



# NORTH DAKOTA OFFICE OF STATE TAX COMMISSIONER

## GUIDELINE - PROPERTY TAX: URBAN RENEWAL TAX INCREMENT FINANCING

### PURPOSE

To provide funds for payment of the cost of development or renewal of any development or renewal area, and for retirement of all bonds, notes, or other obligations issued by the municipality to pay that cost.

### REQUIREMENTS

1. The governing body of an incorporated city shall determine by resolution that the area is a slum or blighted area or consists of commercial or industrial property. "Blighted area" does not include any land that has been assessed as agricultural property within the last 10 years unless it was located within the interior boundaries of a city for at least 10 years.
2. Before granting a property tax incentive, anticipated to last more than five years, the governing body of the municipality, under North Dakota Century Code (N.D.C.C.) § 40-05-24, shall send the chairman of each county commission and president of each school district affected a certified letter providing notice of the terms for the proposed property tax incentive.

The affected county and school districts have 30 days from receipt of the certified letter to respond, in writing, if the entity will participate. If electing to not participate, the response must include a letter with explanation and whether the entity is willing to negotiate the terms of the incentive with the city. If the municipality does not receive a response from the affected county or school district the entity must be treated as participating in the property tax incentive.

3. Before approval of a development or renewal plan for any development or renewal area under N.D.C.C. § 40-58-20, the governing body of the municipality shall conduct a public hearing on the proposal. The governing body shall provide invitations to participate in the public hearing to the governing body of each county, school district, and park district within the development or renewal area.
4. The governing body of a municipality shall file an approved development or renewal plan for any development or renewal area with the Department of Commerce Division of Community Services.
5. If there is property within a renaissance zone that is included in a tax increment financing district, the city in which the property is located shall provide the Department of Commerce an annual report regarding any such property at the time requested. The report must identify the property, provide the expected duration of inclusion of the property in the tax increment financing district and the renaissance zone, and identify any property and income tax benefits of the property and the expected duration of those benefits. The Department of Commerce shall deliver an annual report compiling the required information to the legislative management interim committee on taxation issues or upon request of any other interim committee of the legislative management.

### PROCEDURES

1. At the request of a municipal governing body, the county auditor certifies the original taxable value as last assessed and equalized before the date of the request for each lot or parcel in a development or renewal area with an approved plan.
  - a. Property in the area acquired by the city or its urban renewal agency prior to July 1, 1973, is deemed to have an original taxable value of zero.

- b. Property in the area acquired by the city or its urban renewal agency more than five years prior to the approval of the development or renewal plan is deemed to have an original taxable value of zero.
  - c. Property in the area acquired by the city or its urban renewal agency which is not included in (a) or (b) above has an original taxable value as last assessed and equalized before it was acquired.
  - d. For a tax increment district established before July 1, 2011, the base year for tax increments computed for a development or renewal area under N.D.C.C. § 40-58-20 or 40-58-20.1 may not be used for more than 25 taxable years without the governing body of the municipality establishing a new base year using taxable values established as of February 1 of the following year, which are not more than 15 years old. Regardless of the length of the initial district, the new base year may be used to compute tax increments for up to an additional 15 years after which time the tax increment district must be closed, except that the original base year for tax increments pledged for an indebtedness incurred before July 1, 2011, may continue until the indebtedness is paid.
  - e. For a tax increment district established after July 1, 2011, the base year for tax increments computed for a development or renewal area under N.D.C.C. § 40-58-20 or 40-58-20.1 may not be used for more than 25 taxable years without the governing body of the municipality establishing a new base year using taxable values, established as of February 1 of the following year, which are not more than 15 years old. The new base year may be used to compute tax increments for up to an additional five years after which time the tax increment district must be closed.
2. The county auditor compares each subsequent year's taxable value of all the parcels in the area to the original taxable value and certifies the net amount of increase or decrease for that year. The net increase is the incremental value and the net decrease is the lost value.
  3. In a year when there is lost value, the county auditor applies the appropriate mill levies for each of the taxing districts to the lost value. The amount computed is called the tax losses for that year, to be repaid by future incremental taxes.
  4. In a year when there is incremental value, the incremental value is not included in the taxable value used to compute the mill rate of taxes levied in the development or renewal area. However, the county auditor extends the aggregate mill rate against the incremental value as well as the original taxable value.
  5. The amount of taxes generated by the incremental value is referred to as the tax increment for that year and is credited to a special fund.
  6. The county treasurer remits the tax increments in the fund to the state and each political subdivision that had a tax loss until all the tax losses have been reimbursed.
  7. After the tax losses of the taxing districts are fully paid, the tax increments in the special fund are remitted to the municipality to reimburse it for the development or renewal costs as defined in N.D.C.C. § 40-58-20(8)(9).
  8. After the municipality reports that the development or renewal costs have been paid or sufficient funds to retire the costs and obligations have been received, the county treasurer distributes any balance remaining in the tax increment fund to the state and political subdivisions in proportion to the tax losses previously reimbursed to them.
  9. The governing body of a municipality with an active tax increment financing district may at any time identify funds on hand that are in excess of the costs it determines necessary to complete the activities included in the last approved urban renewal plan for that district. The governing body shall cause the identified surplus to be transferred to the county treasurer to be distributed to the state and all political subdivisions having power to tax property in the area, in amounts proportionate to the most recent five-year average of the property tax levy within the district.

10. For each development or renewal plan for any development or renewal area under N.D.C.C. § 40-58-20 in existence at the end of a calendar year, the governing body of the municipality shall file an annual report with the Department of Commerce, by the following July 31, which is in a format prescribed by the department. The report must include:
  - a. The total of outstanding indebtedness.
  - b. The balance of funds on hand.
  - c. The name of the tax increment financing district.
11. When the development or renewal costs have been paid, the county auditor shall thereafter compute the mill rate of all taxes upon the total taxable value of the development or renewal area.
12. As an alternative to the sale of bonds to be amortized with tax increments, the governing body of a municipality may grant a total or partial tax exemption for the project.
  - a. The amount of annual tax exemption is limited to the increment as it applies to the project and may extend for no more than 15 years. The municipality must give due consideration to the same elements as are involved in the sale of bonds to be amortized by tax increments.
  - b. The amount to be reimbursed to the project developer by tax exemption is all or a portion of eligible public costs which have been paid by the developer plus interest on that amount at no more than 10% per annum.
  - c. The amount of tax exemption is to be an amount sufficient to reimburse the project operator for eligible costs amortized according to the agreement between the developer and the city.
  - d. Any developer receiving an exemption as an alternative to tax increment financing is not eligible for a new business exemption under N.D.C.C. Ch. 40-57.1.
- \*13. Once the tax increment financing district is paid off, or expires, all incremental value is counted as new growth for budgeting purposes.

\* Indicates significant change since last revised.