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Statement of Position TIF Interfund Loans

Tax increment financing (TIF) uses the increase in property taxes (tax increment) that is expected to result from new development or redevelopment to pay for at least part of that same development. Because development must occur before TIF revenues can be collected, debt is commonly incurred. A development authority or municipality may loan or advance money from its general fund or any other fund it has legal authority to use to finance new development.¹ Such an interfund loan or advance, defined as a “bond” in the TIF Act, can be repaid with tax increment if the loan meets the requirements of Minnesota statutes.² The requirements for a TIF interfund loan differ, depending on the date on which the interfund loan was made.

For TIF Interfund Loans Made On or After August 1, 2001:

Authorization

Before money is transferred, advanced, or spent, the loan or advance must be authorized by resolution of the municipality or the authority. The resolution may generally grant the authority the power to make interfund loans under one or more TIF plans or for one or more districts.

The terms and conditions for repayment of the interfund loan must be in writing if TIF revenues will be used to repay the loan or advance. The terms and conditions for repayment of the loan must include, at minimum, (i) the principal amount, (ii) the interest rate to be charged, and (iii) the maximum term. Evidence that a transfer of money has been made is not, by itself, sufficient written evidence.

Interest Rate

The maximum rate of interest that can be charged is limited to the annual rate charged by the Minnesota State courts or by the Minnesota Department of Revenue, whichever is greater.³

¹ Minn. Stat. § 469.178, subd. 7.

² Minn. Stat. § 469.174, subd. 3(a) (5); *see* § 469.1794, subd. 2(e) (iv) (defining a “qualifying obligation” to include an interfund loan). For qualifying TIF expenditures, *see* Minn. Stat. § 469.176, subd. 4.

³ Minn. Stat. §§ 469.178, subd. 7, 270C.40 and 549.09. *See* Attachment A for a chart showing the rates of interest charged by the State courts and by the Department of Revenue.

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This Statement of Position is not legal advice and is subject to revision.

The maximum interest rate is set as of the date a loan is authorized.⁴ The written terms and conditions, however, may allow the maximum interest rate to fluctuate with adjustments to the interest rates charged by the Minnesota State court or by the Department of Revenue.

A development authority or municipality may decide not to charge interest on an outstanding interfund loan obligation. If no interest is to be charged and the loan or advance is to be reimbursed with TIF revenues, the decision that no interest will be charged must be documented in writing.

For TIF Interfund Loans Made Before August 1, 2001:

In 2001, the Minnesota Legislature approved and ratified all existing TIF interfund loans made before August 1, 2001, subject to the restriction that the maximum interest rate accrued or paid cannot exceed the maximum interest rate charged for interfund loans made on or after August 1, 2001.

If there is no document specifying the principal amount of the loan made before August 1, 2001, the “principal amount of the loan or advance is limited to a maximum amount equal to the largest negative cash balance that existed at any time in the fund that received the undocumented loan or advance.”⁵

For All TIF Interfund Loans:

Assumption of Risk

The development authority or the municipality assumes the risk when an interfund loan is made. If the development does not occur or if the tax increment generated is insufficient to cover the principal payments on the interfund loan, the interfund loan will not be repaid.

⁴ Minn. Stat. § 469.178, subd. 7.

⁵ 2001 Minn. Laws, 1st Spec. Sess., ch. 5, art. 15, sec. 3.

TIF Interfund Loan Interest Rate Maximums⁶

State District Court	
Year	M.S. 549.09 Rate⁷
2016	4%
2015	4%
2014	4%
2013	4%
2012	4%
2011	4%
2010	4%
2009	4%
2008	4%
2007	5%
2006	4%
2005	4%
2004	4%
2003	4%
2002	2%

Department of Revenue	
Year	M.S. 270C.40 Rate⁸
2016	3%
2015	3%
2014	3%
2013	3%
2012	3%
2011	3%
2010	3%
2009	5%
2008	8%
2007	8%
2006	6%
2005	4%
2004	4%
2003	5%
2002	7%

⁶ See Minn. Stat. § 469.178, subd. 7 (limiting the maximum rate of interest to be charged to the greater of the rate specified in section 270C.40 or section 549.09).

⁷ Found at:

http://www.mncourts.gov/mncourtsgov/media/scao_library/2016-Interest-Rates-on-State-Court-Judgements-12-16-15.pdf.

⁸ Found at: http://www.revenue.state.mn.us/individuals/individ_income/Pages/Interest_Rates.aspx.