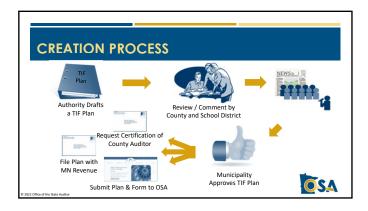


OVERVIEW	
Laws and Limitations (creation process, laws and limitations)	
 What's New? (legislative updates for 2023 and 2024) Administration of TIF (compliance and reporting) 	
- Administration of the (compliance and reporting)	
2.222.0 flory of the State Auditor	OSA





APPROVAL PROCESS	
 Municipality approval required (vs. authority) Public hearing required Notice published 10-30 days prior Must include map of district and project areas 	NEWS D. J. T.
	OSA

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)

2

COUNTY & SCHOOL DISTRICT IMPACTS
Counties may require inclusion of county road costs in TIF Plan
Counties may bill authority for TIF administration costs
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۱۸	APORTANT DATES
•	Approval Date (Election to delay, prior planned improvements, some durations)
١	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)
٠	Certification Date (Four-Year Rule, Five-Year Rule, Six-Year Rule, prohibition on enlargements, disclosure and financial reporting requirements, parcel definition, ONTC adjustment provisions)
١	Receipt of First Increment (Durations)
•	Required Decertification Date (RDD)

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

BONDS

- TIF Act defines "bonds" to include "other obligations":
 - Refunding bonds
 - Notes (including PAYG notes)
 - Interim certificates
 - Debentures
 - Interfund loans



GENERAL RULE

- Tax increment must be used:
 - In accordance with the TIF plan
 - To pay bonds
 - To finance or pay costs pursuant to the underlying development acts
 - To pay administrative expenses



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)



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
**Net of certain returned increment (a 2023 clarification)



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



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 and is net of certain returned increment



POOLING LIMITS

- 10% additional pooling for certain housing ("2d pooling")
- Must be elected in the TIF plan
- Activities may be outside 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 indistrict

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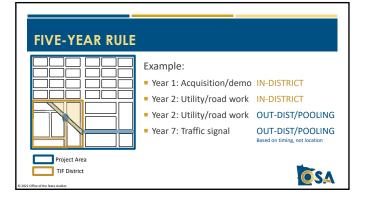
FIVE-YEAR RULE

- 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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SIX-Y	EAR	RULE	

- Early decertification requirement (changed in 2023)
- Parcel removal requirement (new in 2023)
- Prior annual restriction (eliminated in 2023)

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SIX-YEAR RULE

• Early decertification is required when:

In-district percentage x
Cumulative increment



Amount sufficient to pay indistrict costs/obligations excluding in-district PAYGs*

Decertification is deferred until the end of the term of an indistrict PAYG note

 $\ensuremath{^{*}}\xspace$ Includes accrued interest and admin when admin is in-district

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SIX-YEAR RULE

- Bond and Interfund Loans: Payable from the district's increment
- Pay-As-You-Go (PAYG) Notes: Payable only from increments from specific parcels as the taxes are paid each year
- Example if rule did not provide the exception for PAYG notes:
- Bond=\$100,000, Loan=\$20,000, PAYG = \$30,000 (\$150,000 total)
- Year 15: \$150,000 of in-district collected = decertify?
- Bond and Loan are paid off, but PAYG only \$20,000 paid so far and the available \$10,000 not owed on PAYG so decertication would leave noteholder short

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SIX-YEAR RULE

- Must remove all parcels that will no longer have their tax increment revenue pledge or subject to a PAYG note or other in-district obligation
- Removal requirement applies to districts with a request for certification date after May 25, 2023.
- For more Six-Year Rule info, see the following videos:
- The Six-Year Rule (19 minutes)
- How to Monitor the Six-Year Rule (20 minutes)
- Statement of Position "The Five-Year Rule and Six-Year Rule"



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Y DECERTIFICAT	ION			
Decertifica	tions 201	18-2022		
District Type	Decertified	Lasted Full	Decertified Early	
(Max Duration)	Districts	Duration	%	Average Years
Redevelopment (26 years)	169	21%	79%	
Housing (26 years)	115	23%	77%	
Economic Development (9 years)	146	61%	39%	
Renewal & Renovation (16 years)	8	75%	25%	
Soils Condition (21 years)	2	0%	100%	3

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



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

 ${}^{*}\text{Grandfather provisions apply to loans before August 1, 2001}$



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

 - TelemarketingTourism 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) OSA

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



DECERTIFICATION

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







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)







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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AND THERE'S MORE...

- There are additional details and topics not covered here
- Legal/professional advice is a good idea when using TIF



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SECTION TWO	
What's New?	
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LEGISLATIVE UPDATES 2023	
 See separate "2023 Changes to the TIF Act" webinar recording on our website for details 	

LEGISLATIVE UPDATES 2023

OSA-proposed changes in three areas:

Administrative expensesPooling lawsViolation statute

Other changes and special laws

- Administrative expenses:
 - Definition expanded to identify what is and is not an admin expense
 - Clarified that the usual and customary maintenance and operating costs of properties purchased with TIF are admin expenses
 - Created an exception from the admin limit for the portion of these costs paid with sales and lease proceeds
 - Clarified admin limit calculation with respect to returned increment



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LEGISLATIVE UPDATES 2023

- Pooling laws:
- Corrected the math of the deficit calculation in the pooling for deficits statute
- Clarifications to the pooling limit calculation for:
 - County admin & road costs
 - Returned increment
- Five-Year Rule language clarifications



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LEGISLATIVE UPDATES 2023

- Six-Year Rule:
 - Eliminated the extra annual pooling limit that began in year six
 - Clarified the decertification requirement, using a formula
 - Clarified treatment of PAYG obligations
 - Added a requirement to remove parcels
 - Grandfathered bonds for out-district costs
 - Clarified terms and calculations
 - Specified procedures and timing
 - Addressed availability of increment for 2(d) housing





LEGISLATIVE UPDATES 2023

- Violation statute:
 - Deleted an obsolete sentence in the provision for remedying improper receipt of increment
 - Simplified the language relating to withholding of increment for failing to report
 - Corrected/expanded a reference in the provision for remedying improper expenditure of increments



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LEGISLATIVE UPDATES 2023

- Other changes:
 - Definition of "pay-as-you-go contract and note" added
 - Minor reporting requirement change
 - Small cities parameter change
- Special laws:
 - Bloomington, Chatfield, Duluth, Fridley, Hopkins, Plymouth, Ramsey, Saint Paul, Savage, Shakopee, West Saint Paul, Woodbury



LEGISLATIVE UPDATES 2024

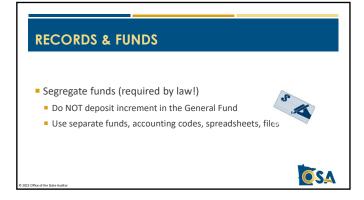
- None
- Topics that may be upcoming:
 - Blight criteria?
- Interfund loans clarifications?
- Decertified district limitations?
- Sales and lease proceed clarifications?
- 2021 Transfer Authority clarification?

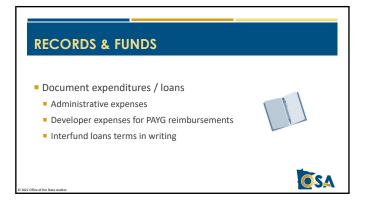
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Administration of TIF







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

TRACK IN-DISTRICT & OUT-DISTRICT ACTIVITY 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 Decertification requirement Parcel removal requirement Monitor overall limit (20% or 25%; +10% for housing?)

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

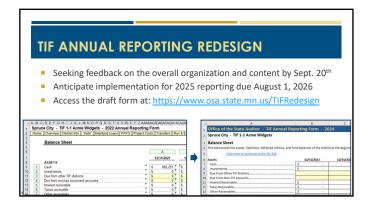
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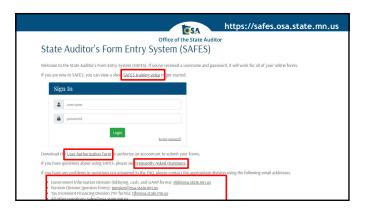
REVIEW PLANS AND AGREEMENTS

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





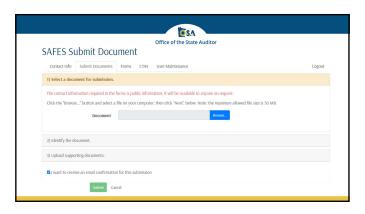




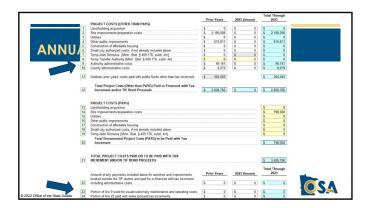
TIF PLANS AND MODIFICATIONS TIF Plans must be submitted to OSA within 60 days after the latest of: The filing of the request for certification of the TIF district; Approval of the plan by the municipality; or The adoption of the plan by the authority Modification needed whether administrative or via full approval process Attach related TIF Plan and supporting documents (Must be amalgamated into one document)

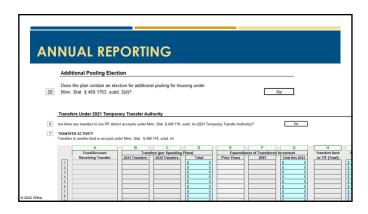
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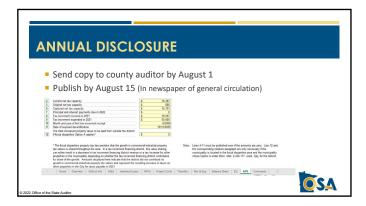


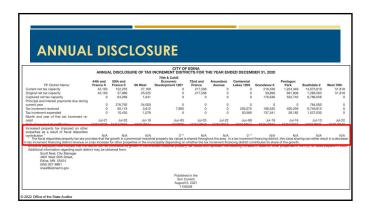


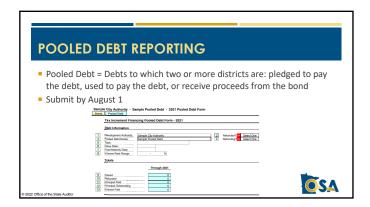


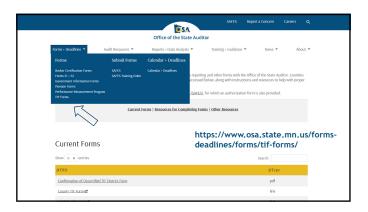














Decertication form Due to OSA as soon as possible after decertification Authority completes part A, County completes part B E-mail completed form to tif@osa.state.mn.us Provide resolution for early Provide resolution for early

decertification

Follow OSA information Weekly updates Articles Statements of position Training videos Webinars Watch for legislative changes TIF Act changes Property tax system changes Internal Revenue Code changes

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