**TOWN**

**TAX INCREMENT FINANCING**

**LEGAL COMPLIANCE MANUAL**

**TAX INCREMENT FINANCING**

Introduction

Tax increment financing (TIF) is a financing tool created to promote economic development, redevelopment, and housing in areas where it would not otherwise occur. Urban towns, described in Minn. Stat. § 368.01, that undertake development projects pursuant to Minn. Stat. §§ 469.152-.165 may be TIF authorities. *See* Minn. Stat. § 469.174, subd. 2. The TIF authority creates, and the municipality approves the establishment of, the TIF district. The county auditor certifies a TIF district and determines the original net tax capacity.

The authority captures the property tax revenues generated by the increase in net tax capacity resulting from the new development and uses this increase in property tax revenues, (the tax increments), to finance qualifying expenditures related to the new development. These qualifying expenditures generally relate to acquisition, clean up, and preparation of the site for construction. Each TIF district has a term of years depending on the type of district. Once the costs are paid and the TIF district is decertified, the tax base becomes fully available to the county, city, and school district for financing local services.

The Office of the State Auditor (OSA) prepares Statements of Position to provide an educational resource to local governments, auditors and the public. Statements of Position on Tax Increment Financing topics are available on the Office of the State Auditor website. *See* <https://www.osa.state.mn.us/training-guidance/guidance/statements-of-position/>.

Auditors should determine whether any special laws applicable to the municipality or authority affect the general legal standards related to tax increment financing. Special laws are common with TIF, and are found in Table 1 of Minnesota Statutes.

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| **Part I. Segregation/Tax Increment Revenues** | | | | | | | | | | |
| § 469.174, subd. 25 | | | Note**:** Tax increment includes: | | | | |  |  |  |
|  | | | 1. | | Taxes paid by the captured net tax capacity (which include tax increment settlement distributions from the county auditor and any reimbursements of the TIF share of property tax credits that might be paid by the state or the county), but excluding any excess taxes, as computed under section 469.177; | | |  |  |  |
|  | | | 2. | | The proceeds from the sale or lease of property, tangible or intangible, to the extent the property was purchased by the authority with tax increments received after June 30, 1997; | | |  |  |  |
|  | | | 3. | | Principal and interest received on loans or other advances made by the authority with increments after June 30, 1997; | | |  |  |  |
|  | | | 4. | | Interest or other investment earnings on or from tax or from tax increments received after July 1, 1997; and | | |  |  |  |
|  | | | 5. | | Repayments or return of tax increments made to the authority under agreements for districts for which the request for certification was made after August 1, 1993. | | |  |  |  |
| § 469.177, subd. 5 | | | Did the authority segregate tax increment from this district in a special account or accounts on its official books and records, or segregate it as otherwise established by resolution to be held by a trustee for the benefit of bondholders? | | | | |  |  |  |
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| **Part II. Interfund Loans** | | | | | | | | | | |
| § 469.178, subd. 7 | | | Note**:** An authority or municipality may advance or loan money to finance TIF expenditures from "its General Fund or any fund under which it has legal authority to do so.” | | | | |  | | |
| § 469.178, subd. 7 | | | For interfund loans made after July 31, 2001, to finance TIF eligible expenditures, was the loan or advance authorized by resolution no later than 60 days after the money was first transferred, advanced, or spent? | | | | |  |  |  |
| § 469.178, subd. 7 | | | Are the terms and conditions for repayment of the loan in writing, and do they include, at a minimum, the principal amount, the interest rate, and the maximum term? | | | | |  |  |  |
| § 469.178, subd. 7 | | | Does the interest rate on the loan or advance not exceed the greater of the rates specified under section 270C.40 or 549.09? | | | | |  |  |  |
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| **Part III. Four-Year Knock Down Rule** | | | | | | | | | | |
| § 469.176, subd. 6 | | | Note**:** If, after four years from the date of certification of the original net tax capacity of the district, no demolition, rehabilitation, or renovation of property or other site preparation, including qualified improvement of a street adjacent to a parcel but not installation of utility service including sewer and water systems, has commenced on a parcel in the district, no additional increment may be taken from that parcel, and the original net tax capacity of that parcel shall be excluded from the original net tax capacity of the district. | | | | |  |  |  |
| § 469.176, subd. 6 | | | Did the TIF authority submit to the county auditor, by February 1 of the fifth year following the year in which the parcel was certified, evidence that the required activity has taken place on each parcel in the district? | | | | |  |  |  |
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| **Part IV. Decertification** | | | | | | | | | | |
| § 469.177, subd. 12 | | A. | | Was this TIF district decertified when the earliest of the following times was reached: | | |  | |  |  |
|  | |  | | 1. | | The applicable statutory maximum duration limit under Minn. Stat. § 469.176, subdivisions 1b to 1g; |  | |  |  |
| § 469.176, subd. 1 | |  | | 2. | | a shorter maximum duration limit if provided in the TIF plan; |  | |  |  |
| § 469.1763, subd. 4 | |  | | 3. | | when the in-district share of tax increment revenues that have been collected through the end of the calendar year equals or exceed an amount sufficient to pay in-district costs and obligations; or when any deferral ends, as described under the Six-Year Rule; or |  | |  |  |
| § 469.177, subd. 12 | |  | | 4. | | upon the later of receipt by the county auditor of a written request for decertification from the authority or the decertification date specified in the request? |  | |  |  |
|  | | B | | Did the authority file a confirmation of decertified TIF district form with its county auditor and transmit a completed form to the OSA? | | |  | |  |  |
|  | | C. | | Did the authority not receive any tax increment revenues from the county auditor following decertification of the district (except delinquent tax increment as permitted by section 469.176, subd. 1f), or did the authority return any increments received after decertification (per section 469.1763, subd. 4(g)(4))? | | |  | |  |  |
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| **Part V. Audit Conclusion** | | | | | | | | | |
| The auditor must state a conclusion--based on this questionnaire and any other audit procedures performed--whether the client has complied with the legal provisions reviewed relating to Tax Increment Financing.  Conclusion: | | | | | | | | | |
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