



## Statement of Position TIF Administrative Expenses

The Tax Increment Financing (TIF) Act defines “administrative expenses” or “administrative costs,” by identifying a non-exhaustive list of tax increment expenditures that are considered administrative expenditures and by also identifying certain expenditures that may not be regarded as administrative expenses.<sup>1</sup> An estimate of the amount of administrative expenses to be paid with tax increment revenues must be included in the TIF plan as part of the cost of a project.<sup>2</sup> The TIF Act limits the percentage of tax increment revenues that can be spent on administrative costs.<sup>3</sup> Administrative expenses are generally considered out-district, or “pooling” expenditures.<sup>4</sup>

### Administrative Expenses

Administrative expenses *include*, but are not limited to, documented expenditures of an authority or municipality for the following:

- Amounts paid for services provided by bond counsel, fiscal consultants, and economic development consultants;
- Allocated expenses and staff time of the authority or municipality for administering a project, including but not limited to preparing the tax increment financing plan, negotiating and preparing agreements, accounting for segregated funds of the district, preparing and submitting required reporting for the district, and reviewing and monitoring compliance with the TIF Act;
- Amounts paid to publish annual disclosures and provide notices required in the TIF Act;
- Amounts to provide for the usual and customary maintenance and operation of properties purchased with tax increments, including necessary reserves for repairs and the cost of any insurance;
- Amounts allocated or paid to prepare a development action response plan for a soils condition district or hazardous substance subdistrict; and

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<sup>1</sup> The TIF Act can be found at Minn. Stat. §§ 469.174 to 469.1794 inclusive, as amended. The definition of administrative expenses can be found at Minn. Stat. § 469.174, subd. 14.

<sup>2</sup> Minn. Stat. § 469.175, subd. 1(a) (5); see the Office of the State Auditor’s (OSA’s) Statement of Position entitled [TIF Plan Requirements](#).

<sup>3</sup> Minn. Stat. § 469.176, subd. 3; *but see* § 469.176, subd. 3(c) (Increments used to pay county administrative expenses are not subject to this percentage limitation.).

<sup>4</sup> Minn. Stat. § 469.1763, subd. 2(c) but note the exception where administrative expenses are considered in-district expenditures if the only other pooling is related to housing purposes described in Minn. Stat. § 469.1763, subd. 2(d). For information on pooling and pooling limits, see the OSA’s Statements of Position entitled [TIF Pooling](#) and [TIF Five-Year Rule and Six-Year Rule](#).

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- Amounts used to pay bonds, interfund loans, or other financial obligations to the extent those obligations were used to finance costs described in this list.<sup>5</sup>

Administrative expenses *do not include* the following:

- Amounts paid for the purchase of land or buildings;
- Amounts paid to contractors or others providing materials and services directly connected with the physical development of the real property in the project, including architectural and engineering services and materials and services for demolition, soil correction, and the construction and installation of public improvements;
- Relocation benefits paid to or services provided for persons residing or businesses located in the project;
- Amounts paid for property taxes or payments in lieu of taxes; and
- Amounts used to pay principal or interest on, fund a reserve for, or sell at a discount bonds issued pursuant to the TIF Act or other financial obligations to the extent those obligations were used to finance costs described in this list.<sup>6</sup>

This definition does not apply to administrative expenses of a county, which are discussed later in this document.

### **Administrative Expense Limitations**

The TIF Act sets a percentage limitation on administrative expenses that can be paid with tax increment revenues from any source. The percentage limitation has changed over the years, depending on the date on which certification was requested.<sup>7</sup> There is one exception to the limit, discussed herein under Limit Exception. The actual administrative expense limitation may not be known until the district is decertified or, for pre-August 2001 districts, when the project is complete.

For districts for which certification was requested before August 1, 2001, administrative expenses for a project cannot exceed ten percent of either 1) the “total estimated tax increment expenditures authorized by the tax increment financing plan” or 2) **the “total tax increment expenditures for the project”** net of certain returned increment, whichever is less.<sup>8</sup>

For districts for which certification was requested on or after August 1, 2001, administrative expenses for a project cannot exceed ten percent of either 1) the “total estimated tax increment expenditures authorized by the tax increment financing plan” or 2) **the “total tax increments... received for the district”** net of certain returned increment, whichever is less.<sup>9</sup>

*“Total estimated tax increment expenditures authorized by the tax increment plan”* (in both cases) means the total amount of the expenditures listed in the project costs included in the TIF plan.<sup>10</sup> An estimated total cost of the project authorized by the TIF plan may include administrative expenses and

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<sup>5</sup> Minn. Stat. § 469.174, subd. 14(a).

<sup>6</sup> Minn. Stat. § 469.174, subd. 14(b).

<sup>7</sup> See Attachment.

<sup>8</sup> Minn. Stat. § 469.176, subd. 3(a) (emphasis added).

<sup>9</sup> Minn. Stat. § 469.176, subd. 3(b) (emphasis added).

<sup>10</sup> See Minn. Stat. § 469.175, subd. 1(a) (5) (i).

interest. Interest is a financing cost that will be paid or financed with tax increments from the district.<sup>11</sup> Total estimated tax increment expenditures authorized in the TIF plan include any adjustments made in subsequent modifications of the TIF plan.<sup>12</sup>

*“Total tax increment expenditures for the project”* means the tax increment expenditures for the larger project, which might often be much greater than total TIF revenues for the district and could include expenditures from multiple TIF districts.

*“Total tax increments... received for the district”* means the total of the tax increment revenues generated by the captured net tax capacity and actually received from the county prior to decertification.<sup>13</sup> It does not include the proceeds from the sale or lease of property purchased by the authority with tax increments, interest and other investment earnings generated from tax increment revenues, and the principal and interest received on loans made with tax increments.

In both instances, whether using the “total tax increment expenditures for the project” for older districts, or “total tax increments...received for the district” for newer districts, those total amounts should be net of any amounts returned to the county auditor as:

- Excess increment,
- Returned increments distributed after the Six-Year Rule required decertification, or
- Remedies for the improper receipt of tax increment.

Netting these amounts ensures the limit is calculated without being inflated by amounts that should not be treated as expenditures or usable increment.

Note that (except as discussed under the Limit Exception), the limit for newer districts is set based on tax increment revenues generated by the captured net tax capacity (i.e. the increments distributed by the county and any TIF credit reimbursements), but it limits the expenditure of all types of tax increment to pay administrative expenses.

Administrative expenses are subject to the administrative expense limit even if they are not subject to the pooling limits because they meet the exception that allows them to be considered as expenditures for activities in the district under the pooling limit provisions.<sup>14</sup>

### **Limit Exception**

Expenditures for the usual and customary maintenance and operation of properties purchased with tax increments, including necessary reserves for repairs and the cost of any insurance, that are made using tax increment revenues from the sale or lease of properties purchased with tax increments are not subject to the limit.<sup>15</sup> Therefore, these expenditures should be deducted from total administrative expense expenditures before assessing whether the limit has been exceeded. The rationale for this exception is that lease proceeds from a property are the most appropriate source for financing its maintenance and operation costs, and such costs should not be unduly limited by nor limit other administrative costs.

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<sup>11</sup> Minn. Stat. § 469.175, subd. 1(a) (5). Although interest is a project cost to be paid with tax increment, it is a financing cost and cannot be interchanged with other line-item project costs.

<sup>12</sup> Minn. Stat. § 469.175, subd. 4.

<sup>13</sup> See Minn. Stat. § 469.174, subd. 25(1). Excess taxes are excluded. TIF credit reimbursements are included.

<sup>14</sup> See Minn. Stat. § 469.1763, subd. 2(c).

<sup>15</sup> Minn. Stat. § 469.176, subd. 3(d).

## Documentation

The authority must keep a record of the actual administrative costs incurred. It cannot simply retain ten percent of all tax increment revenues received for unspecified administrative expenses. The actual costs must be documented by the authority if they are to be paid with tax increment revenues. At a minimum, documentation for professional services, for example, should describe the service being provided and the number of hours involved.

## Administrative Expenses in the TIF Plan

If an authority's administrative expenses will be paid with tax increment revenues from the district, the expenses must be included in the estimated total "cost of the project" identified in the TIF plan.<sup>16</sup> The estimate of the total "cost of the project" plus the estimate of "interest as a financing cost" may not exceed the estimated tax increment to be generated by the development activity.<sup>17</sup>

## County Administrative Expenses

Tax increment revenues may be used to reimburse a county for expenses the county incurred for administrative services required by the TIF Act.<sup>18</sup> The amount of administrative payments to be made to the county is not required to be identified in the TIF plan for a district.<sup>19</sup> County administrative expenses are not included when determining the ten-percent administrative expense limitation.<sup>20</sup>

The county may require reimbursement of these expenses by February 15<sup>th</sup> after the year in which the expenses are incurred. To obtain reimbursement for administrative expenses, the county auditor must submit to the development authority a record of the costs incurred by the county auditor for the administration of the authority's TIF districts.<sup>21</sup>

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<sup>16</sup> Minn. Stat. § 469.175, subd. 1(a) (5). Before the 2009 Amendments to the TIF Act, it had been common for development authorities to list in TIF plans estimated total costs of a project, the total costs often being substantially more than the amount of tax increment to be generated by the development activities proposed for the district.

<sup>17</sup> Minn. Stat. § 469.175, subd. 1(a) (5) (i).

<sup>18</sup> Minn. Stat. § 469.176, subd. 4h(a).

<sup>19</sup> *Id.*

<sup>20</sup> Minn. Stat. § 469.176, subd. 3(c). They are also not included when determining the revenues and expenditures subject to pooling limits. *See* Minn. Stat. § 469.1763, subd. 2(a).

<sup>21</sup> Minn. Stat. § 469.176, subd. 4h(a).

**Attachment 1**

<b>Certification Request Date (CRD)</b>	<b>Administrative Expense Limitation</b>	<b>Statutory Cite</b>
Before August 1, 2001	The lesser of: <ul style="list-style-type: none"><li>▪ 10% of the total estimated tax increment expenditures authorized by the TIF plan, OR</li><li>▪ 10% of the total tax increment expenditures for the project net of any amounts returned to the county auditor as excess increment, as returns required by the Six-Year Rule, or as remedies for improperly received increment</li></ul>	Minn. Stat. § 469.176, subd. 3(a).
On or after August 1, 2001	The lesser of: <ul style="list-style-type: none"><li>▪ 10% of the total estimated tax increment expenditures authorized by the TIF plan, OR</li><li>▪ 10% of the total tax increments received from the county for the district net of any amounts returned to the county auditor as excess increment, as returns required by the Six-Year Rule, or as remedies for improperly received increment</li></ul>	Minn. Stat. § 469.176, subd. 3(b).