

TIF ADMINISTRATION FOR AUTHORITY STAFF

JULY 20, 2022



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OVERVIEW

- What's New? (legislative updates 2021 and 2022)
- Laws and Limitations (creation process, laws and limitations)
- Administration of TIF (compliance and reporting)



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SECTION ONE

What's New?



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LEGISLATIVE UPDATES 2021

- TIF changes enacted in 2021:
 - New Temporary Authority to Transfer Increments
 - Additional Pooling for Housing expanded to owner-occupied housing
 - Five-Year Rule extension for certain districts
 - Six-Year Rule extension for certain districts



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LEGISLATIVE UPDATES 2022

- There aren't any (unfortunately)
- Possible Changes in 2023:
 - Pooling laws changes (annual limit removal, others recrafted)
 - Administrative expense definition rewritten and limit partially loosened
 - Violation statute (technical) clarifications



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SECTION TWO

Laws and Limitations



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CREATION PROCESS



APPROVAL PROCESS

- Municipality approval required (vs. authority)
- Public hearing required
- Notice published 10-30 days prior
- Notice must include map of district and project areas



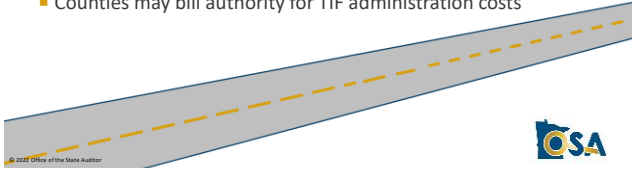
COUNTY & SCHOOL DISTRICT IMPACTS

- Must provide county auditor and school board clerk with:
 - Proposed TIF plan
 - Estimate of fiscal and economic implications
 - Increment to be generated; shares attributable to county and school district levies
 - Impact on city services, infrastructure, and debt issuance
 - Additional info requested by county/SD on size, timing, type of development
- Must notify, offer to meet with, affected county commissioner (housing/redevelopment districts only)







COUNTY & SCHOOL DISTRICT IMPACTS

- Counties may require inclusion of county road costs in TIF Plan
- Counties may bill authority for TIF administration costs



IMPORTANT DATES

- Approval Date**
(Election to delay, prior planned improvements, some durations) 
- Certification Request Date (CRD)**
(Original NTC and exempt determinations, effective dates for many provisions, parcels not includable, small city and qualified disaster area determinations, and more) 
- Certification Date**
(Four-Year Rule, Five-Year Rule, Six-Year Rule, prohibition on enlargements, disclosure and financial reporting requirements, parcel definition, ONTC adjustment provisions) 
- Receipt of First Increment**
(Durations) 
- Required Decertification Date (RDD)**



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TAX INCREMENT

- Tax increment = tax paid on captured value (including credits)*
- Related revenues are also defined as "increment"***
 - Sales or lease proceeds from property purchased with increment
 - Interest / investment earnings on increments
 - Principal and interest received on loans/advances of increment
 - Repayments under agreements
- Must be segregated

*Excludes excess taxes

**Certain limits do not include these expanded revenues



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BONDS

- TIF Act defines “bonds” to include “other obligations”:

 - Refunding bonds
 - Notes (including PAYG notes)
 - Interim certificates
 - Debentures
 - Interfund loans



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GENERAL RULE

- Tax increment must be used:
 - In accordance with the TIF plan
 - To pay bonds and achieve the purposes of the underlying development acts



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DURATION LIMITS

- Maximum statutory duration limits:

Redevelopment	26 years
Housing	26 years
Economic Development	9 years
Renewal & Renovation	16 years
Soils Condition	21 years
- May specify a shorter duration limit in TIF plan
- Early decertification may be required (and is an option)



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ADMINISTRATIVE EXPENSE LIMIT

- Administrative expenses are limited to 10% of the lesser of:
 - Total estimated TIF expenditures authorized in TIF plan*
 - Total tax increments paid on captured value
- Evaluated at district's end
- Must be documented, not just retained

*Substitute total TIF expenditures for the project for districts prior to 8/1/2001

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EXCESS INCREMENTS

- Increment that exceeds what is needed to pay current costs authorized by the TIF plan (not paid by other sources) must be returned or used to prepay outstanding bonds
- Must be determined annually based on current TIF plan
- Must be returned/used by September 30th

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POOLING LIMITS

- Pooling = use of increment outside the TIF district but within the project area (includes administrative costs)
- Overall pooling limits*
 - Redevelopment districts: 25% of tax increment**
 - All other districts: 20% of tax increment**
- Evaluated at district's end

*Limits differ for districts prior to 7/1/1995
**Does not include the expanded revenues defined as increment

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POOLING LIMITS

- 10% additional pooling for certain housing (“2d pooling”)
 - Must be elected in the TIF plan
 - Activities need not be located in the project area
 - Permitted notwithstanding the district type limitations
 - For housing that meets certain federal IRC requirements or for owner-occupied housing meeting income limits
 - If all pooling is for this housing, admin costs may be treated as in-district



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FIVE-YEAR RULE

- Five-Year Rule adds a timing element to what are considered “in-district” or “out-district” expenditures*
- Increment use is considered in-district when:
 - Spent within 5 years of certification
 - Used to pay bonds and obligations that financed costs incurred within 5 years of certification
 - Spent for certain housing purposes
- New uses after 5 years are “out-district” (even if located in district)

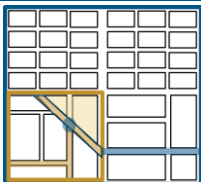


*Five-year period is 8 or 10 years for some districts



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FIVE-YEAR RULE



Example:

- Year 1: Acquisition/demo **IN-DISTRICT**
- Year 2: Utility/road work **IN-DISTRICT**
- Year 2: Utility/road work **OUT-DIST/POOLING**
- Year 7: Traffic signal **OUT-DIST/POOLING**
Based on timing, not location

Project Area
TIF District



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SIX-YEAR RULE

- Starting in 6th year, in-district percentage of increments are restricted from pooling
- Early decertification is required when:
 - Outstanding bonds have been defeased, and
 - Sufficient money has been set aside to pay in-district obligations
- In other words, district cannot stay open to fund out-district activities (i.e. cannot opportunistically find new costs to cover)



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SIX-YEAR RULE

Example:

- Redevelopment district thru year 6:
 - \$480K total increments received
 - \$420K spent in-district, \$10K spent out-district, \$50K balance on hand
- In year 7, district receives \$80K (In-district % = \$60K is restricted)
- New traffic signal = \$100K (fits within overall limit)
- But purchase in Year 7 would require \$30K of the in-district share of Year 7 increments, which is not allowed



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EARLY DECERTIFICATION

Decertifications 2016-2020

District Type (Max Duration)	Decertified Districts	Lasted Full Duration	Decertified Early	
			%	Average Years
Redevelopment (26 years)	200	30%	70%	10
Housing (26 years)	117	22%	78%	10
Economic Development (9 years)	131	63%	37%	4
Renewal & Renovation (16 years)	6	100%	0%	0
Soils Condition (21 years)	1	0%	100%	6



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FOUR-YEAR KNOCKDOWN RULE

- If no activity commences on a parcel after 4 years, it must be knocked down (i.e. no longer produce increment)
- Activity = demolition, rehab, renovation, site prep
 - Includes qualified street improvements (new/relocated/rebuilt)
 - Excludes installation of utility service
- Can recertify parcels if activity subsequently commences (but original value is reset)



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PROHIBITED USES / PARCELS

- General government use prohibited (cannot use to circumvent levy limits or for government buildings)
- Cannot use for common areas used as a public park, nor for social, recreational, or conference facilities)*
- Cannot include parcels that recently benefited from various property tax programs that protect land from development** (Green Acres, Open Space, Rural Preserve, Metro Agricultural Preserve)

*Parking structures and private conference facilities are not prohibited

**Exception made for housing districts and qualified manufacturing/dist. facilities



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INTERFUND LOANS

- Must be authorized by resolution*
- Terms must be documented in writing
- Maximum interest rates apply
- Must be properly reported in annual TIF reporting to the OSA

*Grandfather provisions apply to loans before August 1, 2001



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DISTRICT TYPE LIMITATIONS

- **Redevelopment Districts**
 - 90% of increment must be used to correct blight conditions
- **Renewal & Renovation Districts**
 - 90% of increment must be used to correct blight conditions
- **Soils Condition Districts**
 - Increment may only be used for acquisition, remediation, and administrative costs



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DISTRICT TYPE LIMITATIONS

- **Economic Development Districts**
 - Increment may not assist developments if more than 15% of buildings and facilities (by square footage) are for purposes other than:
 - Manufacturing
 - Warehousing, storage, distribution (excluding retail sales)
 - Research and development
 - Telemarketing
 - Tourism facilities
 - Workforce housing projects
 - Small city exception allows assistance of limited commercial facilities but increment may only pay in-district activities for the facility and administrative costs (no pooling)



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DISTRICT TYPE LIMITATIONS

- **Housing Districts**
 - Increment must be used solely to finance housing projects
 - Nonresidential uses cannot exceed 20% of square footage
 - Must meet income requirements:
 - Owner-Occupied: Initial purchaser/occupant (95% are ≤ 115% of the > of area or state median income)
 - Rental: Ongoing (20% are ≤50% OR 40% are ≤60% of area median income)
 - MHFA Challenge Program limits may substitute
 - Authorities must be able to document compliance
 - Owner: tax returns, W-2s, paystubs, mortgage loan apps, employer verification
 - Rental: MHFA forms, IRS Form 8703, other verifications



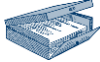
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DECERTIFICATION

- Decertification is the termination of a TIF district
 - County auditor removes all remaining parcels
 - Ends collection of increment



- Reporting must continue until revenue is spent or returned



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DECERTIFICATION

- County auditor must decertify upon...

- Maximum statutory duration limit
- Earlier duration limit specified in TIF plan
- Completion of actions under Six-Year Rule
- Written request by the authority (receipt or date specified)



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DECERTIFICATION

- Do not confuse expected vs. actual duration limits
- Full payable-year increments for year decertification are distributed*
- Delinquent taxes paid after decertification are not increment unless:
 - Nonpayment caused obligations to go unpaid or be paid from other sources
 - Sufficient info provided to county auditor

*Includes January settlements. Partial-year distributions occurred in the past for duration limits based on approval date.



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RECORDS & FUNDS

- Segregate funds (required by law!)
 - Do NOT deposit increment in the General Fund
 - Use separate funds, accounting codes, spreadsheets, files



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RECORDS & FUNDS

- Document expenditures / loans
 - Administrative expenses
 - Developer expenses for PAYG reimbursements
 - Interfund loans terms in writing



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RECORDS & FUNDS

- Retain records
 - Creation documents: 10 years after expiration of district
 - Financial records: 10 years (6 years if certain criteria met)



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TRACK LIMITS

- Administrative expense limit
- Duration limit (statutory and Six-Year Rule)
- Spending within TIF plan estimates

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TRACK IN-DISTRICT & OUT-DISTRICT ACTIVITY

- Out-district spending = “pooling”
- Identify/track the in-district and out-district shares of increments
- Understand Five-Year Rule (“in” is “out” after 5 years)
- Understand/monitor Six-Year Rule
 - Extra annual limit
 - Decertification requirement
- Monitor overall limit (20% or 25%; +10% for housing?)



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OTHER ACTIVITIES

- Return (or appropriately use) excess increment by **September 30th**
- Send county evidence of parcel activity (by Feb. 1 of 5th year) for the Four-Year Rule
- Respond to OSA inquiries

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REVIEW PLANS AND AGREEMENTS

- Review TIF plans regularly
 - Stay within estimates
 - Identify necessary/possible changes
- Review pay-as-you-go (PAYG) agreements regularly
 - Avoid overpayments
 - Identify possible defaults
 - Identify prepayment opportunities



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REVIEW PLANS AND AGREEMENTS

- Monitor bond payment schedules
- Review interfund loan terms/opportunities regularly
 - Check interest rate limits
 - Make payments when appropriate



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State Auditor's Form Entry System (SAFES)

- In SAFES: Plan Collection Form (new or modification), Annual Reporting Form, Pooled Debt Form
- Request access by emailing tif@osa.state.mn.us
- Consultants must complete the SAFES Authorization Form



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CONSIDER IMPLICATIONS

- TIF captures tax base; Early decertification has merits
- Returning unneeded increment has merits
- Consider...
 - Authority's share of returned increment is free of TIF restrictions
 - Tax base benefits are delayed as long as TIF district is active
 - Increments are essentially attributable to county, school, and other taxing district's rates/base



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