Office of the State Auditor November 2012

TIF Division Newsletter

New Original Net Tax Capacity Adjustments

The 2012 Legislature amended the provisions for making adjustments to the original net tax capacity (ONTC) of a TIF District to address situations where adjustments may be necessary because properties begin or stop qualifying for an exclusion.[1] An exclusion is a partial exemption created by the legislature in statute for various policy purposes such as This Old House, Disabled Veterans, and the Homestead Market Value Exclusion. These legislative changes were a reaction to the 2011 enactment of the Homestead Market Value Exclusion which reduced current net tax capacities for qualifying properties. The amended statute had previously addressed value adjustments caused by changes in classification, changes in exempt/taxable status, and ceasing to qualify for value deferments, but was silent on exclusions.

Under the new law, county auditors must make a subtraction from the ONTC when property begins qualifying in whole or part for any exclusion (including the new Homestead Market Value Exclusion and previously existing exclusions). These subtractions to the ONTC will be effective beginning for taxes payable in 2013, but will also apply to parcels that became eligible for an exclusion in taxes payable in 2012. This means that subtractions to the ONTC will be made for parcels that began receiving the Homestead Market Value Exclusion for taxes payable in 2012.

The subtractions to the ONTC for the Homestead Market Value Exclusion are not based on the current value of the exclusion. The subtractions should be calculated based on the original values, not the current values.[2]

The new law requires increases to the ONTC when a property no longer qualifies for the Homestead Market Value Exclusion, but does not provide for an increase when other exclusions expire.

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[1] Laws of Minn. 2012, ch. 294, art. 2, sec. 39, amending Minn. Stat § 469.177, subd. 1.
[2] The Department of Revenue has provided guidance to county auditors on how to make these adjustments.

Inside this issue:

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It also requires increases to the ONTC when a property no longer qualifies for the Rural Preserve Property Tax Program, which was the only deferral program not already identified by the adjustment provision.

TIF Jobs Stimulus Program

The Jobs Stimulus Program temporarily allowed development authorities to help stimulate the economy by using tax increment to assist private development and create jobs. To do this an authority could have created a new economic development district with expanded authority,[3] or could have approved a spending plan and used available tax increment from existing districts.[4] For more information, see our Statement of Position entitled Jobs Stimulus Program – TIF.

While the opportunity to initiate use of this program has passed, please note that for those authorities that approved a spending plan to use tax increment from an existing district, the tax increment approved in the plan must be used by December 31, 2012.

Any authority that passed a spending plan for an existing TIF district must submit a copy of that plan to our office. If you did not, or are unsure if a plan was submitted, please contact our office at 651-296-4716 or e-mail TIF@osa.state.mn.us.

TIF Statements of Position can be accessed by going to our website at:

www.auditor.state.mn.us

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Correction of TIF Errors

The TIF Annual Reporting Form contains a place to identify whether the district has had a county correction of error. This is specifically in reference to the Correction of Errors Provision that was added to the TIF Act in 2008.[5] This amendment allows a county auditor to correct an error or mistake that may have occurred in a TIF district without having to seek special legislation.

The county auditor may correct an error by taking one or more of the following actions:[6]

1. Certify the original tax capacity of affected parcels at the appropriate value for a later taxes-payable year and extend the duration of the district, in whole or in part, to compensate;

2. Recertify the affected parcels and extend duration of the district, in whole or in part, to compensate;

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[3] Minn. Stat. § 469.176, subd. 4c (d).
[4] Minn. Stat. § 469.176, subd. 4m.
[5] Minn. Stat. § 469.177, subd. 13.
[6] Minn. Stat. § 469.177, subd. 13 (a) (1) through (5).

3. Recertify or correct the original tax capacity rate for the district;

4. Adjust the tax rates of one or more of the taxing districts imposing taxes in the TIF districts for one or more years to recoup amounts advanced by the county or other entity to the authority to replace the reduced increments; or

5. Take other appropriate action so that the amount of increment compensates for or offsets the error or mistake and correctly reflects application of the law.

The law requires that, at least 30 days before the county exercises its authority to correct an error, the county auditor must notify the development authority and the municipality in writing of the intent to do so. The auditor must also include supporting information to describe the reason for the proposed correction. If the municipality or authority objects before the end of the 30-day notification period, the matter is then submitted to the Commissioner of Revenue, who consults with the Office of the State Auditor before making a decision or resolving the dispute.[7]

The county auditor must notify the Commissioner of Revenue and the State Auditor of the correction.[8] For more information regarding correction of TIF errors, please see our Statement of Position entitled Correction of TIF Errors.

[7] Minn. Stat. § 469.177, subd. 13 (b).
[8] Minn. Stat. § 469.177, subd. 13 (c).

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