either the municipality or the authority, revenue bonds, pay-as-you-go contracts (sometimes referred to as limited revenue notes) or internal borrowing. The terms of how tax increment assistance is provided are generally set out in a development or redevelopment agreement with the security for the financing of the qualifying improvements clearly stated.

#### **Bonding**

Historically, development costs relating to a tax increment financing district were funded from bond proceeds issued by the municipality or authority, with tax increment revenues from the district pledged to the payment of principal and interest on the bonds.

The Tax Increment Financing Act is written with an underlying assumption that qualifying costs will be paid from bond proceeds. Certain provisions in the Act provide for termination of the district when debt service on outstanding bonds is paid or prepaid.

The passage of the Tax Reform Act of 1986 changed the practice of financing tax increment projects. Historically, authorities and municipalities required a developer to sign an assessment agreement, guaranteeing the payment of a level of increased taxes sufficient to cover debt service on the bonds.

After the Tax Reform Act of 1986, such an agreement had the effect of making the bonds taxable. The increased cost of taxable financing and the security concerns of municipalities brought into being the pay-as-you-go note or contract.

#### General Obligation Bonds

The security that provides the most economical debt financing is the pledge of the underlying powers of a municipality, referred to as a pledge of its "full faith and credit." Bonds secured by the taxing powers of the municipality are called general obligation or G.O. bonds.

General obligation bonds may be issued by either the municipality or the authority. If the bonds are issued for qualifying public costs, the bonds can be issued as tax-exempt bonds. At least 20 percent of the debt service on the bonds must be paid from tax increment revenues, or issuance of the bonds must be approved by a general referendum.

In the event tax increment revenues are not sufficient to pay debt service on general obligation bonds, the authority and municipality are required to use their full faith and credit powers in order to pay the bonds. A tax must be levied on all property tax payers to cover any deficiencies in debt service. Because an authority has limited taxing powers, authority bonds are less secure than municipality bonds.

In addition to tax increment revenues, general obligation bonds may also be secured by special assessments levied against benefited properties as well as other revenue sources.

#### **Revenue Bonds**

Either the authority or the municipality may issue revenue bonds. Revenue bonds are payable solely from tax increment revenues or other specified revenues and would not be secured by the full faith and credit and taxing power of the authority or municipality. Revenue bonds generally command a higher interest rate than general obligation bonds because the security underlying the bonds is less than the security of a pledge of the taxing powers of a municipality. The interest on revenue bonds may be either taxable or tax-exempt, depending on the source of the revenues used to pay debt service and the purpose for which bond proceeds are used.

#### Pay-As-You-Go

Since passage of the Tax Reform Act of 1986, the most common method of financing eligible (re)development costs is through a limited revenue note, generally referred to as a pay-as-you-go note or contract. Under this method of financing, a developer finances the costs of constructing the eligible improvements, constructs the improvements, and provides invoices to the authority as evidence that the expenditures have been made. The developer is reimbursed for such costs from the tax increment revenue generated from the new (re)development.

Under this form of financing, the developer takes the risk rather than the authority or municipality

providing financial security. In the event that sufficient tax increment revenues are not generated to make the full payment on the debt service on the note, the developer foregoes receipt of the full amount of the debt service payment.

The authority generally issues a promissory note to the developer as evidence of the authority's obligation to repay the developer's costs. The terms of the repayment are described in a development agreement and may be considered a contractual obligation of the authority rather than bonded indebtedness. The note is generally taxable debt.

#### **Internal Financing**

Under certain instances an authority or municipality may initially finance qualifying (re)development costs by "borrowing" available revenues from other dedicated funds and accounts of the authority or municipality. As tax increment revenues are generated, such funds and accounts are then repaid. While it is questionable whether such funds may be repaid with interest from the tax increment as it becomes available, it is generally recognized that interest may be paid at a level which would have been earned on the loaned funds if they had been invested. This method can be less costly than bonding since there would be no costs of issuance and interest costs would be substantially less, assuming interest were paid at the rate those revenues would have earned if they remained in the dedicated fund or account.

Caution should be exercised before this method is used to assure a sufficient amount of revenues remain in the dedicated fund or account in the event those revenues are needed for their dedicated purpose.

For purposes of the Tax Increment Financing Act, interfund transfers are not considered to be indebtedness.

#### **Tax-Exempt Versus Taxable Debt**

Bonds and limited revenue notes may either be taxable or tax-exempt, depending upon the security for the obligations and how proceeds will be used. Under the Internal Revenue Code of 1986, as amended, there are two tests which must be applied: the "use test" and the "security interest test." In order to be tax-exempt, only one of the tests must be met. If both tests are met, generally the bonds are taxable.

Under the use test, no more than 10 percent of the proceeds may be used for a private purpose. Those improvements which are made on-site or which benefit private parties, such as land acquisition, are considered a private use. Those improvements which are available to the general public, such as streets or sewer and water improvements, are not considered a private use.

Under the security interest test, generally no more than 10 percent of the debt service on the bonds may be secured by a guaranty from a private party. Based upon rulings handed down by the federal government, certain provisions of a (re)development agreement may imply a guaranty. If it is intended that tax-exempt bonds are to be issued and proceeds are to be used for a private purpose, caution must be used in preparing the development agreement so the tax-exempt status of the bonds is not jeopardized.

#### **Special Taxing District**

While the reduction in class rates has resulted in reduced property taxes, it has also resulted in a reduction of tax increment revenue generated by districts. This can impact the revenue available to pay debt service on bonds and binding contracts to which tax increment revenues are pledged.

In 1998, the Tax Increment Financing Act was amended to allow the establishment of a special taxing district within an existing tax increment financing district to address the reduction of tax increment revenue, as long as the request for certification of that tax increment financing district was made before June 2, 1997. A special levy imposed within a special taxing district would only apply to property that is subject to either an assessment or development agreement. To establish a special district, a city must have incurred a deficit within a district because of the reduction in class rates and must use any available increment from other districts within the city to cover the deficit. Alternatively, a city may impose the special tax to pay pre-existing obligations even if it does not have a deficit, but the revenues from the special tax and tax increments may only be used to pay pre-existing obligations.

A public hearing must be held before a special taxing district may be created or a tax imposed. Property owners may object to the district and tax because they are not subject to an assessment or development agreement or they derive no benefit from the tax increment district. The city must rule on the objections within 30 days. Rulings are appealable to district court.

The amount of special tax levied is limited to the **least** of:

- 1. the amount specified in the assessment or development agreement;
- 2. the amount needed to pay pre-June 2, 1997 obligations, after including all other available increment; and
- 3. the reduction of taxes which resulted from the 1997 and 1998 class rate reductions.

If increments from several districts are pledged to payment of obligations, and the city decides to impose a special tax in one district, it must levy the special tax uniformly in all districts. Proceeds of the special tax may only be used for activities for which tax increments may be used. The tax is not subject to levy limits or truth in taxation procedures.

The tax is levied and collected in the same manner and is subject to the same penalties and interest rules as general ad valorem taxes. The tax is computed without regard to fiscal disparities or captured value. The city must certify to the county auditor the amount of special tax for each parcel.

#### **Grant Program for Tax Increment Shortfall**

In 1997 the Legislature appropriated \$2,000,000 to be used by the Department or Revenue to make grants to municipalities for deficit-, in tax increment districts caused by the class rate reductions. The maximum grant under this program is equal to the lesser of. (i) for taxes payable in the year before the grant is paid, the reduction in tax increment revenues resulting from the class rate changes; or (ii) the total tax increment revenues of the municipality, including unspent increments from previous years, less the amount due during the calendar year to pay bonds issued or binding contracts entered into prior to June 3, 1997, less the total tax increment of the municipality including unspent increments from previous years. If a municipality has any excess tax increment revenue, it cannot apply for a grant under this program.

Applications for grants must be made by March I for the prior year's shortfall. Payments of the grants will be made in December. If grant applications exceed the \$2,000,000 appropriation, each grant will be reduced proportionately.

#### **Additional Pooling Authority**

While the Tax Increment Act allows very limited pooling of tax increment revenues between districts, tax increment revenues may be pooled in order to pay obligations under contracts or bonded indebtedness incurred prior to June 3, 1997. The amount of tax increment revenue that may be used outside a district is limited to the amount necessary to meet the obligations of another district that cannot be paid by that district because of a reduction in class rate. Written approval must be obtained from the Commissioner of the Department of Revenue in order to pool tax increment revenues for this purpose. -. 15

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# What are the elements of the transaction?

# What are the Other Elements of the Transaction?

#### **The Development or Redevelopment Agreement** (M.S. § 469.176, subd. 5)

Whether the qualifying costs of a development project are financed through a bond, a pay-as-you-go note, or an internal loan, the terms of the transaction should be set out in a development or redevelopment agreement.

A (re)development agreement describes the respective rights, responsibilities and obligations of both the authority and the developer.

The Tax Increment Financing Act requires that if a district is a redevelopment district, a (re)development agreement is required if (i) more than 25 percent of the property is acquired with proceeds from tax increment bonds, and (ii) tax increment from that property is pledged. If a district is a housing or economic development district, no more than 10 percent of the property may be acquired with proceeds from tax increment bonds without a (re)development agreement if tax increment is pledged from that property.

Generally, an agreement may contain the following provisions:

1. **Recitals.** The recitals identify the parties, their corporate identity and their address, the respective authority and ability to perform their duties under the agreement. This section also identifies the project area and district from which tax increment revenue is to be generated, and the goals and objectives of the authority in undertaking the project.

- 2. **Definitions.** This section defines the legal terms used consistently throughout the agreement.
- Representations. The authority represents that it (i) has completed all necessary procedures, (ii) has no pending or threatened legal proceedings, and (iii) has no contracts that would be breached by the agreement.

The developer generally represents that it: (i) is in good standing; (ii) has no pending legal proceedings; (iii) will construct and maintain the minimum improvements in accordance with applicable law; (iv) will obtain required permits, licenses and approvals; and (v) will hold the authority harmless and cooperate in regard to any litigation.

In a pay-as-you-go transaction, the developer may also represent that it will finance and undertake qualifying improvements, acting as agent of the authority, subject to all limitations of the authority, including public bidding.

4. Authority Activities. This section often covers the responsibilities of the authority. These responsibilities may include the acquisition of the property, financing and making qualifying improvements to the property, including demolition, clearance of demolition debris, removal of hazardous substances, site preparation, and installation of public infrastructure. It is no longer necessary that the authority hold title to the property for qualifying improvements to be constructed or for a land write-down to occur.

- 5. **Minimum Improvements**. This section outlines the process to ensure construction of minimum improvements within the district. These include (i) the minimum cost of the improvements to be constructed, (ii) a procedure for authority review of the construction plans, (iii) the timetable for construction and completion of the improvements, (iv) when the certificate of completion will be provided and (v) the requirement for a payment and performance bond.
- 6. **Insurance**. This section covers any insurance requirements, including builder's risk, comprehensive general liability and workers' compensation.
- 7. **Tax Increment**. This section describes the responsibility of the authority to certify the district from which tax increment revenue is to be generated and available to pay qualifying costs. The developer may agree to pay property taxes, guarantee to pay for shortfalls in tax increment revenue, or be bound by an assessment agreement. This section also identifies the maximum amount of the qualifying costs for which the developer may be reimbursed. The terms of a pay-as-you-go note are generally included in this section, along with the requirement that the developer present documentation of expenditures.
- Financing. This section addresses the financing of the minimum improvements by the developer including provisions relating to the (i) use of the property by the developer for securing additional financing, (ii) delivery of any default notices, and (iii) ability of the bank or authority to remedy any defaults of the developer.

- 9. **Transfer Limitations and Indemnification**. This section provides that the property or improvements may not be transferred without the consent of the authority. The developer agrees to protect the authority, city and its officers against any claims, demands, suits, actions or other proceedings.
- 10. Events of Default. This section describes events of default and gives remedies.
- 11. Additional Provisions. This section contains provisions such as the developer being an equal opportunity employer, the authority's representative not being liable for any conflicts of interest, and any other provisions important to the authority.
- 12. **Termination of Agreement**. This section describes the conditions to terminate the agreement and the effect of such termination.
- Exhibits. Exhibits may include the legal description of the property and a form of

   the certificate of completion, (ii) the assessment agreement, (iii) any easement agreement, (iv) the pay-as-you-go note (including transferability), (v) the payment and performance bonds, and (vi) permitted encumbrances.

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#### Job and Wage Requirements (M.S. § 116J.991)

State law requires that for any agreements executed after July 1, 1995, job and wage levels must be determined. This applies to all districts established for economic development or job growth purposes. Provisions as to the minimum number of new jobs that will be created and their wage levels are often included in the (re)development agreement. If these goals are not met, the tax increment assistance received by the developer must be repaid.

#### **Payment and Performance Bonds** (M.S. § 574.26)

The developer is required to provide a labor and material payment bond, as well as a performance bond, typically referred to as a payment and performance bond. These bonds are to ensure performance (completion of public improvements) by the developer and payment by the developer to all suppliers and contractors for that part of the project relating to public improvements.

#### Assessment Agreement (M.S. § 469.177, subd. 8)

An assessment agreement among the authority, the developer, and the city or county assessor generally accompanies the development agreement. The agreement establishes a minimum market value for the property once improvements are completed within the district. The agreement is filed against property so that any subsequent owner is subject to the agreement. An assessment agreement typically terminates when tax increment obligations relating to the district are no longer outstanding or the district terminates, whichever occurs first.

#### **Bidding Requirements** (*M.S.* § 471.345)

Municipal and authority competitive bidding is required for materials and service contracts over \$25,000 whenever public revenues are to be expended for payment of the contracts. This competitive bidding is done through sealed bids solicited by public notice in the manner and subject to the requirements of the respective law. Different bidding requirements also apply to municipal contracts estimated to be less than \$10,000 and for contracts from \$10,000 to \$25,000. The applicable law should be checked to ensure specific requirements are met.

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How do you manage the project and district?

### How do You Manage the Project and District?

Discussions of tax increment financing often focus on the creation of tax increment financing districts; in recent years, more attention has been placed on the management of tax increment financing districts and project areas. The successful management of a tax increment financing district and project area involves much more than accounting for the revenues and expenditures of the district and the project. This section examines the statutory and practical requirements for managing tax increment financing districts and project areas. The life of a district begins with action to establish the district and adopt a tax increment financing plan. The life of a district ends when action is taken to decertify the district and make the final disbursement of funds. Some of the key events that occur over the life of a district include effects of legislative change, time constraints, duration limits, and reporting requirements.

#### Certification of the District (M.S. § 469.177, subd. 6)

Once the tax increment financing district is approved, the tax increment financing plan, the approving resolution and a list of parcels to be included in the district must be delivered to the county auditor. The date these documents are received and logged by the county is the **request for certification** date.

Statute requires that plans received after June 30 be certified the next payable year. Usually certifications requested after June 30 are not processed until after taxes are calculated and year-end reporting completed. The date the county auditor certifies the original net tax capacity and the original local tax rate is the **certification date.** 

The Minnesota Department of Revenue recently compiled a checklist that many county auditors have begun to use. Some of this information is necessary for the tax increment financing supplement to the Tax List Abstract. Other information requested on this checklist is held on file at the Department of Revenue for state and public information purposes. Other items which the county auditors may want to have in their files include:

- type of district and statutory authority,
- fiscal disparities election statement (if applicable),
- description of the property included in the district by parcel number or legal description (if both are provided, make sure they match),
- a statement as to any building permits issued within 18 months of the request for certification and a list of those parcels,
- number of years expected for the duration of the district, and
- statement of election of sharing percentage with other taxing districts.

The most common problems the county encounters during the certification process include: parcel lists that do not match the legal descriptions; parcel lists that do not match the map in the plan; incomplete documentation (the tax increment financing plan and resolution); and incomplete information.

#### **Annual Review**

There are different procedures prescribed by the county auditors throughout the state for the reporting of qualifying activities in relation to the following requirements. Some authorities are required by the county auditor to submit proof of qualifying activity on an ongoing basis. Other counties may initiate a qualifying activity reporting format annually for those districts due, and will require the authorities to certify whether or not the qualifying activity occurred within the time frame for each type of rule.

Be sure to check with your county as to its requirements. Be proactive and find out what is expected, especially if this is your first district.

#### *Three-Year Knock Out* (*M.S.* § 469.176, subd. 1a)

Activity must occur within three years of the date of certification or the eligibility to receive tax increment will be lost. At least one of the following activities must take place within a district in order for it to qualify for the three-year activity rule:

- Bonds have been issued to aid the project.
- The authority or municipality has acquired property within the district.
- Authority or municipality activity has resulted in the construction of public improvements within the district.

The three-year knock out rule applies to the district as a whole. The whole district either qualifies or does not qualify.

#### **Four-Year Knock Down** (M.S. § 469.176, subd. 6)

A second rule applies for parcels on which certain activities do not occur within four years of the district's date of certification. Evidence of the activity is to be reported to the county auditor by February 1 of the fifth year. At least one of the following activities must take place on a parcel within four years in order for the parcel to remain in the district.

- Demolition;
- Rehabilitation;
- Renovation; or
- Site preparation which includes street improvement adjacent to the parcel, construction of a new street adjacent to the parcel, relocation of a street adjacent to the parcel, rebuilding of an existing street adjacent to the parcel.

Without qualifying activity, the net tax capacity of the affected parcel(s) will be removed from the original tax capacity of the district and no increment will be received from the parcel. The parcel may be returned to the district once qualifying activity has occurred. However, the parcel is certified at the most current capacity, not at the original tax capacity of the parcel.

It is the responsibility of the authority to request that the parcel be reinstated into the tax increment financing district once qualifying activity has commenced. (The timing of the request is important. The county auditor will reinstate the parcel at the time of request. The value at the time of request becomes the new base value.)

If the authority waits to request the reinstatement of the parcel, the authority runs the risk of having the value of the improvement included in the base value of the parcel. The evidence of qualifying activity should be submitted, at the latest, by February 1 following the year of the qualifying activity.

#### *Five-Year Limitations* (*M.S.* § 469.175, subd. 4 *M.S.* § 469.1763, subd. 3)

Legislative changes to the Tax Increment Financing Act in 1990 placed restrictions on pooling — the amount of tax increment that can be spent outside the boundaries of the district.

There are four conditions under which tax increment revenue may be considered spent on activity within the district:

- 1. Paid to a *third party* for activities;
- 2. Pledged to pay bonds of which the proceeds will be used to pay for activities;
- 3. Spent under a binding contractual obligation for the performance of the activity; and
- 4. Reimbursement of costs incurred for the activity, including interest.

In each case, the activity financed must take place within five years of the date of district certification.

Tax increment revenues paid after five years are construed as being paid for project costs occurring outside the district. This limitation may impact for redevelopment activities which generally are completed in phases.

A municipality or authority may add parcels to the district within the first five years after a district has been certified. The new parcels must be added by going through the public hearing process as if a new district were being created. The base value and tax rate of the new parcels will be different than those of the original portion of the district.

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#### **Monitoring Tax Increment Funds and Development Activity**

Monitoring and tracking the receipt and expenditure of funds through a tax increment financing district has become an essential step in managing districts. An evaluation of a district will often focus on the use of tax increment revenues. The Tax Increment Financing Act sets forth a variety of ongoing limitations on the use of tax increment revenues.

#### *Tax Increment Revenues* (*M.S.* § 469.174, subd. 25)

The 1997 Legislature adopted a definition of "increment," "tax increment," "tax increment revenues," "revenues derived from tax increment," and other similar terms in the Tax Increment Financing Act. This new definition identifies that revenues derived, either directly or indirectly, from tax increment are to be treated as tax increment revenues. These revenues include taxes paid by the captured net capacity, but exclude any excess taxes; the proceeds from the sale or lease of property, tangible or intangible, purchased by the authority with tax increments; repayments of loans or other advances made by the authority with tax increments; and interest or other investment earnings on or from tax increments.

#### **Qualified Costs** (M.S. § 469.176, subd. 4)

In addition to the specific limitations for each type of district, tax increment may be spent only for specified purposes permitted in the underlying development statutes. Such purposes include land acquisition; site improvements; public and on-site utilities; demolition; relocation; interest; and administration. If an authority owns a development, tax increment revenues may be used to finance any aspect of the development. Because the development statutes are often ambiguous, whether a particular activity is eligible for tax increment financing may depend on the facts in each case.

Tax increment revenues may not be used to finance buildings that are used "primarily and regularly for conducting the business" of any unit of government, except for parking structures, commons areas used as a public park, or a facility used for social, recreational or conference purposes.

#### Administrative Costs (M.S. § 469.174, subd. 14 M.S. § 469.176, subd. 3)

Administrative expenditures are limited to no more than ten percent of the expenditures authorized in the tax increment financing plan or ten percent of actual increment expenditures, whichever is less. Administrative costs include those costs incurred to administer the tax increment financing district. If bonds are issued, administrative costs will include the amounts paid for services provided by bond counsel, fiscal consultants, rating agencies, and planning or economic development consultants. Money spent on administrative expenses is treated as expended outside the district and counts against the pooling restrictions.

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#### **Reporting Requirements**

#### *Minnesota Department of Revenue* (*M.S.* § 469.175, subd. 2 *M.S.* § 273.1399, subd. 2)

Authorities and municipalities must send a copy of the tax increment plan, whether a new district or amendments or modifications to an existing district, and the development programs or redevelopment plans to the Department of Revenue.

In addition, for each district for which a municipality has elected to use the local contribution option to avoid the LGA/HACA reduction, the authority or municipality must submit **by March 15** of each year a report to the Department of Revenue on local contributions made to each tax increment financing district in the preceding year. The form of this report is attached in Appendix D.

Minnesota Department of Revenue Property Tax Division Mail Station 3340 St. Paul, MN 55146-3340 651-296-5145 Fax: 651-296-2166 Web site: www.taxes.state.mn.us

#### Minnesota Department of Trade and Economic Development (M.S. § 116J.991)

Local governments must report wage level and job creation goals associated with tax increment assistance for economic development purposes. A business receiving state or local government assistance for economic development or job growth purposes, including tax increment financing, must create a net increase in jobs in Minnesota and meet specified wage goals within two years of receiving assistance. Municipalities must submit a reporting form annually **by April 1** to the Minnesota Department of Trade and Economic Development (DTED). The form is attached in Appendix D.

Minnesota Department of Trade and Economic Development Analysis and Evaluation Office 500 Metro Square 121 Seventh Place East St. Paul, MN 55101-2146 651-296-2169 1-800-657-3858 Fax: 651-296-1290 Web site: www.dted.state.mn.us

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#### *Office of the State Auditor* (*M.S.* § 469.175, subds. 5, 6, 6(a) *M.S.* § 469.177, subd. 11)

The Office of the State Auditor is the agency responsible for tax increment financing auditing compliance.

The treasurer of each county is authorized to deduct 0.25 percent of tax increment and forward it to the Office of the State Treasurer for payment of the Office of the State Auditor's enforcement duties.

The Office of the State Auditor has developed annual reporting forms for accounting and financial reporting of tax increment financing districts. These forms are attached in Appendix D.

Additionally, the Office of the State Auditor has issued memorandums with respect to various issues relating to tax increment financing. Copies of these memorandums are attached in Appendix G.

The reporting forms are due **August 1** of each year. Both the municipality and the authority must complete forms for each tax increment financing district. Copies of the completed forms must be sent to the school board, the county board, the county auditor and the city council. In addition, authorities and municipalities must publish data on tax increment financing districts annually in the official newspaper, based upon the information submitted to the Office of the State Auditor.

Reports must be filed for each district from its creation until the district has been terminated or decertified and all tax increment revenues generated within that district have either been spent or returned to the county auditor for distribution to the taxing districts. If an authority or municipality fails to make a disclosure or submit a report, the Office of the State Auditor will notify the authority or municipality of the failure to report. If the disclosure or report is not made or submitted by the third Tuesday of November of each year, the county auditor will be directed by the Office of the State Auditor to hold the distribution of tax increment revenues. Twenty-five percent of the tax increment revenues will be held if the distribution is made after the third Friday in November of the year the report was to be submitted. One hundred percent of the tax increment revenues will be held if the distribution is made after December 31 of the year the report was to be submitted. Once the required disclosure or report has been submitted, the state auditor will notify the county auditor to distribute the tax increment revenues. This notification will be mailed within five business days after the Office of the State Auditor receives the outstanding information. The county auditor has 15 days to distribute the tax increment revenues after receiving notification from the Office of the State Auditor. Any interest which accrues while the tax increment revenues are being held is retained by the county.

Office of the State Auditor Tax Increment Financing Division 505 Spruce Tree Centre 1600 University Avenue West St. Paul, MN 55104 651-642-0767

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#### **Annual Disclosure** (M.S. § 469.175, subd. 5)

Annual Report. On or before August 1 of each year, the authority must submit to the county board, the county auditor, the school board and the municipality an annual report of the status for the previous year of each tax increment financing district. The report must include the following information: (i) the amount and source of all revenue in the tax increment account, (ii) the amount and purpose of all expenditures from the tax increment account; (iii) the amount of any tax increment revenue pledged, including to the payment of debt service on outstanding bonds, (iv) the original net tax capacity of the district and any underlying subdistrict, (v) the captured net tax capacity retained by the authority and the amount of captured net tax capacity shared with other taxing jurisdictions; (vi) the amount of tax increment revenue received and (vii) any additional information necessary to indicate compliance with the respective tax increment financing plan.

A copy of the report of the authority to the Office of the State Auditor required under M.S. § 469.175, subd. 6, may be used to satisfy this annual report requirement. Annual Statement. On or before August 15 of each year, the authority must publish in a newspaper of general circulation within the municipality an annual statement relating to the status of each tax increment financing district for the previous year. The annual statement must show (i) the tax increment revenue received and spent, (ii) the captured net tax capacity of the district, (iii) the amount of tax increment revenue paid to other governmental entities, (iv) the amount of tax increment revenue paid for administrative costs, (v) the amount of total tax increment revenue spent directly or indirectly for activities and improvements outside the district boundaries, (vi) other information the authority may determine to be relevant, and (vii) if a fiscal disparities contribution is elected under M.S. § 469.177, subd. 2, paragraph (a), the fact that such election has been made and the increase in property taxes imposed on other properties within the municipality as a result of that election.

A copy of the annual statement and the name of the newspaper in which the annual statement has been or is to be published must accompany the report of the authority to the Office of the State Auditor previously discussed.

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#### **Other Compliance Issues**

### *Income Limitations* (*M.S.* § 469.1761)

While no specific reporting requirements currently exist under state law, the income requirements for housing districts, including qualified housing districts, must be monitored by the authority.

The easiest method for the authority to monitor compliance with the income limits is to require the owner of the housing units to submit to the authority an annual report certifying that the owner is in compliance with the required income limits under the (re)development agreement. In the case of a qualified housing district that received tax credits, a copy of the annual compliance form submitted by the owner to Minnesota Housing Financing Agency would be sufficient. If bonds are outstanding or if the authority is concerned that the income limits have not been met, a rent roll showing income levels should be required from the owner in each year tax increment revenue is received.

#### Square Footage/Use Requirements

It is important to maintain documentation relating to compliance with the square footage or use requirements of various types of districts.

For housing districts, no more than 20 percent of the total fair market value of the planned improvements may be constructed for uses other than low- and moderate-income housing.

For economic development districts, there are various limitations relating to square footage and use of the constructed improvements, including: (i) at least 85 percent of the square footage of the improvements must be used for specific, non-commercial purposes, (ii) at least 80 percent of the acreage in the district must have bedrock soils conditions, (iii) small cities may have an aggregate of up to 15,000 square feet of commercial facilities within tax increment financing districts, or (iv) at least 25,000 square feet of retail space is being developed within a qualified border retail facility.

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# For Illegal Use of Tax Increment Revenues?

With tax increment revenues comes a long list of restrictions and prohibited uses. Prior to the 1995 legislative changes that gave the Office of the State Auditor the authority to develop a uniform system of accounting and financial reporting for tax increment financing districts, no enforcement procedure existed.

One penalty existing in the Tax Increment Financing Act involves housing districts. In order for a tax increment financing district to qualify as a housing district, certain income requirements must be met by the development, whether it is owner occupied or rental property. If there is a failure to comply with the income requirements, the duration limit of the district is changed from 25 years to that of an economic development district, either 9 years from receipt of the first tax increment or 11 years from the establishment of the district, whichever is less. If at the time of non-compliance the housing district has exceeded the life of an economic development district, the district must be decertified effective for taxes assessed in the next calendar year. The Commissioner of Revenue is responsible for enforcing this provision.

Under the 1995 legislative changes, the Office of the State Auditor may perform random audits of a municipality's use of tax increment financing. Should the Office of the State Auditor find evidence that a municipality or authority has violated a provision of the law, the Office of the State Auditor is to forward the relevant information to the county attorney. Since the Office of the State Auditor does not have any prosecutorial powers, the county attorney may bring an action to enforce the provisions. If the Office of the State Auditor finds that an authority or municipality is not in compliance with the Tax Increment Financing Act, it must notify the governing body of the municipality that approved the tax increment financing district of its findings. The governing body has 60 days to respond in writing to the Office of the State Auditor's notification. This written response must state whether the municipality accepts, in whole or in part, the findings of the Office of the State Auditor. If the municipality does not accept the findings, the written statement must indicate the basis for its disagreement. Copies of the written response of the municipality are then forwarded to the chairs of the committees of the Legislature having jurisdiction over tax increment financing.

If it is found that an authority has collected tax increment revenue from a parcel which did not qualify for inclusion within a district, the authority must repay to the county auditor the amount of tax increment revenue collected from that parcel.

If it is found that an authority has spent tax increment revenue for an illegal purpose or an activity outside the permitted geographic area, the authority must repay such revenue to the county auditor.

If the authority does not have sufficient revenue to make such payments, the municipality must use any available money, including the levy of property taxes, to make such payment.

Money received by the county will be distributed as excess tax increment, except if payment is received after 60 days from notification of noncompliance by the Office of the State Auditor or upon commencement of an action by the county attorney for repayment, no distribution will be made to the municipality.

What financing alternative to TIF is available? 

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# What Financing Alternative to Tax Increment Financing is Available?

#### Tax Abatement (M.S. §§ 469.1812 to 469.1815, as amended)

The 1997 Legislature enacted the Tax Abatement Law authorizing local political subdivisions, i.e., statutory or home rule charter cities, towns, counties or, in limited circumstances, school districts, to abate property taxes for (re)development purposes for a period of up to ten years, as an *economic development alternative* to tax increment financing.

Property tax abatement cannot be applied to land but only to the constructed improvements on the land. Property that is located within a tax increment financing district cannot be abated nor can the areawide fiscal disparities tax be abated.

Before a political subdivision can abate taxes on a property, it must first (i) enter into an abatement agreement and (ii) determine that the benefits to the political subdivision from the proposed abatement agreement are at least equal to the costs incurred by the political subdivision.

Property tax abatement can be used only when it is found to be in the public interest. Property tax abatement is in the public interest only if the governing body of a political subdivision can find that the proposed constructed improvement(s) will result in at least one of the following:

- 1. Increase or preserve the property tax base;
- 2. Provide employment opportunities in the political subdivision;
- 3. Provide or help acquire or construct public facilities;
- 4. Help redevelop or renew blighted areas; or
- 5. Help provide access to services for residents.

To grant a property tax abatement, a political subdivision is required to hold a public hearing on an abatement after a ten to thirty day published notice in the official newspaper. The notice must indicate that the governing body will consider granting a property tax abatement, identify the property or properties for which an abatement is under consideration, and state the total estimated amount of the abatement.

After the hearing, the governing body of a political subdivision, other than a school district, may grant a property tax abatement by adopting a resolution in which it may limit the abatement to the following terms:

- Duration of the abatement for a period no longer than ten years (If the resolution does not specify a period of time, the abatement is for eight years.);
- 2. The specific dollar amount per year or in total;
- 3. The increase in property taxes resulting from improvement of the property;
- 4. The increase in property taxes resulting from increases in the market value or tax capacity of the property; or
- 5. Other limitations that the governing body of the political subdivision determines are appropriate. For example, the governing body could provide that the abatement may not be modified or changed during its term. If the abatement resolution does not provide that the abatement may not be modified or changed, the governing body of the political subdivision may review and modify the abatement every second year after it is approved.

As mentioned above, for a municipality and county, the abatement may be granted for up to a 10-year period without modification, or the terms may be modified every second year. However, the school district must initially approve the abatement, but can only grant abatements one year at a time. A school district cannot abate its entire levy, but can abate a portion of its levy determined by formula. In any given year, the total amount of property taxes that can be abated by a political subdivision under the Tax Abatement Law may not exceed (i) five percent of the current levy, or (ii) \$100,000, whichever is *greater*.

Bonds issued and secured by tax abatements are not subject to the referendum requirement under Chapter 475 of Minnesota Statutes.

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Appendix A

Appendix A

#### Glossary

Administrative expenses: all expenditures of a development authority other than the amount paid for the purchase of land or paid to contractors or others providing materials and services, including architectural and engineering services, directly connected with the physical development of real property in the district. They include expenses for bond counsel, fiscal consultants, and planning or economic development consultants fees. Administrative expenses cannot exceed 10 percent of a district's total tax increment expenditures or the total tax increment expenditures authorized by the tax increment financing plan, whichever is less. The limit is 5 percent for districts created between August 1, 1979 and June 30, 1982. (M.S. § 469.174, subd. 14; M.S. § 469.176, subd. 3.)

**Blight:** a general term used to denote conditions such as dilapidated, deteriorating, or substandard structures. Tax increment redevelopment and renewal and renovation districts are designed to encourage redevelopment of blighted areas.

**"But for" test:** a statutory requirement that a municipality, in approving creation of a tax increment district, must find that the "proposed development or redevelopment, in the opinion of the municipality, would not reasonably be expected to occur solely through private investment within the reasonably foreseeable future." Pursuant to M.S. § 469.175, subd.3, the municipality must make a quantitative finding based on criteria required in the subdivision that the use of tax increment financing will increase the market value (and true value) of the site over that which would occur without tax increment financing.

**Captured tax capacity:** the total current tax capacity of the parcels in the tax increment financing district less the total original tax capacity. The captured tax capacity is multiplied by the local tax rate for the year in which the district was established to determine the amount of the tax increment. (M.S. § 469.174, subd. 4.)

**Development authority:** special purpose government entities authorized to exercise a variety of development powers, including the use of tax increment financing powers. Authorities include cities (exercising powers under the Municipal Development or Industrial Development Acts), housing and redevelopment authorities, port authorities, economic development authorities, and rural development finance authorities. (M.S. § 469.174, subd. 2.)

**Excess increments:** tax increments that exceed the amount needed to pay the costs authorized under the tax increment financing plan. Increments are not excess increments if the tax increment financing plan has been amended or modified to permit additional spending. The law requires that excess increments be used to prepay outstanding bonds or deposited in an escrow account for bond payments or returned to the city, county, and school district(s) in proportion to their local tax rates. (M.S. § 469.176, subd. 2.)
Excess taxes: taxes resulting from an increase in the tax rate imposed on property in a tax increment financing district. The amount of excess taxes equals the actual tax rate minus the original tax rate, multiplied by the captured tax capacity. If the tax rate applicable to the district increases, the taxes that result from this tax rate increase are paid to other taxing jurisdictions. Excess taxes are distributed to other taxing jurisdictions in proportion to the respective increases in their tax rates. If a school district receives excess taxes, its state aid can be recalculated. Rules on excess taxes apply only to tax increment financing districts created on or after May 1, 1988. (M.S. § 469.177, subds. la and 9.)

Four-year knock down rule: Tax increments cannot be collected on any parcel in a tax increment financing district if within four years after its certification the parcel has not been developed or the city has not acquired the parcel or made improvements on or adjacent to the parcel or streets adjacent to the parcel. The parcel can be restored if development activity subsequently occurs. (M.S. § 469.176, subd. 6.)

**Internal financing:** a method of financing tax increment projects where a city uses its own funds to support the start-up costs for a new tax increment financing district or to fund city improvement projects in a tax increment district. The city may borrow money from its general fund, economic development fund, municipal utility fund or federal grant funds, or it may use "pooled" tax increments from another district. The city then repays itself with tax increments generated from the new development. **Interest rate reduction program:** a project that uses tax increment revenues to subsidize a developer's interest payments on a private loan to finance low- and moderate-income housing developments. Interest rate reduction programs are limited to a duration of 12 years and may not be used to assist owner-occupied, single-family dwellings. (M.S. § 469.176, subd. 4f.)

Land write-down: a transaction where a development authority acquires property and transfers it to a private developer at less than the sum of the authority's acquisition cost, including any expenditures by the city to prepare the property for development.

**Municipality:** a general purpose government required to approve: (i) creation of a tax increment district, (ii) issuance of bonds, and (iii) other major decisions made by the development authority. In most cases, the municipality is the city in which the tax increment financing district is located. For districts outside a city, the municipality is the county.

**Original tax capacity:** the tax capacity of property within a tax increment financing district at the time the district is created. The original tax capacity may be changed due to changes in the taxable/exempt status of property, changes in the property classification rates of parcels in the district, and additions or deletions of parcels. For economic development districts, the original tax capacity is also adjusted by the inflation rate on property values in the area before the district was established. (M.S. § 469.174, subd. 7; M.S. § 469.177, subd. 1(f):) **Original tax rate:** the sum of all the tax rates imposed by all taxing jurisdictions (city, county, and school district) at the time a tax increment financing district is created. The original tax rate is certified when the district is created and is the tax rate for the life of the district. This rate is multiplied by the captured tax capacity to determine the amount of the tax increment. This rule applies only to tax increment financing districts created on or after May 1, 1988. (M.S. § 469.177, subd. la.)

**Pay-as-you-go financing:** a method of financing tax increment projects where a developer obtains the project financing and pays for the development costs. The development authority uses the tax increments generated from the development to reimburse the developer for those development costs plus interest. Usually, these arrangements are formalized in a (re)development agreement. With pay-as-you-go financing, the developer bears the risk if tax increment revenues are insufficient to cover project costs.

**Pooling:** allows tax increments collected from a tax increment financing district to be spent on activities outside the district. The activities must be within the project area, but may or may not be located in another tax increment financing district. For districts created after April 30, 1990, not more than 25 percent of tax increment revenues may be spent for activities outside the tax increment financing district. For districts created after June 30, 1995, not more than 20 percent of tax increment revenues may be pooled, although the limit for redevelopment districts remains at 25 percent. (M.S. § 469.1763, subd. 2.)

**Project area:** the geographic area in which tax increment revenues may be spent. These revenues must be collected from tax increment financing districts located within the project area. Project areas are designated by development authorities under applicable development laws. **Qualified housing district:**a housing district for a residential project in which the properties receiving tax increment financing assistance meet all the requirements for a low-income housing credit under federal law, regardless of whether the project actually receives a housing credit. The tax credit requirements are generally more stringent than the income requirements otherwise applicable to a housing tax increment financing district. There is no local government aid/homestead and agricultural credit aid reduction for a qualified housing district.

**Structurally substandard:** a building containing defects in structural elements or a combination of deficiencies in essential utilities and facilities, light and ventilation, fire protection, or similar factors, which are of sufficient total significance to justify substantial renovation or clearance. A building is not structurally substandard if it is in compliance with the building code applicable to new buildings or could be modified to satisfy the building code at a cost of less than 15 percent of the cost of constructing a new structure. (M.S. § 469.174, subd. 10(1)).

**Taconite Tax Relief Area:** A taconite tax relief area is defined by statute as the geographic area contained within the boundaries of a school district which contains a municipality that meets the following qualifications:

- It is a municipality in which the assessed valuation of unmined iron ore on May 1, 1941, was not less than 40 percent of the assessed valuation of all real property, or
- It is a municipality in which, on January 1, 1977, or the applicable assessment date, there is a taconite concentrating plant or where taconite is mined or quarried or where there is located an electric generating plant which qualified as a taconite facility.
   (M.S. § 273.123)

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**Tax increment revenues:** the increased property taxes paid by properties in the tax increment financing district. Mathematically, tax increments are determined by multiplying the captured tax capacity by the current tax rate for districts created before May 1, 1988, or by the original tax rate for districts created on or after May 1, 1988.

**Tax Increment Financing Act:** the 1979 Act, and subsequent amendments, that governs the establishment of tax increment financing districts and the collection of tax increments. (M.S. § 4 69.174 - 469.1791, as amended.)

#### Tax increment financing district: the

geographic area from which tax increments are collected. The development authority defines the area in the tax increment financing plan. A district may be a contiguous or noncontiguous area within a project area. (M.S. § 469.174, subd. 9.)

Tax increment financing plan: a plan that must describe the project supported by tax increment financing, project objectives, development program and activities to be undertaken, type and duration of district being created, parcels included in the district, estimated costs and revenues, impact on other taxing jurisdictions, and other details of the proposal. The plan must be approved by the municipality after a public hearing, and it may be amended at any time. However, a public hearing must be held before significant changes are approved, such as increasing the size of the district or increasing spending or bonded indebtedness. The size of the district cannot be increased after five years from the date the district was certified. (M.S. § 469.175, subds. 1,4.)

Tax increment financing general obligation bonds: Either a city or a development authority may issue general obligation bonds to finance the projects for which the tax increment district was created. Municipal general obligation bonds are backed by the full faith and credit of the city. If tax increments are not sufficient to repay the bonds, the city must use general property taxes or other city funds to repay the bonds. Authority general obligation bonds are backed by the full faith and credit of the development authority (such as the housing redevelopment authority), but not the city. Because the authority has only limited taxing authority, these bonds are less secure than city general obligation bonds. (M.S. § 469.178.)

**Tax increment revenue bonds:** bonds which are backed by revenues generated from a development project, such as tax increments, proceeds from land sales, or lease revenues. (M.S. § 469.178.)

Three-year knock out rule: Tax increments cannot be paid if the development authority has not issued bonds, acquired property within the district or constructed public improvements in the district within three years after creation of the district. Failure to satisfy this rule results in decertification of the district. (M.S. § 469.176, subd. la.)

**Tourism facility:** property that is acquired, constructed, or rehabilitated for use as a convention and meeting facility, amusement park, recreation facility, cultural facility, marina, park, hotel, motel, or lodging facility that is intended to serve primarily individuals from outside the county. To qualify, the property must be located outside of the seven-county metropolitan area, in a city with less than 20,000 people, and in a county where the median income is no more than 85 percent of the state median income and tourism-related earnings are at least 15 percent of the total earnings in the county. (M.S. § 469.174, subd. 22.)

Appendix B

Appendix B

### **Tax Increment Financing Case Studies**

# Tax increment financing helps small town business recover from fire.

When a fire destroys a major downtown building that is nearly 100 years old, insurance payments are not likely to cover the replacement cost and are even less likely to cover the cost of clearing the site after the fire.

Following a fire in a small southern Minnesota town, three of the four businesses that were in the building were able to relocate. The burned shell of the building was not cleared away.

When no development had taken place nine months after the fire, the city realized that it had to encourage redevelopment for health and safety reasons. The insurance proceeds the owner received for the building—which had been built in 1898—were not enough to cover replacing the building and cleaning up the site.

The city offered to assist the building owner to prepare the site for redevelopment. Incremental taxes on the redevelopment site would repay the city. According to the planning and economic development director, "tax increment was the leverage that the building owner needed." By using tax increment bonds, approximately \$30,000 was available to clean up the site, and the company used private funds to build a small mall containing five stores. The mall's owner, a restaurant, was able to stay in town, and the new mall businesses provided 20 jobs. Building the mall stimulated development of another restaurant, and other stores are considering opening.

# Tax increment financing funds correct soil problems.

Large undeveloped sites in the Twin Cities or its first ring suburbs usually exist because the cost of developing them is excessive. Excessive cost often occurs because of poor soil conditions. One suburb had such a site, and the city made development of it possible by using tax increment financing.

The site had multiple owners and multiple problems. Half of the site had been acquired by the school district for future expansion. That land was untaxed, and declining school enrollments virtually assured that it would not be used for a new school. The balance of the site was owned by 10 parties. The entire site had been used as a dump for foundry sand and for rubble from demolished buildings. Soil borings conducted indicated the fill was between 11 and 33 feet thick and was unsuitable foundation material. Engineering estimates indicated that subgrade corrections on the site would cost between \$675,000 and \$1.2 million.

The city solicited development proposals and selected a contractor to construct 153 townhouses for low- and moderate-income households. Housing prices were to be less than \$80,000. If the cost of making the soil corrections were passed on to potential homeowners, over \$4,000 per unit, the price of the homes would be more than low- or moderate-income households could afford. The Housing Redevelopment Authority (HRA) assembled the site by working with the school district to include its land as part of a planned unit development, and by acquiring the land held by the other owners. The contractor acquired the property from the HRA and the school district for \$600,000. The contractor also assumed the responsibility for the necessary soil correction work. The cost of the city's assistance, nearly \$365,000, will be repaid with the tax increment generated by the housing project. The soil correction was performed using "dynamic compaction," a technique that had never been used in Minnesota. With this technique, a crane drops a heavy weight on the soil to compact it. The process is repeated a number of times, and the ground is allowed to rest between treatments.

Single family mortgage revenue bond money was made available to people who wanted to purchase the townhouses. The project sold out quickly, and today all 153 townhouses are occupied, and school enrollment has now stabilized.

Tax increment generated by the project is above original expectations. Excess increments will permit bonds to be retired early.

# Tax increment financing is investment in a small town's future.

More than one resident of this small town of 1,300 was heard to say, "our town is dying." The commercial district was decaying, school enrollment was declining, younger people were not moving to town, and there was no suitable place for industrial firms to locate and expand.

The town's manufacturing firm of clean air filtration systems was considering expanding in the Twin Cities. Improvements to the city's industrial park were under consideration by the city council and development corporation. City water and sewer were available to the three businesses in the park, but they had only on-site systems. Roadways in the park were not suitable for truck traffic, and poor drainage posed a serious problem for any prospective tenants.

The manufacturing firm was willing to build in town if a suitable site were available, and if the community could match the site offers made by other communities. The city faced a "now or never" situation. To keep the manufacturing jobs in the city, and to give the community a chance to prosper once again, the decision was made that the time was now.

The council's decision to issue \$1,325,000 in tax increment general obligation bonds allowed the city to expand the industrial park and upgrade the roads, utilities, and drainage system serving the park. The bonds were to be repaid through tax increments generated by companies that located and expanded in the park, by urban development action grant (UDAG) repayments, and with special assessments. The city also planned to use a special local debt service levy "for insurance" from 1982 through 1988. The taxes from the special levy have never been needed for debt service deficiencies. "The city owns the industrial park. It was an investment in the future of our community. The community rallied behind the project. It was terrific," says the City Administrator.

The manufacturer decided to remain in the city, and employment increased from 25 to 180 in six years. Other firms in the park have also expanded and increased the number they employ. The estimated market value of the park has increased from \$1.5 million to nearly \$3.4 million.

"Little, if any, of this growth would have occurred without the improvements to the industrial park that were financed by tax increment financing," explained the Mayor.

# Tax increment financing helps create housing and jobs.

New business development in this small town of 966 brought with it a need for housing to accommodate the increased labor force. Two tax increment financing districts were established to construct four smaller apartment complexes (38 units in all). A third district was used to purchase property for a commercial/industrial park and to give aid to businesses that wanted to set up shop in the park. A painting plant and a small woodworking plant were built using tax increment financing funds. Approximately 30 jobs were created, creating an estimated \$500,000 to \$750,000 in additional payroll taxes, \$130,000 in sales taxes, and between \$30,000 and \$45,000 in state withholding taxes. All of this is in addition to expansion of the property tax base.

An increased demand on the housing market by new workers has led to construction of additional family housing.

The jobs created by this development have been an incredible boost to the local economy. Not only have people who were previously on welfare been able to find jobs, but the town reports it is currently experiencing a shortage of workers.

# Tax increment financing helps value-added cooperatives.

The tax increment financing districts created in this town (1,300 pop.) are all for value-added farmer cooperatives which started or expanded operations in the city. These farmer cooperatives have developed over 80 new jobs and \$7 million in increased tax base. Additionally, the city estimates that payroll, sales and property taxes will be increased by over \$150,000 each year. The development of the value-added cooperatives also helps diversify the economy.

As a result of one tax increment financing district, the city has been able to develop a hot water utility in collaboration with a local sugar processing plant. This unique project will be a national model of public/private partnership and sustainable development.

New tax base and job creation have stimulated the need for additional housing and services which contributes to strengthening the local economy. The expansion made possible by tax increment financing is extremely important to the city, which is located in a county that lost 17 percent of its population in the 1980s due to a lack of diversification in the economy.

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Appendix C

#### **Sample TIF Policy**

#### Tax Increment Policy

#### 1. PURPOSE

1.01 The purpose of this policy is to establish the City's position as relates to the use of tax increment financing for private development. This policy shall be used as a guide in processing and reviewing applications requesting tax increment assistance.

1.02 The City shall have the option of amending or waiving sections of this policy when appropriate.

#### 2. STATUTORY LIMITATIONS

2.01 In accordance with the tax increment policy, tax increment financing requests must comply with applicable state statutes. The City is governed by the limitations established in the Minnesota Tax Increment Financing Act (M.S. § 4 69.174 - 469.1791, as amended.) for all districts created after August 1, 1979.

#### 3. ELIGIBLE USES FOR TAX INCREMENT FINANCING

3.01 As a matter of adopted policy, the City will consider using tax increment financing to assist private developments only in those circumstances in which the proposed private projects meet one or more of the following uses:

- A. To redevelop blighted or under-utilized areas of the community;
- B. To meet the following housing-related uses:
  - 1. To provide a diversity of housing adjacent to the downtown area;

2. To provide a variety of housing ownership alternatives and housing choices;

- 3. To promote affordable housing for low- or moderate-income individuals; or
- To promote neighborhood stabilization and revitalization by the removal of blight and the upgrading in existing housing stock in residential areas.
- C. To remove blight and encourage redevelopment in the commercial and industrial areas of the City in order to encourage high levels of property maintenance and private reinvestment in those areas;
- D. To increase the tax base of the City in order to ensure the city's long-term ability to provide adequate services for its residents while lessening the reliance on residential property tax;
- E. To retain local jobs, increase the local job base, and provide diversity in that job base;
- F. To increase the local business and industrial market potential of the City;
- G. To provide adequate short-term business and shopper parking, and resident parking;
- H. To encourage additional unsubsidized private development in the area, either directly or through secondary. "spin-off" development;
- I. To promote the potential future usage of a public transit system light rail line through maximizing the development potential of parcels adjacent to the system stations;
- J. To offset increased costs of redevelopment, over and above those costs that a developer would incur in normal urban and suburban development;

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- K. To accelerate the development process and to achieve development on sites which would not be developed without this assistance; or
- L. To meet other uses of public policy, as adopted by the Council from time to time, including promotion of quality urban design, quality architectural design, energy conservation, decreasing the capital and operating costs of local government, etc.

#### 4. TAX INCREMENT PROJECT APPROVAL CRITERIA

4.01 All new projects approved by the City should meet the following mandatory minimum approval criteria. However, it should not be presumed that a project meeting these criteria will automatically be approved. Meeting these criteria creates no contractual rights on the part of any potential developer.

- A. The tax increment financing assistance shall be provided within applicable state legislative restrictions, debt limit guidelines, and other appropriate financial requirements and policies.
- B. The project should meet one or more of the above adopted tax increment financing goals of the City.
- C. The project must be in accord with the Comprehensive Plan and Zoning Ordinances, or required changes to the plan and ordinances must be under active consideration by the City at the time of approval.
- D. Tax increment financing assistance will not be
  provided to projects that have the financial feasibility to proceed without the benefit of tax increment financing. In effect, tax increment financing assistance will not be provided solely to broaden a developer's profit margins on a project. Prior to consideration of a tax increment financing assistance request, the City may undertake an independent underwriting of the project to help ensure that the request for assistance is valid.

- E. Prior to approval of a tax increment financing plan, the developer shall provide any required market and financial feasibility studies, appraisals, soil boring information provided to private lenders for the project, and other information or data that the City or its financial consultants may require in order to proceed with an independent underwriting.
- F. To ensure cash flows are adequate, projects receiving tax increment financing assistance should normally have a 1.2:1 debt service coverage ratio (a ratio of funds projected to be available to funds required for debt service).
- G. The developer should provide adequate financial guarantees to ensure the repayment of the tax increment financing subsidy. These may include, but are not limited to, assessment agreements, letters of credit, etc.
- H. Any developer requesting tax increment financing assistance should be able to demonstrate past successful general development capability as well as specific capability in the type and size of development proposed.
- I. The developer should retain ownership of the project at least long enough to complete it, to stabilize its occupancy, to establish the project management, and to initiate repayment of the tax increment financing.
- J. The level of tax increment financing funding should be reduced to the lowest possible level by maximizing the use of private debt and equity financing first, and then using other funding sources or income-producing vehicles that can be structured into the project financing, prior to using additional tax increment financing funding.

#### 5. TAX INCREMENT PROJECT EVALUATION CRITERIA

5.01 All projects will be evaluated on the following criteria for comparison with other proposed tax increment financing projects reviewed by the City and for comparison with other subsidy standards (where appropriate). Changes in local markets, costs of construction, and interest rates may cause changes in the amounts of tax increment subsidies that a given project may require at any given time.

5.02 Some criteria, by their very nature, must remain subjective. However, wherever possible, "benchmark" criteria have been established for review purposes. The fact that a given proposal meets one or more "benchmark" criteria does not mean that it is entitled to funding under this policy, but rather that the City is in a position to proceed with evaluations of (and comparisons between) various tax increment financing proposals, using uniform standards whenever possible. 5.03 Following are the evaluation criteria that will be used by the City:

- A. All tax increment financing proposals should optimize the private development potential of a site.
- B. All tax increment financing proposals should obtain the highest possible private to public financial investment ratio. The Council establishes a benchmark ratio of 4 parts private to 1 part public funding for industrial projects. Housing and retail/commercial projects shall be reviewed on an individual basis.
- C. All tax increment financing proposals should create the highest feasible number of new jobs on the site. The Council establishes a benchmark of one newly created (or retained) FTE job per \$\_\_\_\_\_ of tax increment financing assistance provided to industrial projects. Housing and retail/ commercial projects shall be reviewed on an individual basis.

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Appendix D

Appendix D

### **Reporting Forms**

-2

This Section contains the following reporting forms:

Date Due	Type of Report	Submit to:
March 15	Report of Local Contributions Made to TIF Districts in 1998	Department of Revenue
April 1	Wage Level and Job Creation Report	Department of Trade and Economic Development
August 1	Tax Increment Financing District Authority Report	Office of the State Auditor
August 1	Tax Increment Financing District Municipality Report	Office of the State Auditor
August 1	Tax Increment Financing District Pooled Indebtedness Report	Office of the State Auditor
Upon Request for District Certification	Certification Request Supplement	County Auditor with Certification Request
Upon Filing of TIF Plans	Certification Request Supplement	Department of Revenue

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## **Report of Local Contributions Made to TIF Districts in 1998**

Complete and Return by March 15, 1999 to:
Department of Revenue
Property Tax Division
Mail Station 3340
St. Paul, Minnesota 55146-3340
Phone: (651) 296-5145 Fax: (651) 297-2166

Note:	Prepare a separate report for each TIF district. If local
	contributions were made to more than one TIF district in
	1998, duplicate this form prior to filling it out.

- 1. TIF District Name:
- 2. TIF District Property Tax Code:
- 3. District Type (check one):

	a. Economic Dev.	d. Redevelopment	g. Soils Condition
	b. Housing	e. Mined Underground Space	h. Agric. Proc. Facility
	c. Renewal Renov.	f. Hazardous Substance Subd.	
4.	Date Original TIF Plan or TIF E Municipality (month, day. year):		
5.	TIF Authority Certification Requ	uest Date (month, day, year):	
6.	County Auditor Certification Da	te (month, day, year):	
7.	Total Amount of Local Contribu		\$
8.	Sources of Local Contributions (	explain):	
	· · · · · · · · · · · · · · · · · · ·		
9.	Uses of Local Contributions (exp	olain):	<u> </u>

\* The certification request date is the date that the TIF authority requested the county auditor to certify the original net tax capacity and the original local tax rate for the district. It is not the date that the municipality approved the tax increment financing plan or the date that the county auditor actually certified the original net tax capacity and the original local tax rate for the district. For a request that was mailed to the county auditor, it is the postmark date on the mailing envelope. For a request that is hand delivered to the county auditor it is the delivery date. Because this date is critical in application of various tax increment financing law provisions, it should agree with the county auditor's records.

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### **1999 Minnesota Business Assistance Form**

(Please return by April 1, 1999)



Please complete lines 1 through 16 for all agreements.

1. Funding government agency name		2. Contact name			
3. Agency street address		4. City 8. Type of government agency			
5. Zip code	<ul><li>6. Phone number (area code)</li><li>7. Fax number (area code)</li></ul>	8. Type of government agency CityCounty Other (Please indicate)			
9. Name of business receiving assistance		10. Industry of recipient (SIC code)			
11. Type of assistance (e.g. loan, TIF, grant, infrastructure, etc.)		12. Name of TIF district (if app	olicable)		
13. Date of business assistance agreement       14. Date assistance first provided		15. Date project (building/ machinery/etc.) was placed in service	16. Dollar value of business assistance		

## For assistance agreements signed between July 1, 1995 and December 31, 1997, complete lines 17 through 20. For agreements signed during 1998 and future years, please complete lines 21 through 24.

17. Job creation goals for business receiving assistance		18. Average h assistance	• •	e level goals for busin	ness receiving		
19. Actual jobs c	reated si	nce business receive	ed assistance		erage hourl eceived ass	y wage paid to emplo istance	oyees hired since
	yees at e	ng assistance: (Pleas each wage level and rel.)		-	er of emplo	e project placed in se byees at each wage le t level.)	
21. Job Creation Full-time Pa	art-time	Hourly Wage Level (excl. benefits)	22. Hourly Value of Voluntary Benefits (\$)	y Level		24. Hourly Value of Voluntary Benefits (\$)	
		less than \$7.00 \$7.00 to \$7.99				less than \$7.00 \$7.00 to \$7.99	
		\$8.00 to \$9.99 \$10.00 to \$11.99				\$8.00 to \$9.99 \$10.00 to \$11.99	
If necessary, plea	use attac	\$12.00 and higher h additional docume		If necessary, p	please attac	\$12.00 and higher h additional docume	ntation.

#### Please complete lines 25 through 27 for all agreements.

25. Last date actual wage and job creation levels documented	26. Date this Minnesota Business Assistance Form completed			
27. Have all wage and job goals been achieved? Yes — do not submit future forms for this project. No — please submit the <b>2000 Minnesota Business Assistance Form</b> .				

This form replaces all previous forms. Please complete one form for each business assistance agreement your agency signed between July 1, 1995 and December 31, 1998 which provided \$25,000 or more in public funds or used tax increment financing. A form should be submitted annually for each assistance agreement until a submitted form indicates that all wage and job creation goals have been achieved. Do not submit this form if your agency has not agreed to provide assistance to a business since July 1, 1995.



#### Please send completed form annually by April 1, 1999 to:

Minnesota Business Assistance Form — AEO Minnesota Department of Trade and Economic Development Analysis and Evaluation Office 500 Metro Square 121 East 7th Place St. Paul, Minnesota 55101

> or fax report to: (651) 215-3841

**For information, call:** (651) 297-2335 or 1-800-657-3858

#### Minnesota Statutes 116J.991:

A business that receives state or local government assistance for economic development or job growth purposes must create a net increase in jobs in Minnesota within two years of receiving the assistance.

The government agency providing the assistance must establish wage level and job creation goals to be met by the business receiving the assistance. A business that fails to meet the goals must repay the assistance to the government agency.

Each government agency must report the wage and job goals and the results for each project in achieving those goals to the department of trade and economic development. The department shall compile and publish the results of the reports for the previous calendar year by June 1 of each year. The reports of the agencies to the department and the compilation report of the department shall be made available to the public.

For the purposes of this section, "assistance" means a grant or loan in excess of \$25,000, or tax increment financing.



JUDITH H. DUTCHER STATE AUDITOR

### STATE OF MINNESOTA OFFICE OF THE STATE AUDITOR

SUITE 400 525 PARK STREET SAINT PAUL, MN 55103-2139

Please direct inquiries to: Tax Increment Financing Division 505 Spruce Tree Centre 1600 University Ave. W. St. Paul, MN 55104 (651) 296-2551 (Voice) (651) 296-4755 (Fax) stateauditor@osa.state.mn.us (E-Mail) 1-800-627-3529 (Relay Service) TIF Division Phone: (651) 642-0767 TIF Division Fax: (651) 642-0769 Direct Dial: (651) 642-0837

#### TAX INCREMENT FINANCING REPORTS For the Year Ended December 31, 1998

**REPORTING BY TIF AUTHORITIES.** A tax increment financing (TIF) authority must complete a "Tax Increment Financing Authority Report" (TIF Authority Report) for *each* TIF district the TIF authority has created. This report includes the annual disclosure information required under Minn. Stat. § 469.175, subd. 5, para. (a), and the financial reporting information required under Minn. Stat. § 469.175, subd. 6. *The TIF authority must submit a completed report for each TIF district to the Office of the State Auditor (OSA). The TIF authority also must send a copy to the county board, county auditor, and school board, and the governing body of the municipality if the municipality is not also the TIF authority.* Annual publication of a statement disclosing certain information also is mandatory under Minn. Stat. § 469.175, subd. 5, para. (b). *The TIF authority also must submit a copy of the annual disclosure statement to the OSA.* 

**REPORTING BY MUNICIPALITIES.** A municipality must submit to the OSA a completed "Tax Increment Financing Municipality Report" (Municipality Report) for *each* TIF district in the municipality. This report includes the information required under Minn. Stat. § 469.175, subd. 6a.

**REPORTING POOLED DEBT.** If the TIF plans for some or all of the TIF districts in the municipality authorized pooling of tax increment and pooled debt has been issued, the municipality also must submit to the OSA a completed "Tax Increment Financing Pooled Debt Report" (Pooled Debt Report) for *each* pooled debt obligation.

**BLANK FORMS.** We have enclosed only one set of blank forms for the TIF Authority Report, Municipality Report, and Pooled Debt Report, because many TIF authorities and municipalities generate their own reports. If a TIF authority or municipality does not generate its own reports, it should make as many photocopies of the enclosed blank forms as are needed for all of the TIF authority's or municipality's TIF districts (two-sided copies are preferred).

**PRE-PRINTED LABELS.** Pre-printed labels are enclosed for the reports for each TIF district and pooled debt in our database. Affix the labels to generated reports or photocopies of the forms. Review the labels and revise any incorrect information or provide any missing information. If labels for a TIF district or pooled debt obligation have not been included, please provide the information directly on the generated reports or photocopies of the forms.

#### WHAT IS NEW FOR 1998 REPORTING?

CHANGE IN REPORTING DEADLINE. TIF authorities must submit TIF Authority Reports and copies of the annual disclosure statements and municipalities must submit Municipality Reports and Pooled Debt Reports to the OSA on or before August 1, 1999.

NEW ADDRESS. We have moved. Please send all TIF reports and copies of annual disclosure statements to our new address:

Office of the State Auditor Tax Increment Financing Division 505 Spruce Tree Centre 1600 University Ave. W. St. Paul, MN 55104

CHANGE IN DEADLINE FOR PUBLICATION OF ANNUAL DISCLOSURE STATEMENT. Each TIF authority must publish the annual disclosure statement on or before August 15, 1999. As mentioned, each TIF authority must submit to the OSA on or before August 1, 1999 a copy of the annual disclosure statement it intends to publish.

**PENALTY FOR FAILURE TO FILE.** Failure to file TIF reports for a TIF district or to file a copy of the annual disclosure statement may result in the withholding of tax increment by the county auditor. If the TIF report(s) or copy of the annual disclosure statement are not filed by August 1, the OSA will mail a notice to the TIF authority by the third Tuesday of August. If the TIF report(s) or annual disclosure statement still are not filed by the third Tuesday of November, the OSA will instruct the county auditor to withhold tax increment. The county auditor will withhold 25 percent of distributions of tax increment from the relevant TIF district made between the third Friday of November and December 31. The county auditor will withhold 100 percent of distributions of tax increment 31. Within five working days after receiving the late TIF report(s) or copy of the annual disclosure statement, the OSA will notify the county auditor. The county auditor then must distribute the withheld tax increment within 15 working days.

**POOLED DEBT REPORTING.** The pooled debt report has changed. We have divided the 1998 Pooled Debt report into two sections: one for bonds to which tax increment is pledged, and another for other obligations to which tax increment has been pledged or which are being paid with tax increment.

For more detailed information regarding the TIF Authority Report, Municipality Report, Pooled Debt Report, and annual disclosure statement, please see the enclosed instructions.

Questions or comments may be directed to a TIF auditor at (651) 642-0767, or to Bill Connors, Director of the TIF Division, at (651) 642-0837.

# **1998 INSTRUCTIONS**

For completing the 1998 Tax Increment Financing Authority Report, Municipality Report, Pooled Debt Report, and preparing the Annual Disclosure Statement

### **General Instructions**

**TIF Districts Subject to Reporting.** The tax increment financing (TIF) authority reporting and public-disclosure requirements and the municipality reporting requirements apply to all TIF districts regardless of when certification was requested, including districts for which certification was requested before August 1, 1979. Reports are required for each TIF district in existence, regardless of whether or not the district is generating increment.

**Duration of Reporting Obligation.** A TIF authority must complete a TIF Authority Report for each TIF district the TIF authority has created and a municipality must complete a Municipality Report for each TIF district in the municipality. Reports must be submitted for any TIF district certified in 1998 or earlier, until the reporting obligation ceases. Reports must be submitted for any TIF district decertified in 1998 and for any previously decertified district that maintains a tax increment balance or holds increment in an escrow account to make future bond payments. The last year to file TIF reports for a TIF district is for the year in which both of the following conditions are met: 1) the district has been decertified, and 2) all tax increment from the district has been spent or returned to the county auditor.

**Reporting Deadline.** TIF authorities must submit TIF Authority Reports and a copy of the annual disclosure statement and municipalities must submit Municipality Reports and Pooled Debt Reports to the Office of the State Auditor (OSA) on or before August 1, 1999. Reports received by the OSA or postmarked on or before August 2, 1999 will be considered timely filed, because August 1, 1999 is a Sunday.

**Penalty for Failure to File.** Failure to file TIF reports for a TIF district or to file a copy of the annual disclosure statement may result in the withholding of tax increment by the county auditor. If the TIF report(s) or copy of the annual disclosure statement are not filed by August 1, the OSA will mail a notice to the TIF authority by the third Tuesday of August. If the TIF report(s) or annual disclosure statement still are not filed by the third Tuesday of November, the OSA will instruct the county auditor to withhold tax increment. The county auditor will withhold 25 percent of distributions of tax increment made between the third Friday of November and December 31. The county auditor will withhold 100 percent of distributions of tax increment made after December 31. Within five working days after receiving the late TIF report(s) or copy of the annual disclosure statement, the OSA will notify the county auditor. The county auditor then must distribute the withheld tax increment within 15 working days.

Pre-printed Labels. Pre-printed labels are enclosed for the reports for each TIF district and pooled debt in our database. Please review each pre-printed label and type or print any revisions or missing information.

**Missing Labels.** For TIF districts without pre-printed labels, print or type on a blank form the district name; common name; county number(s); name of TIF authority; name of municipality that approved the TIF district; city/town and county where the district is located; name, title, telephone number, and employer of the TIF authority's/municipality's authorized TIF representative; and the address, city, and zip code of the TIF authority/municipality. The county number is the number assigned to the TIF district by your county auditor. Geographically enlarged TIF districts may have more than one county number; please provide all county numbers. For pooled debt without pre-printed labels, print or type on a blank form a description of the pooled debt or other obligation; county where the pooling TIF districts are located; name of TIF authority; name of municipality that approved the TIF district; name, title, telephone number, and employer of the municipality that approved the TIF district; name, title, telephone number, and employer of the municipality that approved the TIF district; name, title, telephone number, and employer of the municipality is authorized TIF district; name, title, telephone number, and employer of the municipality is authorized TIF representative; and the address, city, and zip code of the municipality.

**Blank Forms.** We have enclosed only one set of blank forms for the TIF Authority Report, Municipality Report, and Pooled Debt Report, because many TIF authorities and municipalities generate their own reports. If a TIF authority or municipality does not generate its own reports, it should make as many photocopies of the enclosed blank forms as are needed for all of the TIF authority's or municipality's TIF districts (two-sided copies are preferred).

**Complete All Lines.** Complete all lines on each report. Enter "N/A" (not applicable) or "-0-" for lines that do not apply to a particular TIF district. For boxed areas on each report, if no lines within the boxed area apply, check the "Not Applicable" box. Report all amounts to the nearest whole dollar. Sign and date each completed report and submit it *on or before August 1, 1999* to our *new* address —

Office of the State Auditor Tax Increment Financing Division 505 Spruce Tree Centre 1600 University Ave. W. St. Paul, MN 55104

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## Tax Increment Financing Authority Report For The Year Ended December 31, 1998

#### **Tax Capacity**

1. Current Net Tax Capacity. Report the tax capacity of the property within the TIF district as certified by the county auditor for taxes payable in 1998.

2. Original Net Tax Capacity. Report the original net tax capacity of the property within the TIF district as certified by the county auditor for taxes payable in 1998. See Minn. Stat. § 469.174, subd. 7 and Minn. Stat. § 469.177, subd. 1 for information regarding original net tax capacity.

3. Captured Net Tax Capacity. Report the amount by which the current net tax capacity exceeds the original net tax capacity.

**4. Fiscal Disparity Deduction.** Some municipalities may elect under option "B" of Minn. Stat. § 469.177, subd. 3, para. (b) to have a TIF district contribute some of its captured value to a fiscal disparity pool. If applicable, report the TIF district's contribution to the fiscal disparity pool under option "B." Questions regarding the fiscal disparities contribution calculation may be directed to Robert Johnson, Department of Revenue, Property Tax Division at (651) 296-5145.

5. Captured Net Tax Capacity Shared with Other Taxing Jurisdictions. Report the portion of captured net tax capacity shared with other taxing jurisdiction(s) per an agreement with the TIF authority. Tax increment generated on the shared net tax capacity is distributed by the county auditor directly to other taxing jurisdiction(s) and is not received by the TIF authority.

6. Captured Net Tax Capacity Retained by TIF Authority. Report the amount of the captured net tax capacity the TIF authority has retained to generate tax increment.

7. Fiscal Disparities Contribution. If the TIF authority elected option "A" under Minn. Stat. § 469.177, subd. 3, para. (a) and computed a fiscal disparities contribution, check "Yes."

8. Total Tax Increase. If the answer to question 7 is "yes," report the total tax increase as computed on the Commissioner of Revenue Fiscal Disparities Contribution Statement.

#### Tax Increment Rebates or Payments (Direct or Indirect)

**9. To Property Owners.** Report the amount of tax increment rebated or paid to property owner(s) for privately financed improvements or other qualifying costs. The amounts reported on line 9 also must be allocated among lines 27 through 40 columns C and D.

10. To Developers. Report the amount of tax increment rebated or paid to developer(s) for privately financed improvements or other qualifying costs. The amounts reported on line 10 also must be allocated among lines 27 through 40 columns C and D.

11. To Other Governmental Units. Report the tax increment paid by the TIF authority to other governmental units other than the municipality. Do not include fiscal disparities contributions.

12. Value of In-Kind Benefits. Describe and report the value of in-kind benefits financed with tax increment that were provided by the TIF authority to other governmental units other than the municipality. In-kind benefits include such things as physical improvements and the use of building space.

13. For Activities and Improvements Outside TIF District. Report the amount of tax increment spent directly or indirectly on activities and/or improvements outside the TIF district. Do not include administrative expenses.

14. Total. Add lines 9 through 13.

#### **Real Estate Transactions**

15. Property Sold to Developer from Beginning of TIF District. For each property sold to a developer, list the cost to the TIF authority and the price paid by the developer. Report all types of land write-down assistance in this section. If necessary, attach an additional page listing the real estate transactions.

#### Sources and Uses of Funds

#### **Column Explanations:**

A. Original TIF-Plan Budget Amount. Report for each line the original budget amount found in the original TIF plan for the TIF district.

**B. Cumulative Modified TIF-Plan Budget Amount**. Report for each line the TIF-plan budget amount resulting from the cumulative effect of any and all TIF-plan modifications through December 31, 1998.

C. Accounted For In Prior Years Amount. Report for each line the cumulative amount received or expended from the beginning of the TIF district through December 31, 1997. Do not include 1998 amounts.

D. 1998 Amount. Report for each line the amount received or expended in 1998.

16. Tax Increment Revenue. Report the tax increment received from the FIF district's captured net tax capacity. This amount is commonly called the "raw" tax increment.

17. Interest on Invested Funds. Report interest and other investment earnings received on or from tax increments or other funds held by the TIF district. If investments are pooled, show interest and earnings allocated to the TIF district. Exclude negative interest amounts; rather, report interest paid as an interest expense on line 38 columns C and D and investment losses on line 40 columns C and D.

18. Bond Proceeds. Report the gross proceeds of tax increment bonds, including proceeds from refunding issues. "Bonds" means any obligation sold or issued under Minn. Stat. § 469.178; industrial revenue bonds; or other bonds issued in aid of a project before August 1, 1979. Make no

deduction for bond proceeds used to pay bond issuance costs, bond counsel fees, or paying agent fees; rather, report these expenses as administrative expenses on line 39.

**19. Loan Proceeds.** Report the gross proceeds of loans received by the TIF district. Include loans from other funds within the governmental unit.

20. Real Estate Sales. Report all amounts received by the TIF district for properties sold that were purchased with tax increment. Include all sales of such property, not just sales to developers.

21 through 23. Special Assessments, Rent/Lease Revenue, Grants. Report by appropriate category the amount the TIF district received from special assessments, rent or lease payments, and local, state, or federal grants (*e.g.*, CDBG funds, UDAG funds).

24. Other. Report all other sources of funds and describe each source. Include repayments to the TIF district of advances and loans made by the district. Include proceeds from the sale of personal property purchased by the TIF authority. Do not include transfers in.

#### 25. Transfers In.

**Columns A and B.** Report the amount budgeted for transfers in found in the original TIF plan and the amount budgeted for transfers in resulting from the cumulative effect of any and all TIF plan modifications through December 31, 1998.

**Columns C and D.** Complete lines 44 through 49 before completing line 25 columns C and D. Enter the sums from line 49.

26. Total Sources of Funds. Add lines 16 through 25.

27. Land/Building Acquisition. Report uses of funds for land and/or building acquisition.

28. Site Improvements or Preparation Costs. Report uses of funds for structure removal, clean-up, grading, and all other site preparation costs.

29. Installation of Public Utilities. Report uses of funds for public utilities installation such as sewer and water.

30. Parking Facilities. Report uses of funds for parking facilities construction.

31. Streets and Sidewalks. Report uses of funds for street and sidewalk construction, curb and gutter upgrading, and street light installation and improvement.

32. Public Park Facilities. Report uses of funds for public park facilities and any other similar public improvement.

33. Social, Recreational, Conference Facilities or Similar Public Improvements. Report uses of funds for facilities for social, recreational, or conference purposes, and any other similar public improvement.

34. Interest Reduction Payments. Report payments used to finance the costs of an interest reduction program for low- and moderate-income housing. See Minn. Stat. § 469.176, subd. 4f for information regarding interest reduction programs.

**35. Bond Principal Payments.** Report bond principal payments to the extent they relate to bond proceeds reported on line 18. Report as an administrative expense on line 39 any payments for bond issuance costs, bond counsel fees, or paying agent fees.

36. Bond Interest Payments. Report bond interest payments to the extent they relate to bond proceeds reported on line 18. Report as an administrative expense on line 39 any payments for bond issuance costs, bond counsel fees, or paying agent fees.

37. Loan Principal Payments. Report loan principal payments to the extent they relate to loan proceeds reported on line 19.

**38. Loan/Note Interest Payments.** Report interest payments on loans and on outstanding pay-asyou-go obligations. Report loan interest payments only to the extent they relate to loan proceeds reported on line 19. For information on how to report pay-as-you-go obligations, see the attached blue "Reporting Pay-as-you-go Financing" instruction sheet.

**39.** Administrative Expenses. Report all administrative expenses relating to the TIF district such as consulting, accounting, auditing, legal fees, bond issuance costs, bond counsel fees, and paying agent fees. Legal fees for acquiring land should be reported as administrative expenses, not as land acquisition costs. Administrative expenses do not include amounts paid for the purchase of land and amounts paid to contractors or others providing materials or services directly connected with the physical development of real property in the TIF district. See Minn. Stat. § 469.174, subd. 14 and Minn. Stat. § 469.176, subd. 3 for further information regarding administrative expenses.

40. Other. Report and *describe* all other expenditures not shown elsewhere. Include relocation costs and investment losses.

#### 41. Transfers Out.

Columns A and B. Report the budgeted transfers out amount found in the original TIF plan and the cumulative amount budgeted for transfers out through December 31, 1998.

**Columns C and D.** Complete lines 50 through 55 before completing line 41 columns C and D. Enter the sums from line 55.

42. Total Uses of Funds. Add lines 27 through 41.

43. TIF District Balance (Deficiency). Subtract line 42 from line 26.

#### **Transfers - Identify TIF District or Fund**

44 through 48. From Other TIF Districts or Funds. List transfers from other TIF districts or from other funds. Identify the contributing TIF district or fund and the amount transferred.

49. Total Transfers In. Add lines 44 through 48. Enter sums on line 25 columns C and D.

50 through 54. To Other TIF Districts or Funds. List transfers to other TIF districts or to other funds. Identify the receiving TIF district or fund and the amount transferred. Exclude transfers to other funds for debt service, loan repayments, and payments of administrative expenses or other amounts if they are reported on lines 27 through 40. If the TIF authority reports a transfer to a "pooling" fund not exclusively associated with any TIF district, the TIF authority must complete and submit an additional Tax Increment Financing Authority Report for the "pooling" fund.

55. Total Transfers Out. Add lines 50 through 54. Enter sums on line 41 columns C and D.

#### **Interest and Investment Earnings**

56. Interest. For TIF districts with certification request dates on or after August 1, 1979, of the amounts of interest and investment earnings reported on line 17 columns C and D, report the amounts that were earned on or from tax increment; separate these amounts into the amount received by the TIF authority on or before July 1, 1997 and the amount received by the TIF authority on or before July 1, 1997 and the amount received by the TIF authority on or after July 2, 1997. Check the "Not Applicable" box if the TIF district's certification request date is on or before July 31, 1979 or none of the interest and investment earnings reported on line 17 columns C and D was earned on or from tax increment.

#### **Property Sales/Leases and Advance/Loan Repayments**

57 and 58. Check the "Not Applicable" box if any of the following is true: 1) the TIF district's certification request date is on or before June 30, 1982, 2) the TIF authority has not used any tax increment from this TIF district on or after July 1, 1997 to purchase real or personal property or to make loans, or 3) the TIF authority has not sold or leased any of the property it purchased on or after July 1, 1997 with tax increment and it has not received any repayments of loans it made on or after July 1, 1997 with tax increment.

57. Property Sales/Leases. For TIF districts with certification request dates on or after July 1, 1982, of the amounts reported on lines 20 and 24 columns C and D as received by the TIF authority from sales or leases of real or personal property, report the amounts that were received from property purchased with tax increment; separate these amounts into the amount from property purchased on or before June 30, 1997 and the amount from property purchased on or after July 1, 1997.

58. Advance/Loan Repayments. For TIF districts with certification request dates on or after July 1, 1982, of the amounts reported on line 24 columns C and D as received by the TIF authority from repayments of advances or loans, report the amounts that were received from advances or loans made with tax increment; separate these amounts into the amount from advances or loans made on or before June 30, 1997 and the amount from advances or loans made on or after July 1, 1997. Do not

report any interest received on advances or loans made by the TIF authority; rather, report interest received, to the extent applicable, on line 56.

#### Outstanding Non-Pooled Bonds to Which Increment is Pledged

59 through 66. If the TIF authority pledged tax increment from the district to pay outstanding nonpooled bonds, report by appropriate category the original issue amount, outstanding balance on December 31, 1997, amount issued in 1998, amount of principal paid in 1998, outstanding balance as of December 31, 1998, amount of interest paid in 1998, and the amount of principal and interest payments due in 1999. Do not include pay-as-you-go notes to be paid or being paid with tax increment from the TIF district; rather, report pay-as-you-go obligations on lines 71 through 76. Do not include bonds to which the tax increment from two or more TIF districts has been pledged (pooled bonds); rather, the municipality must report these bonds on the Pooled Debt Report.

67. Amount Dedicated to the Payment of Non-Pooled TIF Bonds. Report the amount of tax increment held that is dedicated to make future payments on non-pooled TIF bonds.

**68. Escrow Account.** Indicate whether the amount on line 67 is held in an escrow account. See Minn. Stat. § 469.176, subd. 2 for information regarding bond-payment escrow accounts.

69. Pay-As-You-Go Financing. Indicate whether tax increment from this TIF district has or will be used to pay obligations under a pay-as-you-go financing agreement.

70. Documented Developer Costs. Enter the amount of developer costs incurred as of December 31, 1998, for which the TIF authority has received documentation, which the TIF authority is obligated to pay or reimburse under a pay-as-you-go financing agreement. For assistance with reporting pay-as-you-go obligations, see the attached blue "Reporting Pay-as-you-go Financing" instruction sheet.

#### **Other Non-Pooled Financial Obligations**

71 through 75. If the TIF plan for the district authorizes the TIF authority to pay with tax increment other financial obligations not reported on lines 59 through 66, or if tax increment has been spent on any other financial obligations, describe the obligation (e.g., \$250,000 loan from General Fund) and report the amount of original obligation, amount of principal paid in 1998, amount of interest paid in 1998, and the outstanding balance as of December 31, 1998. Include any bonds to which tax increment has not been pledged. Also, include loans, notes, interest reduction programs, and pay-as-you-go financing agreements to be paid or being paid with tax increment from the TIF district. Do not include other financial obligations authorized to be paid or being paid with tax increment from two or more TIF districts (other pooled financial obligations); rather, the municipality must report these other financial obligations on the Pooled Debt Report.

76. Total. Add lines 71 through 75.

77. Copy of Annual Disclosure Statement Publication. Minnesota Statutes § 469.175, subd. 5, para. (b) requires a TIF authority to publish by August 15 of each year in a newspaper of general circulation in the municipality an annual statement disclosing information regarding each of the TIF authority's TIF districts located within the municipality. All TIF districts that are required to report

must be included in the annual disclosure statement. The TIF authority must provide a copy of the annual disclosure statement to be published to the OSA by August 1 of each year. Include *one* copy of the annual disclosure statement with the TIF authority's completed 1998 TIF Authority Reports.

The following annual disclosure statement example meets the publication requirements and is provided as a guide. All lines must be published even if the amounts to be published are zero. Instructions for each line follow the example.

Municipality Name						
Annual Disclosure of Tax Increment Districts for the Year Ended December 31, 1998						
TIF District Name:	TIF District 1 <u>Maple Ridge</u>	TIF District 2 Metro Industrial	TIF District 3 <u>Downtown</u>			
Original net tax capacity	34,507	3,580	2,450			
Captured net tax capacity	78,437	12,870	0			
Outstanding bonds	\$1,250,000	\$500,000	\$0			
TIF district and subdistrict tax increment paid to other governmental bodies other than the municipality	\$10,387	\$0	\$0			
Tax increment paid, directly or indirectly, for activities or improvements outside the TIF district	\$2,500	\$0	\$0			
Tax increment received	\$40,836	\$8,573	<b>\$</b> 0			
Tax increment expended	\$40,836	\$8,245	\$0			
Tax increment paid for administrative expenses	\$2,738	\$576	\$0			
Increased property tax imposed on other properties as a result of fiscal disparities contribution*	N/A	\$15,072	N/A			

\* The fiscal disparity property tax law provides that the growth in commercial-industrial property tax values is shared throughout the area. In a tax increment financing district, this value sharing can either result in a tax increase for other properties in the municipality or result in a decrease in tax increment financing district revenue depending on how the tax increment financing district is established.

Tax Increment Financing District 2 located in (*municipality name*) does not share its growth in commercialindustrial property tax values. This results in an increase in property taxes for other properties located in (*municipality name*). For taxes payable in 1998, this increase in taxes on other properties amounted to \$15,072.

Note to preparer: It is only necessary to publish the last line of the table and the two paragraphs following the table if property in a TIF district in the municipality is subject to the fiscal disparities property tax law and the municipality chose option "A" under Minn. Stat. § 469.177, subd. 3, para. (a) for the TIF district.

All line references in the following instructions for each line on the annual disclosure statement example are to the TIF Authority Report.

- Original net tax capacity. Include the original net tax capacity as certified by the county auditor for taxes payable in 1998. This amount should match the amount reported on line 2.

- Captured net tax capacity. Include the amount by which the current net tax capacity exceeds the original net tax capacity. This amount should match the amount reported on line 3.

- Outstanding bonds. Include the amount of outstanding TIF bonds as of December 31, 1998. This amount should equal the total amount reported on line 63 plus any outstanding pooled bonds allocated to the TIF district. If outstanding pooled bonds cannot be allocated to each TIF district, for each district, add the total outstanding pooled bonds to the total amount reported on line 63. If applicable, you may add a paragraph to your publication explaining that the sum of the total outstanding bonds published for each TIF district exceeds the actual total amount of outstanding bonds because the amount of pooled bonds was not allocated among the TIF districts.

- TIF district and subdistrict increment paid to other governmental bodies other than the municipality. Include the amount of tax increment paid in 1998 by the TIF authority to other governmental units other than the municipality. This amount should match the amount reported on line 11 column D. Do not include fiscal disparities contributions.

- Tax increment paid, directly or indirectly, for activities or improvements outside the TIF district. Include the amount of tax increment spent directly or indirectly in 1998 on activities and/or improvements outside the TIF district. This amount should match the amount reported on line 13 column D.

- Tax increment received. Include the amount of tax increment received in 1998. This amount should equal the "raw" tax increment reported on line 16 column D plus the amount of interest/investment earnings received on or from tax increments reported on line 56 "On or After 7/2/97" column that was received in 1998 plus the amount of proceeds from the sale or lease of property and repayments of advances and loans reported on lines 57 and 58 "On or After 7/1/97" column that was received in 1998.

- Tax increment expended. Include the amount of tax increment expenditures that occurred in 1998. If tax increment was commingled with non-tax increment funds, making it impossible to determine the amount of tax increment expenditures, include the total of all expenditures in 1998. Be aware, however, that the TIF Act requires a TIF authority to segregate all tax increment received in a special account or accounts on its official books. See Minn. Stat. § 469.177, subd.5.

- Tax increment paid for administrative expenses. Include the amount of tax increment paid in 1998 for administrative expenses. This amount should match the amount reported on line 39 column D.

- Increased property tax imposed on other properties as a result of fiscal disparities contribution. The fiscal disparity property tax law provides that the growth in commercial-industrial property tax values is shared throughout the area. In a TIF district, value sharing can result in either a tax increase for other properties in the municipality or a decrease in TIF revenue depending on how the TIF district is established. It is only necessary to publish the last line of the table and the two paragraphs following the table if property in a TIF district in the municipality is subject to the fiscal disparities property tax law and the municipality chose option "A" under Minn. Stat. § 469.177, subd. 3, para. (a) for the TIF district.

## Tax Increment Financing Municipality Report For The Year Ended December 31, 1998

1. TIF District Type. Indicate the TIF district type. The original TIF plan for the TIF district must indicate the type of district established, except that any TIF district with a certification request date on or before July 31, 1979 is a Pre-1979 district. The following statutory references are provided as an aid in determining the TIF district type:

<u>TIF District Type</u>	Minnesota <u>Statute Section</u>	TIF District Type	Minnesota <u>Statute Section</u>
Pre-1979	469.179	Economic Development	469.174, subd. 12
Housing	469.174, subd. 11	Soils Condition	469.174, subd. 19
Redevelopment	469.174, subd. 10	Renewal and Renovation	469.174, subd. 10a
Mined Underground Space	469.174, subd. 13	Uncodified Law	special law provisions

2. Qualified Housing District. A qualified housing district is a housing district for a residential rental project or projects in which any properties receiving assistance from revenues derived from tax increments from the TIF district meet all of the requirements for a low-income housing credit under Section 42 of the Internal Revenue Code of 1986, as amended through December 31, 1992, regardless of whether the project actually receives a low-income housing credit. See Minn. Stat. § 273.1399, subd. 1, para. (c) for more information about qualified housing districts.

**3. Original TIF Plan Approval Date.** Provide the date the municipality's governing body approved by resolution the TIF district's original TIF plan. Enter dates in MM/DD/YY format (*e.g.*, enter May 12, 1993, as 05/12/93).

4. Certification Request Dates. Enter on lines 4A, 4B, and 4C the certification request dates for the original TIF district, geographic enlargement(s), and any hazardous substance subdistrict the TIF district contains. Geographic enlargement refers to an enlargement of the TIF district, not an enlargement of the development district or project area.

5. Certification Date. Enter the date the county auditor certified the TIF district.

6. TIF-Plan Budget Modification. Enter the date of the most recent modification of the TIF-plan budget, if any.

7. Date of Required Decertification. Enter the earlier of the maximum duration date allowed by statute or the date the TIF district's TIF plan requires the district to be decertified. If the duration limit is based on the first receipt of tax increment, enter "12" as the month and "31" as the day for the year in which the TIF district is to be decertified. See Minn. Stat. § 469.176, subds. 1a through 1g and the TIF plan for information regarding TIF district duration limits.

8. Year First Tax Increment Payment Received. Enter the year the TIF district received, could have received, or will receive its first tax increment payment. This is the first year the TIF district

generated tax increment, even if the TIF authority elected not to receive the first year's tax increment. If the TIF district has not received any tax increment, enter the anticipated first year the TIF district will generate tax increment, even if the TIF authority elects not to receive the first year's tax increment.

9. Special Legislation. If the TIF district is governed by special legislation, provide the year, chapter, article, and section of the law (e.g., 1998, Ch. 389, Art. 11, Sec. 14).

10. Tax Increment Revenue for 1999. Enter the amount of tax increment the TIF authority anticipates it will receive in 1999 from the TIF district's captured net tax capacity. This amount is commonly called the "raw" tax increment.

11. To Other Governmental Units. Report tax increment paid by the TIF authority in 1998 to governmental units other than the municipality. Do not include fiscal disparities contributions.

12. Value of In-Kind Benefits. Describe and report the value of in-kind benefits financed with tax increment by the TIF authority in 1998 to a governmental unit other than the municipality. In-kind benefits include such things as physical improvements and the use of building space.

13. Authorization for Pooling. "Pooling" is the word commonly used to describe the expenditure of tax increment on activities outside the geographic boundaries of the TIF district that generated the increment. If the TIF authority is permitted to pool tax increment from this TIF district, answer "yes" to the types of pooling allowed by the TIF plan. Depending on the laws that apply to the TIF district, a TIF plan may allow tax increment collected from a district to be spent on activities outside the district but within the project area.

#### **Outstanding Non-Pooled Bonds to Which Increment is Pledged**

14 through 21. If the TIF authority pledged tax increment from the district to pay outstanding nonpooled bonds, report by appropriate category the original issue amount, outstanding balance on December 31, 1997, amount issued in 1998, amount of principal paid in 1998, outstanding balance as of December 31, 1998, amount of interest paid in 1998, and the amount of principal and interest payments due in 1999. Do not include pay-as-you-go notes to be paid or being paid with tax increment from the TIF district; rather, the TIF authority must report pay-as-you-go obligations on lines 71 through 76 of the TIF Authority Report. Do not include bonds to which the tax increment from two or more TIF districts has been pledged (pooled bonds); rather, report these bonds on the Pooled Debt Report.

**22.** Indicate whether the municipality has created a special taxing district for this TIF district. See Minn. Stat. § 469.1791 for information about special taxing districts.

## Tax Increment Financing Pooled Debt Report For The Year Ended December 31, 1998

#### **General Information**

For purposes of the Pooled Debt Report, "pooled debt" is defined as a debt or other financial obligation to which the tax increment from two or more TIF districts has been pledged, is authorized to be paid with tax increment from two or more TIF districts, or is being paid with tax increment from two or more TIF districts, or nore the series and the tax increment from only one TIF district is pledged to each series, do not report the series as pooled debt on this report; rather, report each series as a non-pooled obligation on the Municipality Report for the applicable TIF district. The TIF authority also must report each series as non-pooled debt on the TIF Authority Report. In addition, do not report a debt or other financial obligation that is backed by tax increment from only one TIF district and a non-tax increment revenue source; rather, if the obligation is a bond, report this type of obligation as a non-pooled obligation on the Municipality Report. The TIF authority also must report this type of obligation on the Municipaliton on the Municipality Report. The TIF authority also must report this type of obligation on the Municipaliton on the Municipality Report. The TIF authority also must report this type of obligation on the Municipaliton on the Municipality Report.

#### **Outstanding Pooled Bonds to Which Tax Increment is Pledged**

1 through 8. If the pooled debt is outstanding bonds to which the tax increment from two or more TIF districts is pledged, report by appropriate category the original issue amount, outstanding balance on December 31, 1997, amount issued in 1998, amount of principal paid in 1998, outstanding balance as of December 31, 1998, amount of interest paid in 1998, and the amount of principal and interest payments due in 1999. Do not include pay-as-you-go notes to be paid or being paid with tax increment from two or more TIF districts; rather, report pay-as-you-go obligations on lines 9 through 16.

#### **Other Pooled Financial Obligations**

9 through 16. If the TIF plans for two or more districts authorize the TIF authority to pay with tax increment other financial obligations not reported on lines 1 through 8, or if tax increment has been spent on any other financial obligations, describe the obligation (e.g., \$250,000 loan from General Fund) and report the original issue amount, outstanding balance on December 31, 1997, amount issued in 1998, amount of principal paid in 1998, outstanding balance as of December 31, 1998, amount of interest paid in 1998, and the amount of principal and interest payments due in 1999. Include any pooled bonds to which tax increment has not been pledged. Also, include loans, notes, interest reduction programs, and pay-as-you-go financing agreements to be paid or being paid with tax increment from two or more TIF districts.

#### **TIF Districts Pooled**

17. List each TIF district whose tax increment is pledged to pay the referenced pooled debt or whose TIF plan authorizes tax increment to pay the referenced pooled debt.

## **Reporting Pay-as-you-go Financing**

Pay-as-you-go financing has unique reporting requirements because the developer, not the TIF authority, pays the up-front development costs.\*

- 1. If pay-as-you-go financing is being used in a TIF district, line 69 of the TIF Authority Report should have a check in the "Yes" box. The total amount of TIF-reimbursable costs incurred by the developer to date, for which the TIF authority has received documentation, should be disclosed on line 70.
- 2. The financial obligation to be repaid to the developer, whether under a development agreement, TIF limited revenue note, or other obligation, must be reported as a financial obligation on line 71 of the TIF Authority Report.
- 3. Once the TIF authority obtains documentation allowing the expenditure of tax increment to repay the financial obligation, the amount paid to the developer that is not interest should be allocated to the appropriate uses of funds classifications on page two of the TIF Authority Report.\*\* Interest paid to the developer on the outstanding obligation is reported on line 38 of the TIF Authority Report.

#### **Example:**

The city has entered into an agreement with a contractor to build a manufacturing plant. The developer will front \$150,000 in costs and the city signs a TIF revenue note in the amount of \$150,000 plus 6% interest, payable to the developer. The developer does not advance any money to the city.\* The developer incurs the entire \$150,000 cost and provides documentation to the city which supports the \$150,000 figure. (For simplicity, assume the interest is compounded annually.) The costs incurred by the developer are: \$80,000 for land acquisition, \$30,000 for site improvements, and \$40,000 for installation of public utilities. The city has budgeted \$10,000 in administrative expenses. Here is the reporting:

First year reporting Authority line 69: Yes Authority line 71: Outstanding balance of \$159,000 (* Authority "Uses of funds": \$0	Authority line 70: IIF revenue note balar			9,000)
Second year reporting - First increment received: \$23	,000 (see exan	nple on ba	ack of this sheet)	
Authority line 69: Yes	Authority line 70:	\$150,000	)	
Authority line 71: Outstanding balance of \$147,000 (				9.540 -
\$21,540 payment)			,	- <b>,</b> - · -
Authority "Uses of funds":***	Admin. Exp:	\$1,460	Note Interest:	\$18,540
Payment on developer note is \$3,000, allocated to:			Site Improvements:	•
	•	\$1,000	<b>-</b>	·
Third year reporting- \$30,000 increment received	(see exan	nple on ba	ack of this sheet)	
Authority line 69: Yes	Authority line 70:	\$150,000	i ·	
Authority line 71: Outstanding balance of \$127,820 (T	IF revenue note balance	of \$147,00	0 + 6% interest of \$8,820	) - \$28,000
payment)				
Authority "Uses of Funds":***	Admin. Exp:	\$2,000	Note Interest:	\$8,820
Payment on developer note is \$19,180, allocated to	•	•	Site Improvements:	\$1.180
r aftinent en gevereper note is erstreet anoende te	Public Utilities:	\$1,000		
	T MATTA COTTORADI	\$ 19VVV		

\* For reporting purposes, the Office of the State Auditor defines "pay-as-you-go financing" as an arrangement under which the TIF authority does not receive bond or loan proceeds or an advance and does not pay up-front development costs.

\*\* Similar to any other expenditure of public funds, pay-as-you go financing expenditures must be supported by documentation of actual costs incurred.

\*\*\*After paying the interest on the note, allocate the remainder of increment paid to the developer to the actual expenditures. You may either allocate on a percentage basis or allocate in any other manner, as long as the amount indicated as a use does not exceed the actual amount expended by the developer and is supported by documentation in the possession of the TIF authority.

Second Year Reporting Example

~ A

#### Tax Increment Financing Authority Report For The Year Ended December 31, 1998

Tax Increment Rebates or Payments (Direct or Indirect)	tes or Payments (Direct or Indirect) Not Applicable	
	Accounted for in Prior Years	1998 Amount
10. To developers	0	21,540

#### Sources and Uses of Funds

Sources of Funds	A. Original TIF-Plan Budget Amount	B. Cumulative Modified TIF- Plan Budget Amount	C. Accounted for in Prior Years Amount	D. 1998 Amount
16. Tax increment revenue	210,000	N/A	0	23,000
Uses of Funds				
27. Land/building acquisition	80,000	N/A	0	2,000
28. Site improvements/ preparation costs	30,000	N/A	0	0
29. Installation of public utilities	40,000	N/A	0	1,000
37. Loan principal payments	N/A	N/A	N/A	N/A
38. Loan/note interest payments	50,000	N/A	0	18,540
39. Administrative expenses	10,000	N/A	0	1,460
69. Is pay-as-you-go financing being 70. If yes, list amount of documented				X Yes No \$ 150,000

Other Non-Pooled Financial Obligations Not Applicable				
	Amount of Original	1998 Principal	1998 Interest	Outstanding
Description of Obligation	Obligation	Payments 1	Payments	12/31/98
71. Developer Note	150,000	3,000	18,540	147,000

Third Year Reporting Example

### Tax Increment Financing Authority Report For The Year Ended December 31, 1999

Tax Increment Rebates or Payments (Direct or Indirect)	Not Applicable	
	Accounted for in Prior Years	1999 Amount
10. To developers	21,540	28,000

#### Sources and Uses of Funds

Sources of Funds	A. Original TIF-Plan Budget Amount	B. Cumulative Modified TIF- Plan Budget Amount	C. Accounted for in Prior Years Amount	D. 1999 Amount
16. Tax increment revenue	210,000	N/A	23,000	30,000
Uses of Funds				
27. Land/building acquisition	80,000	N/A	2,000	17,000
28. Site improvements/ preparation costs	30,000	N/A	0	1,180
29. Installation of public utilities	40,000	N/A	1,000	1,000
37. Loan principal payments	N/A	N/A	N/A	N/A
38. Loan/note interest payments	50,000	N/A	18,540	8,820
39. Administrative expenses	10,000	N/A	1,460	2,000
69. Is pay-as-you-go financing being 70. If yes, list amount of documented	used?			X Yes No \$ 150,000

Other Non-Pooled Financial Obligations Not Applicable				plicable
Description of Obligation	Amount of Original Obligation	1999 Principal Payments	1999 Interest Payments	Outstanding 12/31/99
71. Developer Note	150,000	19,180	8,820	127,820

r	Fax Increment Financing Authority Re For The Year Ended December 31, 19				
		t non-real-real-real-real-real-real-real-real	an a		
	Tax Increment Financing District Name	•	Common Name	County Number(s)	
	TIF Authority		Municipality That Appro	oved TIF District	
	City/Town Where TIF District is Located		County Where TIF Distr	ict is Located	· ·
	TIF Authority's Authorized Representative	4 	Title	Phone Number	
	Employer of Authorized Representative (if different from T	: TIF authority)			4 
	Address				¥
			MN		Ż
	City	· · · · · · · · · · · · · · · · · · ·	State	Zip Code	
	Tax Capacity	Neveral and a constant of the second seco		Not Applicable	
				Value	
1.	Current net tax capacity			+	

-

=

-

-

Yes

No

6.	Captured net tax capacity retained by TIF authority =	
7.	Is this TIF district located in a fiscal disparities area and is it under option A?	
8.	If yes, indicate the amount of total tax increase from the Commissioner of Revenue	

 ,	
Fiscal Disparities Contribution Statement	\$

2.

3.

4.

5.

Original net tax capacity

Captured net tax capacity

Fiscal disparity deduction, if applicable

Captured net tax capacity shared with other taxing jurisdictions

	Tax Increment Rebates or Payments (Direct or Indirect)         Not Applicab		olicable
		Accounted for in Prior Years	1998 Amount
9.	To property owners		
10.	To developers		
11.	To governmental units other than the municipality		
12.	Value of in-kind benefits provided to other governmental units (describe)		
	A.		
	B		
13.	For activities and improvements outside TIF district		
14.	Total		

Real Estate Transactions	Not Ap	plicable
Property Sold to Developer from Beginning of TIF District	Cost to TIF Authority	Price Paid by Developer
15. A.		
В.		

### Sources and Uses of Funds

	<b>A.</b> Original TIF-Plan Budget	<b>B.</b> Cumulative Modified TIF- Plan Budget Amount	C. Accounted for in Prior Years Amount	D. 1998 Amount
Sources of Funds 16. Tax increment revenue	Amount	Amount	Amount	
17. Interest on invested funds				
18. Bond proceeds				
19. Loan proceeds				
20. Real estate sales				
21. Special assessments				
22. Rent/lease revenue				
23. Grants				
24. Other (describe)				
A.				
B.			······································	
C.				
25. Transfers in (from line 49)			· · · · · · · · · · · · · · · · · · ·	
26. Total Sources of Funds	ne na hada kata manga kata kata panana kata kata kata na na na kata kata			
Uses of Funds				- 1
27. Land/building acquisition				
28. Site improvements/ preparation costs				
29. Installation of public utilities				
30. Parking facilities				······································
31. Streets and sidewalks				
32. Public park facilities				
33. Social, recreational, conference facilities or similar public improvements				
34. Interest reduction payments				
35. Bond principal payments				
36. Bond interest payments				
37. Loan principal payments			1 a su Marine - 1	
38. Loan/note interest payments				
39. Administrative expenses				
40. Other (describe)				
A.				
В.				
С.				
41. Transfers out (from line 55)			· ·	
42. Total Uses of Funds				
43. TIF District Balance (Deficiency)	,			

TIF District Name:\_\_\_\_\_

.. 8

Transfers - Identify TIF District or Fund	Not A	pplicable
	Accounted for in Prior Years	1998 Amount
From Other TIF Districts or Funds		
44.		
45.		
46.		
47.		
48.		
49. Total Transfers In (to line 25)		
To Other TIF Districts or Funds		
50.		
51.		
52.		
53.		
54.		
55. Total Transfers Out (to line 41)		

Interest and Investment Earnings		Not Applicable
	<b>On or Before 7/1/97</b>	On or After 7/2/97
56. Interest/investment earnings received		

Property Sales/Leases and Advance/Loan Repayments		Not Applicable
	On or Before 6/30/97	On or After 7/1/97
57. Proceeds from sale or lease of property		
58. Repayment of advances and loans (exclude interest)		

Outstanding Non-Pooled Bonds to Which Increment is Pledged			Not Applicable
	General Obligation	Revenue	Total
59. Original issue amount			
60. Outstanding 12/31/97			<u> </u>
61. Issued in 1998			
62. Principal paid in 1998			
63. Outstanding 12/31/98			
64. Interest paid in 1998			
65. Principal due in 1999			
66. Interest due in 1999			

,

TIF District Name:\_\_\_\_

--8
67.	Amount of tax increment held that is dedicated to the payment of non-pooled TIF bonds				
68.	8. Is amount on line 67 held in an escrow account?				Yes No
69.	Is pay-as-you-go financing being	used?			Yes No
70.	If yes, list amount of documented	l developer costs incurred	to date		\$
	Other Non-Pooled Financial Obligations Not Applicable				
	Other Non-Pooled Financia	al Obligations	<u>i vi na konzerna na seden si na seden se in seden </u>	Not Ap	plicable
	Other Non-Pooled Financia	Al Obligations Amount of Original Obligation	1998 Principal Payments	Not Ap 1998 Interest Payments	plicable Dutstanding 12/31/98
71.		Amount of Original	-	1998 Interest	Outstanding
71. 72.		Amount of Original	-	1998 Interest	Outstanding
		Amount of Original	-	1998 Interest	Outstanding
72.		Amount of Original	-	1998 Interest	Outstanding

77. Have you included a copy of the annual disclosure statement to requires the TIF authority to publish? (TIF reports are incom is not submitted.)	plete if the annua	l disclosure statement	) Yes . No
			( )
Name of Preparer (print or type)	Title		Phone Number
Employer of Preparer (print or type)			
			( )
Name of TIF Authority's Authorized Representative (print or type)	Title		Phone Number
Employer of TIF Authority's Authorized Representative (print or type)			
Signature of TIF Authority's Authorized Representative	Date	<u> </u>	
Email Address of TIF Authority's Authorized Representative			
Please complete and return by August 1 to:			
Office of the State Auditor Tax Increment Financing Division 505 Spruce Tree Centre 1600 University Avenue W St. Paul, MN 55104	Phone: Fax:	(651) 642-0767 (651) 642-0769	

76.

Total

	Increment Financing Municipality Repor or The Year Ended December 31, 1998	t	ana an	
ax 1	Increment Financing District Name	Common Name	<u>.</u>	County Number(s)
ΓIF Δ	Authority	Municipality That	Approved TIF Distric	ot
City/	Town Where TIF District is Located	County Where TIF	District is Located	
Mun	icipality's Authorized Representative	Title		Phone Number
Emp	loyer of Authorized Representative (if different from municipality	that approved TIF distric	ct)	
Addr City	ress	· · · · · · · · · · · · · · · · · · ·	MN State	Zip Code
2. 3.	Redevelopment       Soils Condition         Is this a "Qualified Housing District" as defined in Minn. S         Original TIF plan approval date			Yes No MM / DD / YY
4.	Certification request dates*			
	A. Original			
	B. Geographic enlargement(s) / /			
Note	<ul> <li>C. Hazardous substance subdistrict</li> <li>e: * The certification request date is the date the TIF authority of the TIF district. It is NOT the date of the adoption of original net tax capacity of the TIF district. For a request envelope. For a request hand delivered to the county aud of various TIF laws, therefore it should agree with the courter of the tax of tax of the tax of the tax of t</li></ul>	requested the county auc f the TIF plan or the dat mailed to the county aud itor, it is the delivery dat	ditor to certify the ori te the county auditor litor, it is the postmar	ginal net tax capacity actually certified the k date on the mailing
5.	Certification date			//
j.	Date of most recent modification of TIF-plan budget (if an	ıy)		/_/
<i>.</i>	Date of required decertification			. / /
•	Year first tax increment payment received (actual or antici	. 1		
		pated)	••••••••••••••••	•
3.	If the TIF district has special legislation, please specify the			

11. Tax increment paid by the TIF au Name of governmental unit(s)	thority in 1998 to governmenta	al units other than the mu	inicipality.	Amount paid
12. Value of in-kind benefits financed governmental unit other than the r	-	by the TIF authority in 1	998 to a	Value
Describe in-kind transaction(s)			\$	
13. Does the TIF plan or other govern	ing document permit tax incre	ment to be expended:		
A. to pay bonds, the proceeds of outside the TIF district?	which were or may be expend		Ye	s 🔲 No
B. for deposit into a common fur TIF district?	nd that may expend money on			s 🗌 No
C. to otherwise finance activities	located outside the TIF distric	xt?	Ye	s 🗌 No
Outstanding Non-Pooled	Bonds to Which Incren	nent is Pledged	Not Applica	ible
	General Obligation	Revenue		Total
14. Original issue amount				442560180086.0019 <u>1100000000000000000000000000000000</u>
15. Outstanding 12/31/97	· ······			
16. Issued in 1998				
17. Principal paid in 1998				
18. Outstanding 12/31/98				
19. Interest paid in 1998				(
20. Principal due in 1999				
21. Interest due in 1999				
22. Has the municipality created a spec	ial taxing district for this TIF o	district?	Ye	s 🗌 No
Name of Preparer (print or type)		Title	Phone Nu	imber
Employer of Preparer (print or type)				
Name of Municipality's Authorized Representative (print or type)		Title	() Phone Nu	imber
Employer of Municipality's Authorized Repr	resentative (print or type)			
Signature of Municipality's Authorized Representative Date			Date	
Email Address of Municipality's Authorized	Representative			
Please complete and return by August 1	to: Office of the State Audito Tax Increment Financing 505 Spruce Tree Centre 1600 University Ave W St. Paul, MN 55104			

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# Tax Increment Financing Pooled Debt Report For The Year Ended December 31, 1998 Description of Pooled Debt County Where TIF Districts are Located TIF Authority Municipality That Approved TIF District Municipality's Authorized Representative Title Phone Number Employer of Authorized Representative (if different than municipality that approved TIF district) Address

City

MN State

Zip Code

	General	
	Obligation	Revenue
1. Original issue amount		
2. Outstanding 12/31/97		
3. Issued in 1998		
4. Principal paid in 1998		· · · ·
5. Outstanding 12/31/98	- •	
6. Interest paid in 1998		
7. Principal due in 1999		
8. Interest due in 1999		

Other Pooled Financial Obligations			
	Description of Obligation:		
9. Original issue amount			
10. Outstanding 12/31/97			
11. Issued in 1998			
12. Principal paid in 1998			
.3. Outstanding 12/31/98			
14. Interest paid in 1998			
15. Principal due in 1999	,		
16. Interest due in 1999			

17. List TIF districts that have authorization to use tax increment to retire this pooled debt.

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Α	G	
В	н	
С		
D		
E		
F		
Name of Preparer (print or type)	Title	( ) Phone Number
Employer of Preparer (print or type)		(
Name of Municipality's Authorized Representative (print or t	ype) Title	( ) Phone Number
Employer of Municipality's Authorized Representative (print	or type) ·	
Signature of Municipality's Authorized Representative	Date	
Email Address of Municipality's Authorized Representative		
	а С	
Please complete and return by August 1 to:	Office of the State Auditor Tax Increment Financing Division 505 Spruce Tree Centre 1600 University Ave W St. Paul, MN 55104	Phone: (651) 642-0767 Fax: (651) 642-0769

# **Tax Increment Financing District**

# **Certification Request Supplement**

1.	TIF District Location (Municipality/ County):			
2.	TIF District Name & Number:			
3.	New District District Expansion Hazardous Substance Subdistrict			
4.	District Type:			
	a. Redevelopment (M.S. 469.174, Subd. 10). Maximum Duration: 25 years of tax increments.			
	b. Housing (M.S. 469.174, Subd. 11). Maximum Duration: 25 years of tax increments.			
	c. Mined Underground Space (M.S. 469.174, Subd. 13). Maximum Duration: 25 years of tax increments.			
	d. Renewal and Renovation (M.S. 469.174, Subd. 10a). Maximum Duration: 15 years of tax increments.			
	e. Housing Replacement (1995 Laws, Chapter 264, Article 5, Sections 44-47). Maximum Duration: 15 years of tax increments from each parcel.			
	<ul> <li>f. Soils Condition (M.S. 469.174, Subd. 19).</li> <li>Maximum Duration: Tax increments may be received for 12 years from the approval of the tax increment plan by the municipality.</li> </ul>			
	<ul> <li>g. Economic Development (M.S. 469.174, Subd. 12).</li> <li>Maximum Duration: In the 11 year period following the approval of the tax increment plan by the municipality, 9 years of tax increment may be received.</li> </ul>			
5.	If the district is a Redevelopment, Housing or a Hazardous Substance Subdistrict, is the minimum market value tax increment delay option elected (M.S. 469.175, Subd. 1, Paragraph (b))?			
	Yes No			
6.	Does the district have extended duration limits provided by a special law?			
	Yes No If yes, law citation:			

7.	Does the district's plan provide for any sharing of captured net tax capacity with the local taxing districts (M.S. 469.177, Subd. 2, Paragraph (a))?
	Yes No
8.	Does the district's plan provide for its captured net tax capacity to be reduced by the fiscal disparity contribution (M.S. 469.177, Subd. 3)? (Seven Metropolitan Counties and Taconite Tax Relief Area Counties Only)
	Yes (Clause B Option) No (Clause A Option)
9.	Does the aid reduction provision apply to this district (M.S. 273.1399)?
	Yes No
	If no, what is the basis for the exemption?
	a. Qualified Housing District (M.S. 273.1399, Subd. 1, Paragraph (c) and Subd. 6, Paragraph (c)).
	b. Housing Replacement District (1995 Laws, Chapter 264, Article 5, Section 47).
	c. Ethanol Production Facility (M.S. 273.1399, Subd. 6, Paragraph (b)).
	d. Agricultural Processing Facility (M.S. 273.1399, Subd. 7).
	e. Municipal Local Contribution Election (M.S. 273.1399, Subd. 6, Paragraph (d)).
	f. Special Law. Law Citation:
10.	Date the district plan was approved by the municipality:
11.	District contact person:
	Name:         Phone:
	Address:
	<u> </u>
	Signature: Date:
Note	e: All statute references are as amended by Laws 1995, Chapter 264, Article 5, and Laws 1996, Chapter 471, Article 7.
Cou	nty Auditor Use Only
12.	Certification Request Date:
13.	Certification Date:

14. Original Value and Tax Rate Year: Taxes Payable\_

## MINNESOTA Department of Revenue

Property Tax Division

Mail Station 3340 Phone (612) 296-3155 St. Paul, MN 55146-3340 Fax (612) 297-2166

August 6, 1996

#### To: Tax Increment Financing Consultants

#### Re: New TIF Form to Summarize TIF Provisions

Enclosed are two copies of a new form to be completed for each new TIF district and for each new TIF district expansion. This new form summarizes important information relating to the new TIF district or district expansion.

Lines 1 through 11 of the new form are to be completed for each new TIF district or TIF district expansion. The completed form should then be submitted along with a copy of the TIF plan to the county auditor. A copy of the completed form and a copy of the TIF plan should also be submitted to the Department of Revenue. The copies for the Department of Revenue should be addressed to:

Robert Johnson Minnesota Department of Revenue Property Tax Division Mail Station 3340 St. Paul, Minnesota 55146-3340

You should photocopy the enclosed forms to create your own supply. As an alternative, you may want to generate your forms off of the computer. If this is done, you must use the enclosed forms for the format of the computer generated forms.

If you have any questions, please contact me.

Sincerely,

B. Hardner

Richard B. Gardner Research Analyst Supervisor Senior

Enclosures

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# **Tax Increment Financing District**

# **Certification Request Supplement**

1.	Municipality Name:
2.	District Name:
3.	New District District Expansion Hazardous Substance Subdistrict
4.	District Type:
	a. Redevelopment (M.S. 469.174, Subd. 10). Maximum Duration: 25 years of tax increments.
	b. Housing (M.S. 469.174, Subd. 11). Maximum Duration: 25 years of tax increments.
	c. Mined Underground Space (M.S. 469.174, Subd. 13). Maximum Duration: 25 years of tax increments.
	d. Renewal and Renovation (M.S. 469.174, Subd. 10a). Maximum Duration: 15 years of tax increments.
	e. Housing Replacement (1995 Laws, Chapter 264, Article 5, Sections 44-47). Maximum Duration: 15 years of tax increments from each parcel.
	<ul> <li>f. Soils Condition (M.S. 469.174, Subd. 19).</li> <li>Maximum Duration: Tax increments may be received for 12 years from the approval of the tax increment plan by the municipality.</li> </ul>
	g. Economic Development (M.S. 469.174, Subd. 12). Maximum Duration: In the 11 year period following the approval of the tax increment plan by the municipality, 9 years of tax increment may be received.
5.	If the district is a Redevelopment, Housing or a Hazardous Substance Subdistrict, is the minimum market value tax increment delay option elected (M.S. 469.175, Subd. 1, Paragraph (b))?
	Yes No
6.	Does the district have extended duration limits provided by a special law?
	Yes No If yes, law citation:

Yes

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j.

7.	Does the district's plan provide for any sharing of captured net tax capacity with the local taxing districts (M.S. 469.177, Subd. 2, Paragraph (a))?
	Yes No
8.	Does the district's plan provide for its captured net tax capacity to be reduced by the fiscal disparity contribution (M.S. 469.177, Subd. 3)? (Seven Metro Cos. Only.)
	Yes No
9.	Does the aid reduction provision apply to this district (M.S. 273.1399)?
	Yes No
	If no, what is the basis for the exemption?
	a. Qualified Housing District (M.S. 273.1399, Subd. 1, Paragraph (c) and Subd. 6, Paragraph (c)).
	b. Housing Replacement District (1995 Laws, Chapter 264, Article 5, Section 47).
	c. Ethanol Production Facility (M.S. 273.1399, Subd. 6, Paragraph (b)).
	d. Agricultural Processing Facility (M.S. 273.1399, Subd. 7).
	e. Municipal Local Contribution Election (M.S. 273.1399, Subd. 6, Paragraph (d)).
	f. Special Law. Law Citation:
10.	Date the district plan was approved by the municipality:
11.	District contact person:
	Name: Phone:
	Address:
	Signature: Date:
Note:	All statute references are as amended by 1995 Laws, Chapter 264, Article 5.
Coun	ity Auditor Use Only
12.	Certification Request Date:
	Certification Date:

14. Original Value and Tax Rate Year: Taxes Payable\_\_\_\_\_

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Appendix E

Appendix E

# Chronology of Major TIF Law Changes

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Type of TIF District	1979	1985
All Post-1979 Districts		Interest rate reduction
Redevelopment	Established.	
	Qualifications were 70% occupied	
	and buildings 20/30 or 50/50	
	(substandard) or with soils	
	problems or railway rights-of-way.	
	Term = 25 years of tax increment.	
	Use = any eligible cost.	
Economic Development	Established.	
	Qualifications were that district	
	did not meet others and that it	
	would create jobs.	
	Term = 8 years of increment/	
	10 years from creations.	
Housing	Established.	
	Qualifications were that project	
	was intended for occupancy by	
	low- and moderate-income	
	residents.	
	Term = $25$ years of tax increment.	
	Use= any eligible cost.	

Type of TIF District	1987	1988
All Post-1979 Districts	3-year Knock Out.	County road costs.
	4-year Knock Down.	School levies.
		Frozen tax rates.
		Adjust class rates on OTC.
		County administration costs.
		30-day notice prior to hearing of fiscal/economic implication to school district and county.
Redevelopment		
Economic Development		Metro only restriction on use:
		If 25% of sq. ft. of buildings were food or recreation.
Housing		No non-housing uses exceeding
		1/3 of total MV. Use is limited to housing related improvements and costs.
Soils Condition		Established.
Sons Condition		Qualifications are 70% or less occupied and 80% area soils problems.
		Term = $12$ years from Plan approval.
		Use is limited to soils work.
Renewal and Renovation		
Pre-1979		End in 2001 unless bonds outstanding in April 1990,
		then end in 2009.
		Scope of activities requirements.

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All Post-1979 Districts	Map published with notice.
	Reporting requirements.
	Allowance for shorter maximum duration limit
Redevelopment	Occupied means 70% of area of district and 15% of parcel and contiguousness.
	Use of increment was 90% to
	correct costs.
Economic Development	25% use is clarified to at least 25%.
Housing	Qualifications were 20/50 40/60,
C	50/80 income levels for rental
	and 115% for single family.
	Violation results in economic
	development district duration.
Soils Condition	
Renewal and Renovation	

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Pre-1979

Referendum levies apply.

<u>1991</u>

All Post-1979 Districts	LGA/HACA reduction.	
	Credit-enhanced bonds.	
	Pre-1979 and post 1982 admin.	
	costs at 10%.	
	Pre- 1979 to 1982 districts subject	
	to 5% admin. limitation.	
	Pooling restriction set at 25%.	
	Five-Year rule.	
	Violations enforcement.	
Redevelopment	Limited to 50% substandard test and 15% cost test.	
Economic Development	No more than 10% of State-wide employment test.	Qualified manufacturing for population under 10,000 and
	No more than 10% of buildings	outside metro area.
	sq. ft. as nonmanufacturing/	
	tourism/warehousing/research	
	unless supporting qualifying	
	activity, then 25%.	
	Small cities exception for retail facilities.	
Housing	One-third MV for non-housing	
-	changed to 20%.	
Soils Condition		
Renewal and Renovation	Established.	
	Qualifications are 70% occupied	
	and 20/30.	
	Term = 15 years of tax increment.	
Pre-1979		

Type of TIF District	1993	1995
All Post-1979 Districts	Developer repayments prohibition. Assessment agreement changes.	Local contribution option with redevelopment, soils & haz sub = 7.5% and others = 10% for districts after 6/30/94.
		New qualitative but/for finding for finding increase in MV.
		New reporting to OSA and enforcement requirements for all districts. Pooling limited to 20% for non-redevelopment districts.
Redevelopment	Notice to county commissioner. Option for 20-year term.	Green acres/ag preserves restrictions.
Economic Development	Tourism definition refined 10% use now 15% use if necessary for qualified use.	Qualified manufacturing abolished. Ethanol penalty exemption expanded to \$1.5M.
	Term is 9 years/1 1 years. Ethanol exemption from penalty.	Bedrock soils added as qualifier. 5,000 sq.ft. retail exemption abolished.
		Green acres/ag preserves restrictions.
Housing	Notice to county commissioner. LGA/HACA exemption for qualified housing districts. Option for 20-year term.	Green acres/ag preserves restrictions exept qualified housing.
Soils Condition	70% requirement out and hazardous substance in.	Unusual terrain abolished as qualification. Green acres/ag preserves restrictions.
Renewal and Renovation		Green acres/ag preserves restrictions.
Pre-1979		

Pre-1979

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Type of TIF District	1996	1997
All Post-1979 Districts		Definition of tax increment includes sales proceeds, lease income, loan repayments and investment earnings. Pooling allowed for shortfalls resulting from class rate changes.
Redevelopment	Local contribution is 5% rather than 7.5%	Interior inspection required for blight findings. Use of redevelopment district increments clarified in 4j.
Economic Development	Metro area can have manufacturing in green acres.	Qualified border retail. Small city retail. Fiscal disparities election required to be inside district. OTC inflation factor clarified to exclude new construction.
Housing		
Soils Condition		Term extended to 20 years after receipt of first increment.
Renewal and Renovation		
Pre-1979		

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Appendix F

Appendix F

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# **Sample TIF Application Forms**

This section contains the following items:

1

Tax Increment Financing Assistance Pre-application Form

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Application for Tax Increment Financing

Tax Increment Financing Application Procedures

#### SAMPLE PRE-APPLICATION

Tax Increment Financing Assistance

Legal name of applicant:	
0 11	
Address:	
Telephone number:	
L	
Name of contact person:	

#### **Requested Information**

Addendum shall be attached hereto addressing in detail the following:

- 1. A map showing the exact boundaries of proposed development.
- 2. A general description of the project, including size and location of building(s); business type or use; traffic information including parking, projected vehicle counts and traffic flow; timing of the project; estimated market value following completion.
- 3. The existing Comprehensive Guide Plan Land Use designation and zoning of the property. Include a statement as to how the proposed development will conform to the land use designation and how the property will be zoned.
- 4. A statement identifying how the increment assistance will be used and why it is necessary to undertake the project.
- 5. A statement identifying the public benefits of the proposal, including estimated increase in property valuation, new jobs to be created and other community assets.
- 6. A written perspective of the developer's company of corporation, principals, history and past projects.

#### Signature

Applicant's signature: \_\_\_\_\_

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

# Sample Application for Tax Increment Financing

General Information:	
Business Name:	Date:
Address:	
Type (Partnership, etc.):	
Authorized Representative:	Phone:
Description of Business:	
Legal Counsel:	
Address:	Phone:
Financial Background:	
1. Have you ever filed for bankruptcy?	
2. Have you ever defaulted on a loan commitment?	
3. Have you applied for conventional financing for the project?	
4. List financial references:	
a.	
b.	
c.	
5. Have you used tax increment financing before? If yes, where and when?	

6. Are you aware of any "conflicts of interest" between your role in this project and the (public body)?

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## **Project Information:**

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1.	Location of proposed project:		
2.	Amount of tax increment assistance requested:		
3.	Need for tax increment assistance:		
4.	Present ownership of site:		
5.	Number of permanent jobs created as a result of p	project:	
6.	Estimated annual sales: \$ F	uture: \$	
7.	Market value of project following completion:		
8.	Name and address of architect:		
9.	Anticipated start date:	Completion date:	
Fir	nancial Information:		
1	Estimated project related costs:		
	a. land acquisition		
	b. site development		
	c. building cost		
	d. equipment		
	e. architectural/engineering fee		
	f. legal fees		
	g. off-site development costs		
2.	Source of financing:		
	a. private financing institution		
	b. tax increment funds		
	c. other public funds		
	d. developer equity		
Ple	ease include:		
1.	Preliminary financial commitment from bank.		
2.			
3.			
4.	. Pro Forma analysis.		
5.	Financial statements.		
6.	Statement of property ownership or control.		

7. Application fee (\$100.00).

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#### **Sample Procedures**

- 1. Meet with appropriate city staff to discuss the scope of the project, public participation being requested, and other information as may be necessary.
- 2. Completion of Preliminary Tax Increment Financing Assistance Application form. This form shall be submitted to the Director of Community Development.
- 3. The request shall be reviewed by city staff on a preliminary basis as to the feasibility of the project. The staff shall prepare a report on the project.
- 4. The application shall be placed on the City Council agenda for concept review. The applicant may make a formal presentation of the project. The staff will present its findings.
- 5. If the Council's Preliminary Concept Review is positive, the applicant may elect to file a formal application accompanied by a fee of \$\_\_\_\_\_, which shall only be refunded at the time of signing a redevelopment contract should the project be approved.
- 6. If Zoning and Planning Commission action is required, it will be necessary for the applicant, at this time, to make application to the Commission for Concept Review.
- 7. Following the necessary financial analysis and preparation of detailed plans, the City Council and HRA, if necessary, shall take action on the project. If approved, the staff will be directed to undertake the following steps:
  - prepare a redevelopment agreement based upon the terms approved;
  - prepare a redevelopment plan and tax increment financing plan if required.

At this time a deposit (cash or letter of credit) shall be required to defray costs involved with these steps, which deposit shall be refunded at the time a redevelopment contract is signed should the project be approved.

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8. If a redevelopment plan or zoning action is required, the Zoning and Planning Commission, City Council and HRA shall take the appropriate action at the same time that the redevelopment agreement is considered for approval.

-6 Appendix G ----

Appendix G

# Office of the State Auditor Memorandums

Attached are copies of memorandums relating to tax increment financing which have been issued from time to time. by the Office of the State Auditor, Tax Increment Financing Division.

<u>No.</u>	Date	Subject
1.	Fall/Winter 1996	Waiving or Declining of Increment
2.	Fall/Winter 1996	Calculation of a TIF District's Statutory Duration and Payment of Increment
3.	Spring 1997	Redistribution of Excess Tax Increment
4.	Summer 1997	Interest Rate Reduction, Minnesota Statutes, §469.176, subd. 4f
5.	Spring/Summer 1998	Recommended Documentation for County TIF Files
6.	Spring/Summer 1998	Calculation of a TIF District's Statutory Duration and Payment of Increment
7.	Spring/Summer 1998	Distribution of Money Paid to a County Auditor for Violations of TIF Law
8.	Summer 1998	Distribution of Tax Increment After Duration Limit of TIF District Has Expired

#### **TIF MEMORANDUM #1**

TO:	County Auditors
FROM:	Tax Increment Financing Department
DATE:	Fall/Winter 1996
RE:	Waiving or Declining of Increment

Several county auditors have had questions regarding how to handle requests from tax increment financing (TIF) authorities to waive or decline an increment payment and how such requests impact the calculation of a district's statutory duration. Typically, the request to decline or waive an increment payment occurs in an early year of a district when only a very small amount of increment is generated. Merely declining or waiving increment may not be a problem. However, if these districts then seek to extend or shift their statutory duration by one or more years, due to the fact that they have declined or waived a year's worth of increment, they may be in violation of statute.

If a district generates tax increment, an authority may only waive or decline the increment payment under specific circumstances. Minnesota Statutes § 469.175, subd. 1(b) specifies those circumstances. It states:

For a housing district, redevelopment district, or a hazardous substance subdistrict, *the authority may elect in the tax increment financing plan* to provide for the identification of a minimum market value 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 capacity of the taxable real property in the district by the county auditor, whichever is earlier.

(Emphasis added.) Accordingly, if an authority requests to decline an increment payment, the authority must provide verification in its TIF plan that it is a housing district, redevelopment district, or hazardous substance subdistrict, and the TIF plan must specifically provide for the waiving of increment until a minimum market value is reached. If this type of documentation is not provided, the tax increment payment must be accepted by the district.

Some TIF plans provide for the sharing of increment with another governmental body, often the county where the district is located. A district may "share" one-hundred percent of tax increment generated in the early year(s) of a district with a county or other governmental unit. However, this sharing arrangement cannot be used to extend or shift the statutory duration of a district. If a district

#### MEMORANDUM

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has a statutory duration of twenty years from the date of receipt by the authority of the first tax increment payment, the first year that increment is generated triggers that statutory duration calculation. For example, if a district first generates increment in 1994, the statutory duration of that district expires in 2014. It does not matter if the authority chooses to share, waive, or decline a tax increment payment (except in the specific circumstances covered by Minn. Stat. § 469.175, subd. 1(b), discussed above); the statutory duration is not extended.

If you have any questions regarding this memorandum, please contact the TIF Department at the Office of the State Auditor by calling (612) 296-9255.

#### Page 2

#### **TIF MEMORANDUM #2**

TO:	County Auditors
FROM:	Tax Increment Financing Department
DATE:	Fall/Winter 1996
RE:	Calculation of a TIF District's Statutory Duration and Payment of Increment

Several county auditors have had questions regarding the calculation of the statutory duration of a tax increment financing (TIF) district and how it relates to the payment of increment at the end of a district's duration. The controlling statutory section is Minn. Stat. § 469.176, subd. 1b which states:

(a) No tax increment shall in any event be paid to the authority

(1) after 25 years *from the date of receipt by the authority of the first tax increment* for a mined underground space development district,

(2) after 15 years *after receipt by the authority of the first increment* for a renewal and renovation district,

(3) after 12 years *from approval of the tax increment financing plan* for a soils condition district,

(4) after nine years *from the date of the receipt*, or 11 years *from approval of the tax increment financing plan*, *whichever is less*, for an economic development district,

(5) for a housing district or a redevelopment district, after 20 years *from the date* of receipt by the authority of the first tax increment by the authority pursuant to section 469.175, subdivision 1, paragraph (b); or, if no provision is made under section 469.175, subdivision 1, paragraph (b), after 25 years from the date of receipt by the authority of the first increment.

(b) For purposes of determining a duration limit under this subdivision or subdivision le that is *based on the receipt of an increment*, any increments from taxes payable in the year in which the district terminates shall be paid to the authority. This paragraph does not affect a duration limit calculated from the date of approval of the tax increment financing plan or based on the recovery of costs or to a duration limit under subdivision 1c. This paragraph does not supersede the restrictions on payment of delinquent taxes in subdivision 1f.

#### (Emphasis added.)

Under this statute, a full year of tax increment is payable in the last year that a district may legally receive increment, provided that the duration limit for the district is expressed **solely** with reference to the date of first receipt. These districts include mined underground space development, renewal and renovation, housing, and redevelopment districts.

If a duration limit is calculated with reference to the date of first receipt of increment, Minn. Stat. § 469.176, subd. 1b, paragraph (b), quoted above, allows a full year of increment to be paid to the district in the year in which the TIF district terminates, even if the second-half payment for that year falls after the statutory termination date. For example, a redevelopment district is certified on August 15, 1995. It receives its first increment on May 15, 1998. The district's 25-year duration is calculated from the date increment is first received and expires on May 15, 2023. The district is entitled to receive a full year's worth of increment in 2023, even though the second-half distribution falls after the May 15, 2023 district expiration date.

However, the statutory language does not permit payment of a year's second-half portion of increment when a district's duration limit is calculated from the date of approval. These districts include soils condition and economic development districts. For instance, an economic development district is established on September 15, 1994. Increment is first received in May 1997. The statute provides that an economic development district's duration may be calculated from the date of first receipt of increment, or from the date of approval of the TIF plan, whichever is less. The duration limit for this district, if calculated from the date of first receipt of increment, would be May 2006. This falls after the 11-year duration and is not allowed. Thus, this district has a maximum life of 11 years (September 15, 2005). Furthermore, since the statutory duration of this district now rests upon the date on which the TIF plan is approved, the district may only receive the year's first-half portion of increment in 2005. The year's second-half payment would be disbursed after September 15, 2005. This falls after the maximum statutory duration for this district and is not allowed. The statutory duration of the district and is not allowed. The statutory duration of the year's first-half portion of increment in 2005. The year's second-half payment would be disbursed after September 15, 2005. This falls after the maximum statutory duration for this district and is not allowed. The full-year distribution rule contained in paragraph (b) does not apply.

The duration and payment of increment in pre-1979 districts, hazardous substance subdistricts, and districts which engage in removal and remediation of pollution under Minn. Stat. § 469.176, subd. 1g, are subject to special rules. Generally, no increment should be paid to these types of districts after the expiration of the specific duration limit established for each district. If you have questions regarding increment payments to these types of districts or any questions regarding this memorandum, please contact the TIF Department at the Office of the State Auditor by calling (612)296-9255.

# **TIF MEMORANDUM #3**

TO:	County Auditors
FROM:	Tax Increment Financing Department
DATE:	Spring 1997
RE:	Redistribution of Excess Tax Increment

In any year in which tax increment revenues remain after a tax increment financing (TIF) district has paid all debt obligations and other financial commitments authorized by the TIF plan for the life of the district, the authority must return the excess tax increment to the county auditor. This may occur at any time throughout the life of the TIF district, or when the district expires or is decertified with all obligations satisfied and excess tax increment remaining.

The county auditor is responsible for distributing the excess tax increment amounts to the municipality, county, and school district in which the TIF district is located.<sup>1</sup> The redistribution of the tax increment is to be based on the **current year local tax rate proportions**<sup>2</sup> of the municipality, county, and school district. Special taxing districts are not included in the redistribution. In addition, the county auditor must report the amount of any excess tax increment distributed to a school district to the Commissioner of Children, Families, and Learning within 30 days of the distribution.

This statutory section specifically applies to all tax increment financing districts established before, on, or after August 1, 1979.

If you have any questions regarding the information contained in this memorandum, please contact the Office of the State Auditor TIF Department at (612) 296-9255.

<sup>&</sup>lt;sup>1</sup> Minn. Stat. § 469.176, subd. 2.

<sup>&</sup>lt;sup>2</sup> "Current year local tax rate" means the tax rate used in the year in which the excess increment is redistributed.

## **TIF MEMORANDUM #4**

TO:	County Auditors
FROM:	Tax Increment Financing Department
DATE:	Summer 1997
RE:	Interest Rate Reduction, Minnesota Statutes § 469.176, subd. 4f

Some authorities have been confused by the duration of interest rate reduction (IRR) payments within a housing district since the duration of the housing district is longer than the IRR payments themselves.

Revenues derived from tax increment may be used to finance the costs of an interest rate reduction program. An IRR program may be the only activity of a district or it may be one of many activities within a district. If the IRR program is the only activity of a district, when the IRR program's duration expires, the tax increment revenue becomes excess and must be returned to the county auditor for redistribution even though the district itself has not expired. In this circumstance, the Office of the State Auditor (OSA) recommends decertification.

The duration of the interest rate reduction payments was extended in 1996 for all districts for which request for certification was made after April 30, 1996. Minnesota Statutes § 469.176, subd. 4f states "[t]ax 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." This had previously been 12 years.

For districts for which the request for certification was made before May 1, 1996, the governing body of the development authority may elect, by resolution, to be governed by the new law. The election is irrevocable and must be made no later than December 31, 1996.

If you have any questions regarding the information contained in this memorandum, please contact the Office of the State Auditor TIF Department at (612) 296-9255.

# **TIF MEMORANDUM #5**

TO:	County Auditors
FROM:	Tax Increment Financing Division
DATE:	Spring/Summer 1998
RE:	Recommended Documentation for County TIF Files

The Office of the State Auditor (OSA) has received requests for general guidelines to assist counties in collecting and maintaining files on tax increment financing (TIF) districts. The OSA recommends that the county obtain and keep on file the following information for each TIF district:

- 1. Initial TIF plan adopted by the TIF authority and approved by the municipality.<sup>1</sup>
- 2. Any modifications or amendments to the TIF plan.
- 3. Municipality's resolution approving the TIF plan, including the date the TIF plan was approved.
- 4. Documentation supporting the certification request date (postmark if request was made by mail, or date request was received if hand delivered; and certification request dates for any geographic enlargements of the TIF district.
- 5. Dates the county auditor certified the TIF district and any geographic enlargements of the TIF district.
- 6. Copies of other documentation related to the TIF district: county notification to the Department of Children, Families, and Learning reporting the amount of revenue the school district received from redistributed excess increment or excess taxes on captured net tax capacity; special legislation affecting the district; and relevant correspondence.

We also recommend that the county auditor keep track of statutory deadlines:

1. Date that the TIF district must be decertified. This may be either the maximum statutory duration, or a lesser duration provided in the TIF plan, such as the date on which bonds are paid in full. When this date is reached, the county auditor must decertify the TIF district. We recommend that the county auditor read the TIF plan to determine the date that the TIF plan requires the TIF district to be decertified, because the TIF plan may contain an earlier duration limit than that provided in statute.

<sup>&</sup>lt;sup>1</sup> Municipality is defined as the entity which approved the TIF plan and may include a city, town, or county. Minn. Stat. § 469.174, subd. 6.

- 2. Date the three-year knockout rule applies, as measured from the certification date. The county auditor should request from the TIF authority verification of qualifying activity within the TIF district as provided in Minn. Stat. § 469.176, subd. 1a (1996). This verification documentation should be retained in the county auditor's file for the TIF district.
- 3. Date the four-year knock down rule applies, as measured from the certification date. The county auditor should request from the TIF authority verification of qualifying activity *on each parcel* within the TIF district as provided in Minn. Stat. § 469.176, subd. 6 (1996). Evidence for a parcel must be submitted by February 1 of the fifth year following the year in which the parcel was certified. This verification documentation should be retained in the county auditor's file for the TIF district.

In addition, the county auditor or treasurer should ensure that the county has deducted the correct percentage (0.25 percent after June 30, 1998) of all tax increment distributed to TIF authorities or municipalities in the county as required by Minn. Stat. § 469.177, subd. 11. This amount must be paid by the county to the state treasurer to finance TIF enforcement by the OSA. The county auditor or treasurer should maintain records of the aggregate amounts of tax increment distributions to TIF authorities and municipalities in the county and the dates and amounts of enforcement deduction payments to the state treasurer.

If you have any questions regarding the information contained in this memorandum, please contact the OSA's TIF Division at (612) 296-9255.

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### **TIF MEMORANDUM #6**

TO:	County Auditors
FROM:	Tax Increment Financing Division
DATE:	Spring/Summer 1998
RE:	Calculation of a TIF District's Statutory Duration and Payment of Increment

The length of time that a tax increment financing (TIF) authority is allowed to collect tax increment from a TIF district under the statutory maximum duration limits depends on the district type, *e.g.*, redevelopment district, soils condition district, economic development district. Like the rest of the TIF laws, the duration limits have been amended from time to time, and the amendments generally apply only to TIF districts for which certification was requested after the amendment was enacted. The current basic duration limits for post-1979 TIF districts are set forth in Minn. Stat. § 469.176, subd. 1b.

In the fall/winter of 1996, the Office of the State Auditor's (OSA) TIF Division issued TIF Memorandum #2, which discussed how to interpret and apply certain duration limits. County auditors, however, have requested that the OSA provide them with a comprehensive overview of the statutory duration limits that shows the changes in those limits over time.

The attached table shows statutory duration limits to help determine when a TIF district must be decertified. The table lists the duration limit for each type of TIF district and the statutory citation for the limit. If the statutory limit has been amended, the table lists the dates when the different limits apply and provides citations to the statutes before and after the amendment. For example, the duration limit for housing districts was amended in 1993. The table indicates that the duration limit before the amendment applies to housing districts with certification request dates on or after August 1, 1979 and on or before May 31, 1993 and is found in Minn. Stat. § 273.75, subd. 1 (Supp. 1979) and Minn. Stat. §.469.176, subd. 1, para. (e) (Supp. 1987). The duration limit after the amendment applies to housing districts dates on or after June 1, 1993 and is found in Minn. Stat. § 469.176, subd. 1b, para. (a)(5) (Supp. 1993).

Please be aware that Minn. Stat. § 469.176, subd. 1, para. (a) provides that a municipality may, at the time of approval of the initial TIF plan, provide for a shorter maximum duration limit than is otherwise authorized by statute. A shorter maximum duration limit provided in a TIF plan applies in place of the otherwise applicable limit. Please review all TIF plans for districts in your county and determine if the municipality has set a decertification date that is earlier than the statutory maximum duration limit. If so, the county may not distribute tax increment to the TIF authority beyond the shorter maximum duration limit set in the district's TIF plan.

#### Page 2

TIF MEMORANDUM #6

In addition, please be aware that special legislation may have extended the duration of a TIF district. Also, please be aware that the duration of a TIF district may have been extended by the TIF authority, with the approval of the municipality, because contamination, hazardous substances, or pollution was discovered after the TIF district was established, the authority elected not to create a hazardous substance subdistrict, and the municipality paid for the cost of removal, cleanup, or remediation with money other than tax increment. The maximum duration extension permitted is the lessor of (1) ten years after the district otherwise would have terminated or (2) the number of additional years necessary to collect the increment equal to the cleanup costs paid by the municipality out of funds other than tax increments. Minn. Stat. 469.176, subd. 1g.

If you have any questions regarding the information contained in this memorandum, please contact the OSA's TIF Division at (612) 296-9255.

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DISTRICT TYPE	DURATION LIMIT	STATUTORY CITE
Pre '79: CRD' ≤ 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 tax increment be paid to an authority after August 1, 2009, from such a district. If a district's termination date is extended beyond April 1, 2001, the following restrictions apply. No increment collected from the district may be expended after April 1, 2001, except to pay or defease (i) bonds issued before April 1, 1990, or (ii) bonds issued to refund the principal of the outstanding bonds and pay associated issuance costs, provided the average maturity of the refunding bonds does not exceed the bonds refunded.	§ 469.176, subd. 1, para. (e) (1988); § 469.176, subd. 1c (Supp. 1993)
Housing: 8/1/79 ≤ CRD ≤ 5/31/93	25 years from the date of receipt by the authority of the first tax increment. <sup>2, 3</sup>	§ 273.75, subd. 1 (Supp. 1979); § 469.176, subd. 1, para. (e) (Supp. 1987)
CRD ≥ 6/1/93	20 years from the date of receipt by the authority of the first tax increment by the authority pursuant to § 469.175, subd. 1, para. (b); or, if no provision is made under § 469.175, subd. 1, para. (b), after 25 years from the date of receipt by the authority of the first tax increment. <sup>23.4</sup>	§ 469.176, subd. 1b, para. (a)(5) (Supp. 1993)
Redevelopment: 8/1/79 ≤ CRD ≤ 5/31/93	25 years from date of receipt by the authority of the first tax increment. <sup>2</sup>	§ 273.75, subd. 1 (Supp. 1979); § 469.176, subd. 1, para. (e) (Supp. 1987)
CRD ≥ 6/1/93	20 years from the date of receipt by the authority of the first tax increment by the authority pursuant to § 469.175, subd. 1, para. (b); or, if no provision is made under § 469.175, subd. 1, para. (b), after 25 years from the date of receipt by the authority of the first tax increment. <sup>2,4</sup>	§ 469.176, subd. 1b, para. (a)(5) (Supp. 1993)
Mined Underground Space: CRD ≥ 5/24/85	25 years from the date of receipt by the authority of the first tax increment. <sup>2</sup>	§ 273.75, subd. 1 (Supp. 1985); § 469.176, subd. 1, para. (e) (Supp. 1987); § 469.176, subd. 1b, para. (a)(1) (Supp. 1993)
Spring/Summer 1998

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DISTRICT TYPE	DURATION LIMIT	STATUTORY CITE
Economic Development: $8/1/79 \le CRD \le 5/31/93$	8 years from the date of the receipt by the authority of the first tax increment, or 10 years from approval of the tax increment financing plan, whichever is less.	§ 273.75, subd. 1 (Supp. 1979); § 469.176, subd. 1, para. (e) (Supp. 1987)
CRD ≥ 6/1/93	9 years from the date of the receipt by the authority of the first tax increment, or 11 years from approval of the tax increment financing plan, whichever is less. (See TIF Memorandum #2 for an explanation of how to calculate this duration limit.)	§ 469.176, subd. 1b, para. (a)(4) (Supp. 1993)
Hazardous Substance Subdistrict:		
Created ≥ 5/9/88 and CRD ≤ 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 tax increment 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, para. (b), and received after the date of certification to the county auditor described in § 469.17[4], subd. 7, para. (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>2,5</sup>	§ 469.176, subd. 1, para. (g) (1988)
CRD ≥ 6/1/93	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 tax increment from the parcel that is more than any tax increment received from the parcel before the date of the certification under § 469.174, subd. 7, para. (b), and received after the date of certification to the county auditor described in § 469.174, subd. 7, para. (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 20 years if the authority elects under § 469.175, subd. 1, para. (b), to defer receipt of the first increment; or (2) the period necessary to recover the costs of removal actions or remedial actions specified in a development response action plan. <sup>2,4</sup>	§ 469.176, subd. 1e (Supp. 1993)

# Spring/Summer 1998

DISTRICT TYPE	DURATION LIMIT	STATUTORY CITE
Soils Condition: 5/2/88 ≤ CRD ≤ 6/30/97	12 years from approval of the tax increment financing plan.	§ 469.176, subd. 1, para. (e) (1988); § 469.176, subd. 1b, para. (a)(3) (Supp. 1993)
CRD ≥ 7/1/97	20 years after receipt by the authority of the first tax increment. <sup>2</sup>	§ 469.176, subd. 1b, para. (a)(3) (Supp. 1997)
Renewal and Renovation: 4/1/90 ≤ CRD ≤ 4/30/90	15 years after receipt by the authority of the first tax increment provided none of the following actions were taken by June 1, 1991: (1) the authority entered into a development agreement for a site located in the district, (2) bonds were issued to finance project costs, or (3) the authority acquired property in the district after 1, 1990.	Laws 1990, ch. 604, art. 7, sec. 31, para. (b)
CRD ≥ 5/1/90	15 years after receipt by the authority of the first tax increment. <sup>2</sup>	§ 469.176, para. (e) (1990); § 469.176, subd. 1b, para. (a)(2) (Supp. 1993)

 $^{1}CRD = certification request date of the district.$ 

<sup>2</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. *See* Minn. Stat. § 469.176, subd. 1b, para. (b) (Supp. 1993).

<sup>3</sup>Tax increment generated in a housing district may be used to finance the costs of an interest reduction program. For districts with certification request dates on or after May 1, 1996, tax increment may be collected for an interest reduction program for 15 years after the date of the first interest rate reduction payment for the program. For districts with certification request dates before May 1, 1996, and for which the governing body of the development authority did not elect by resolution on or before December 31, 1996 to be governed by the 15 year payment period, the tax increment may be collected for 12 years after the date of the first interest rate reduction payment for the reduction payment for the program. (See TIF Memorandum #4 for more information on interest reduction programs.)

<sup>4</sup>For a housing district, redevelopment district, or a hazardous substance subdistrict, the authority may elect in the tax increment plan to provide for the identification of a minimum market value 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 capacity of the taxable real property in the district or subdistrict by the county auditor, whichever is earlier. Minn. Stat. § 469.175, subd. 1, para. (b) (Supp. 1993).

<sup>5</sup>The text reflects a 1991 amendment to correct typographical errors. See Laws 1991, ch. 291, art. 10, sec. 6.

# STATE OF MINNESOTA OFFICE OF THE STATE AUDITOR

# **TIF MEMORANDUM #7**

TO:	County Auditors
FROM:	Tax Increment Financing Division
DATE:	Spring/Summer 1998
RE:	Distribution of Money Paid to a County Auditor for Violations of TIF Law

The 1998 Omnibus Tax Act included a provision which clarifies the tax increment financing (TIF) statute that governs the distribution of money paid to a county auditor by a municipality or TIF authority for violations of TIF law. The provision applies to violation payments by a municipality to a county auditor under Minn. Stat. § 469.1771, subd. 5, and violation payments by a TIF authority to a county auditor under Minn. Stat. § 469.1771, subd. 5<sup>2</sup> and 3<sup>2</sup>

The new language provides that a county auditor is not to distribute to the municipality that approved the TIF district any money paid to the county auditor by the municipality or TIF authority for violations of TIF law if the municipality or TIF authority did not make payment within sixty days after receiving a notice of noncompliance from the Office of the State Auditor (OSA) requiring the payment, or the municipality or TIF authority made payment only after a county attorney commenced an action to compel the payment:

If the authority does not have sufficient increments or other available money to make a payment required by this section, the municipality that approved the district must use any available money to make the payment including the levying of property taxes. Money received by the county auditor under this section must be distributed as excess increments under section 469.176, subdivision 2, paragraph (a), clause (4), except that if the county auditor receives the payment after (1) 60 days from a municipality's receipt of the state auditor's notification under subdivision 1, paragraph (c), 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 tax increment financing district.

Laws 1998, ch. 389, art. 11, sec. 9 (amending Minn. Stat. § 469.1771, subd. 5).

## Page 2

The statute now provides incentive to timely make payment to the county auditor for violations of TIF law by the TIF authority. If the TIF authority or municipality makes payment prior to expiration of the 60-day time period or commencement of legal action to compel payment, the municipality will receive a share of the money when the county auditor distributes the money as excess increment. If payment is delayed, the municipality will lose its share of the money when the county auditor distributes the money as excess increment.

If you have questions regarding the information contained in this memorandum, please contact the OSA's TIF Division at (612) 296-9255. If you have specific questions regarding the distribution of money paid for violations of TIF law, returned excess increment, or excess taxes on net tax capacity, please contact Jerry Silkey, Department of Revenue, at (612) 296-0256.

<sup>&</sup>lt;sup>1</sup>If an authority includes or retains a parcel of property in a tax increment financing district that does not qualify for inclusion or retention within the district, the authority must pay to the county auditor an amount of money equal to the increment collected from the property for the year or years. The property must be eliminated from the original and captured tax capacity of the district effective for the current property tax assessment year. This subdivision does not apply to a failure to decertify a district at the end of the duration limit specified in the tax increment financing plan. Minn. Stat. § 469.1771, subd. 2.

<sup>&</sup>lt;sup>2</sup>If an authority expends revenues derived from tax increments, including the proceeds of tax increment bonds, (1) for a purpose that is not a permitted project under section 469.176, (2) for a purpose that is not permitted under section 469.176 for the district from which the increment was received, or (3) on activities outside of the geographic area in which the revenues may be expended under this chapter, the authority must pay to the county auditor an amount equal to the expenditures made in violation of the law. Minn. Stat. § 469.1771, subd. 3.

# STATE OF MINNESOTA OFFICE OF THE STATE AUDITOR

# **TIF MEMORANDUM #8**

TO:	County Auditors
FROM:	Tax Increment Financing Division
DATE:	Summer 1998
RE:	Distribution of Tax Increment After Duration Limit of TIF District Has Expired

The Office of the State Auditor (OSA) has received calls from a number of county auditors asking how they should handle situations where the duration limit of a tax increment financing (TIF) district is measured from approval of the TIF plan and the decertification limit falls on a date such as September 15, between the first- and second-half property tax settlements.<sup>1</sup> Some county auditors have advised the OSA of the difficulty they have in calculating tax increment for the first-half settlement, but not for the second-half settlement, using the computer software packages they have to calculate property taxes and settlements. County auditors faced with this situation have asked the OSA whether they may distribute tax increment in the second-half settlement, even though the settlement is after the statutory maximum duration limit, and then expect the TIF authority to return all of the second-half payment for distribution as excess tax increment. *See* Minn. Stat. § 469.176, subd. 2.

In addition to the problems created by mid-year decertifications, some county auditors have mistakenly calculated the year's settlements to include tax increment from a TIF district that already should have been decertified, but have discovered the mistake before making the first-half settlement. County auditors faced with this situation have asked the OSA if they may distribute tax increment in the first-half settlement, expect the TIF authority to return it, and fix the problem before the second-half settlement.

A county auditor should not distribute tax increment from a TIF district after the district has or should have been decertified, even if preventing the distribution is difficult and time-consuming due

<sup>&</sup>lt;sup>1</sup> This situation will arise only if the TIF district is a soils condition district with a certification request date before July 1, 1997 or an economic development district. It is only these two types of districts that have a statutory duration limit calculated from the date of approval of the TIF plan. For TIF districts whose duration limits are based upon the first receipt of increment, any increment from taxes payable in the year in which the district terminates must be paid to the TIF authority. *See* Minn. Stat. § 469.176, subd. 1b, para. (b). For further information regarding calculation of TIF district duration limits, see TIF Memorandums #2 and #6.

to computer software limitations or because the county auditor discovers just before the settlement date that no tax increment should be distributed.

Making a distribution of tax increment after a TIF district has or should have been decertified is problematic for a number of reasons. First, if the TIF district should have been decertified because it reached its statutory maximum duration limit, Minnesota law clearly states that "[n] tax increment shall in any event be paid to the authority" after the duration limit has been reached. *See, e.g.*, Minn. Stat. § 469.176, subd. 1b, para. (a).

Second, during the 1998 session, the Legislature passed a new law which makes clear that county auditors have the authority and duty to decertify TIF districts when the statutory maximum duration is reached, or sooner if the TIF plan provides an earlier decertification date or the TIF authority requests an earlier decertification. *See* Laws 1998, ch. 389, art. 11, sec. 7 (enacting Minn. Stat. § 469.177, subd. 12). Decertification of a TIF district means that the district has been terminated because the county auditor has removed all remaining parcels from the district, which in turn means that there will be no more tax increment to distribute. *See* Laws 1998, ch. 389, art. 11, sec. 1 (enacting Minn. Stat. § 469.174, subd. 28).

Third, the TIF laws provide that a TIF authority that "includes or retains a parcel of property in a tax increment financing district that does not qualify for inclusion or retention within the district, . . . must pay to the county auditor an amount of money equal to the increment collected from the property for the year or years." Minn. Stat. § 469.1771, subd. 2. Thus, the TIF authority will be in violation of the law if it continues to receive tax increment from a TIF district after it should have been decertified, and any money that the TIF authority ultimately returns to the county is most appropriately considered a penalty payment under Minn. Stat. § 469.1771, subd. 2. If a TIF authority receives a notice of noncompliance for receiving increment beyond the statutory maximum duration of a district and delays making this penalty payment to the county auditor beyond 60 days after receipt of the noncompliance notice, the municipality which approved the TIF plan will lose its share of the county auditor's redistribution of the payment. *See* Laws 1998, ch. 389, art. 11, sec. 9 (amending Minn. Stat. § 469.1771, subd. 5). Finally, the potential for error, delay, and disagreement increases if increment is paid to a TIF authority only to have the TIF authority pay an equal amount of money back to the county.

A county auditor should only distribute tax increment from a TIF district that has or should have been decertified if 1) after decertification, the county collects property taxes that were delinquent when the TIF district was decertified from a parcel that was in the TIF district when the district was decertified and 2) certain statutory conditions are met. A TIF authority is entitled to receive tax increment from delinquent property taxes collected after a TIF district has reached its duration limit or been decertified only to the extent that the TIF district's bonds or contractual obligations went unpaid or were paid from a source other than tax increment because the property taxes were not paid when due. *See* Minn. Stat. § 469.176, subd. 1f. A county auditor should require a TIF authority to provide documentation that these statutory conditions have occurred before distributing any post-decertification, delinquent tax increment to the TIF authority.

If you have questions regarding TIF Memorandum #8 or any other TIF issue, please contact the OSA's TIF Division at (651) 296-9255.

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Appendix H

Appendix H

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# Other Related DTED Publications

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# MINNESOTA SMALL BUSINESS ASSISTANCE OFFICE Publications List - January 1999

#### A Guide to Starting a Business in Minnesota

A discussion of many of the major issues faced by persons planning to start a new business in Minnesota. Topics include: choosing a form of organization; business name filing information; business licenses and permits; business plans; financing; issues for employers; an orientation to business taxes; small business resources, and other topics. Updated annually.

#### An Employer's Guide to Employment Law Issues in Minnesota

A collaborative effort of the Minnesota Small Business Assistance Office and the law firm of Lindquist & Vennum, this guide is designed to alert Minnesota employers to issues which commonly arise in the employment relationship. Material includes employee hiring, ongoing workplace practices, and discharge. (Sixth Ed., July 1998)

#### An Employer's Guide to Employee Handbooks in Minnesota

A joint publication of the Minnesota Small Business Assistance Office and the law firm of Rider, Bennett, Egan & Arundel, L.L.P., this booklet discusses some of the major issues associated with the development of employee handbooks, including handbook functions, the concept of "at will" employment, and determining appropriate handbook provisions. The booklet provides drafting and implementation tips and illustrative examples. (Third Ed., January 1997)

## \_Incorporating and Operating a Minnesota Business Corporation

A joint publication of the Minnesota Small Business Assistance Office and the law firm of Rider, Bennett, Egan & Arundel, LLP. This publication is intended to help shareholders, directors and officers of new Minnesota corporations identify and address various post-incorporation operational issues. (Third Ed., January 1998)

#### A Manufacturer's Guide to Product Liability Law in Minnesota

This publication is a collaborative effort of the Minnesota Small Business Assistance Office and the law firm of Popham, Haik, Schnobrich & Kaufman, Ltd. It is intended to provide manufacturers with a basic overview of the law of product liability in Minnesota and covers the theories of liability that can be employed against product makers, the methods by which damages are measured, and basic information on evidence and jurisdiction. (Second Ed., June 1996)

#### A Guide to Intellectual Property Protection

This joint publication of the Minnesota Small Business Assistance Office and the law firm of Merchant, Gould, Edell, Welter and Schmidt, P.A., is a primer on the protection afforded intellectual property by patents, copyrights and trademarks. It serves as a plain language introduction to the intellectual property protection process and as a guide to identifying issues before consulting counsel.

(Eighth Ed., June 1996)

### Doing Business in the United Kingdom

A joint publication of the Minnesota Small Business Assistance Office and the law firm of Doherty, Rumble & Butler Professional Association. Its purpose is to provide U.S. business persons with an overview of the major legal, business and other considerations involved in conducting business activities in the United Kingdom. (April 1998)

#### An Introduction to Franchising

A collaborative effort of the Minnesota Small Business Assistance Office and the law firm of Briggs and Morgan, P.A. This publication provides a realistic discussion of the practical business, legal and procedural considerations involved in the establishment, marketing and operation of a franchise. (Second Ed., September 1998)

#### A Legal Guide for the Software Developer

This booklet, prepared jointly by the Minnesota Small Business Assistance Office and Merchant, Gould, Smith, Edell, Welter & Schmidt, P.A., is written for the inventor, creator or developer of software and addresses the complexities of intellectual property protection of software. Included is a discussion of protection of patents, copyrights, trade secrets, trademarks, and acquisition of rights in software and distribution of software. Also included is an overview of protection of software internationally. (Fifth Ed., April 1996)

## \_Raising Capital: Securities Law and Other Considerations -An Entrepreneur's Guide

A collaborative effort of the Minnesota Small Business Assistance Office and the law firm of Oppenheimer Wolff & Donnelly, this guide provides an overview of securities law considerations involved in raising capital. (Third Ed., March 1997)

#### Doing Business in the European Union

Prepared with the law firm of Faegre & Benson, P.L.L.P., this publication is designed to assist Minnesota businesses as they formulate plans for their companies' international operations in Europe. (Second Ed., March 1995)

#### Advertising Law Primer

This publication is a brief overview of some of the most frequently occurring issues in advertising and product labeling. It is a joint publication of the Minnesota Small Business Assistance Office and the law firm of Merchant, Gould, Smith, Edell, Welter and Schmidt, P.A. (May 1995)

#### An Employer's Guide to Employee Stock Ownership Plans

A joint publication of the Minnesota Small Business Assistance Office and the law firm of Winthrop & Weinstine, P.A., this guide discusses the establishment of an Employee Stock Ownership Plan (ESOP), certain operational aspects of ESOPs, such as administrative concerns, leveraged ESOPs, and the uses of ESOPs. (Second Ed., January 1998)

**Small Business Notes** (Available on the Web at www.dted.state.mn.us/news/sbn/sbn.html) A serial publication directed toward attorneys, accountants and others who counsel small businesses. It presents a brief overview of recent trends, developments and issues affecting small businesses.

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# **Other DTED Publications**

These publications are produced by the Department of Trade and Economic Development.

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- Minnesota Living
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## **Business and Economic Development**

- *Economic Development Strategy brochure*
- Minnesota ... A Great State for Business brochure
- Economic Development Authority Handbook
- Tax Increment Financing Handbook
- Positively Minnesota
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- Minnesota's Computer and Electronic Components Industry: A Review of Key Location Factors
- Minnesota's Printing and Publishing Industry Study
- Minnesota Quarterly Business Expansion Report
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# **International Trade**

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