



REBECCA OTTO
STATE AUDITOR

STATE OF MINNESOTA

OFFICE OF THE STATE AUDITOR

SUITE 500
525 PARK STREET
SAINT PAUL, MN 55103-2139

(651) 296-2551 (Voice)
(651) 296-4755 (Fax)
state.auditor@state.mn.us (E-mail)
1-800-627-3529 (Relay Service)

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Article for *Minnesota Counties*

Tax Increment: A Revenue Source for Counties

By Rebecca Otto, State Auditor

If your county is in need of additional sources of revenue, don't overlook the possibility of obtaining revenue from tax increment. The Tax Increment Financing (TIF) Act permits counties to seek reimbursement from tax increment for two specific types of expenditures: administrative expenses, including expenses related to the correction of TIF errors, and county road improvements.

Reimbursement for TIF Administrative Expenses

Counties incur administrative costs whenever development authorities within a county's jurisdiction establish a TIF district. For counties with numerous development authorities within their jurisdiction, each having many TIF districts, the cost of administering the county responsibilities under the TIF Act can be substantial.

Tax increment revenues generated from these TIF districts can be used to reimburse county administrative costs and may be used to pay for actual county administrative expenses for county auditor services required under the TIF Act. Qualifying county administrative expenses include the cost of staff time.

The amount of administrative payments to be made to the county need not be calculated or identified prior to the adoption of the TIF plan for a district. In addition, county administrative expenses are not included when determining the ten percent administrative expense limitation found in the TIF Act.

To obtain payment of county administrative expenses, the county auditor must submit to a development authority documented evidence of costs incurred by the county auditor for the administration of each of the authority's TIF districts. The county will then receive payment for these expenses from the authority by February 15 of the year after the year in which the expenses were incurred.

What We Learned From County Auditors

County auditors were asked in an informal 2008 survey conducted by the Office of the State Auditor (OSA) whether they charged development authorities for their county TIF administrative

expenses. Fifty-nine of the eighty-seven counties responding stated that they did not charge an administrative fee, with four counties who were not charging TIF administrative fees reporting no active TIF districts in their counties.

Of the twenty-eight counties that did charge a county administrative fee, counties tended to charge a flat fee per district for setting up and maintaining a TIF district account. Some counties charged both a flat fee for the district and a separate fee for the number of parcels in the district. The OSA survey identified that TIF administrative costs of counties were broken down primarily into four categories:

1. *Set-up of District Account.* After a municipality approves the establishment of a TIF district, the development authority for the municipality requests the county to certify the district. Substantial staff time may be spent identifying the parcels to be included in the district and their values, particularly if re-platting is involved. The county auditor then sets up an account for that district and submits a certificate to the development authority/municipality stating the Original Net Tax Capacity (ONTC) of the district, the local tax rate that will apply, and the date the county certified the district.
2. *Annual Maintenance.* Each year the county auditor revisits the ONTC of the parcels in the district to determine whether there is an increase or decrease in value as a result of property reclassification, change in tax-exempt/taxable status, legislative changes, or prior planned improvements. The auditor also certifies the amount of the captured net tax capacity to the authority each year, together with the proportion that captured net tax capacity bears to the total within the TIF district.

If a municipality modifies a TIF plan for a district pursuant to a public hearing, the authority must notify the county auditor of any modification that reduces or enlarges the geographic area of a district or project area. The auditor calculates the ONTC for parcels added and deletes parcels as requested.

3. *4-Year Knockdown.* The county auditor is the enforcer of the 4-Year Knockdown Rule. If, after four years from the date of certification of the TIF district, no demolition, no rehabilitation, no renovation of the property or other site preparation has commenced on a parcel in a TIF district, the parcel is to be excluded from the ONTC of the district. Evidence that site preparation has commenced must be submitted by the development authority by February 1 of the fifth year following the year in which the district was certified.

The OSA has found that many development authorities do not submit information on parcels in their districts to the county auditor as required by law and some counties are not aware of their responsibilities.

4. *Decertification of District.* The county auditor is to decertify the TIF district as and when required by the TIF plan or the TIF Act.

Reimbursement for Correction of Errors

In 2008, the Minnesota Legislature amended the TIF Act to permit counties to correct errors or

mistakes in any TIF district within the county no matter when it was certified or when the error occurred. Counties incur costs when correcting a TIF error. These costs, including the cost of staff time, are reimbursable TIF administrative expenses. The county auditor may correct an error by taking one or more of the following actions:

- The original tax capacity of affected parcels can be certified at the appropriate value for a later taxes-payable year, and the duration of the district can be extended to compensate.
- Affected parcels in the district can be recertified and the duration of the district can be extended to compensate.
- The original tax capacity rate for the district can be recertified or corrected.
- The tax rates of one or more of the taxing districts imposing taxes on the TIF district can be adjusted for one or more years to recoup revenues advanced by the county or other entity to replace reduced increments.
- Other appropriate action can be taken so the amount of increment compensates for or offsets any error or mistake. The action must correctly reflect application of the law.

At least 30 days before the county auditor exercises authority to correct an error, the county auditor must notify the development authority and the municipality, in writing, of the auditor's intent. The written notification must include supporting information describing the reason for the proposed correction. If the municipality or authority objects, the matter is then submitted to the Commissioner of Revenue, who consults with the OSA before making a decision or resolving the dispute.

Reimbursement for County Road Improvements

Counties may be reimbursed for certain county road improvements. If, for example, heavy trucks servicing a manufacturing facility located in a TIF district will cause increased wear and tear on county roads, the county may seek reimbursement from the tax increment generated from the TIF district for county road improvements.

A county board may require a development authority to pay all or a portion of such cost if the TIF plan contemplates construction that will, in the judgment of the county, substantially increase the use of county roads and the road improvements are not scheduled for construction within five years under the county capital improvement plan.

This provision of the TIF Act is not often used. When used, it is generally used for a manufacturing facility, such as an ethanol plant or particle-board plant, where a large volume of raw product is transported in heavy-tonnage trucks to the facility. County roads supporting this increased traffic may need to be upgraded and reinforced. The TIF Act, however, does not limit county road improvement reimbursements to county roads supporting manufacturing facilities. Counties are eligible for county road improvement reimbursements if the construction being financed with TIF will substantially increase the use of county roads. If a county elects to use increments to finance road improvements, the county must notify the authority and the municipality within 45 days of receiving the proposed TIF plan.

Reimbursements to counties from tax increment will not be a significant source of revenue. In tough economic times, however, reimbursements can help balance the budget.