

# Tax Abatement

Tax abatement is a useful and flexible economic development tool. The term “tax abatement”, however, can be misleading. The enabling statute (Minnesota Statutes, Sections 469.1812 to 469.1815) does not authorize the actual abatement of taxes. Instead, local governments have the ability to levy a property tax (an abatement levy) that is equivalent to taxes that *could be* abated. The revenue derived from an abatement levy can be used for a variety of economic development, redevelopment, housing, and infrastructure purposes. Planning for specific projects should refer to the complete statute and utilize the guidance of a qualified financial advisor.

## Calculating the Abatement

A tax abatement is based on the property value of the parcel(s) subject to the abatement. The unit of government granting the abatement decides how much of the parcel value to use in the abatement calculation. The abatement may function like tax increment financing and be based on the value created by new development. Tax abatement may also use the entire value of the parcel or any portion of the parcel(s) value deemed appropriate by the governing body of the subdivision.

The statute does not control how political subdivisions determine the parcels that will be subject to tax abatement. Users have the flexibility to target individual parcels, parcels grouped into a common project, or a broader area of improvements.

The tax abatement is calculated by multiplying the tax capacity value subject to abatement by the abating jurisdiction’s tax rate. It is important to incorporate the tax abatement into the annual levy calculations. An abatement levy must be included in the preliminary levy for Truth in Taxation. This timing means that the actual property value will be known (value as of January 1 of the current year for taxes payable in the following year), but the tax rate will be an estimate.

The methodology for calculating the abatement should be clearly described in the resolution authorizing the abatement.

## Uses

The enabling statute contains relatively few limitations on the use of tax abatement. The revenues from the abatement levy can be retained by the political subdivision or conveyed to the property owner. When paid to the property owner the abatement acts like a tax rebate.

The only other specific use limitations in the statute relates to bond-funded activities. The proceeds of Tax Abatement Bonds can only be used to (1) pay for public improvements that benefit the property, (2) acquire and convey land or other property, as provided under this section, (3) reimburse the property owner for the cost of improvements made to the property, or (4) pay the costs of issuance of the bonds.

Minnesota local governments have made broad use of tax abatement. The following examples illustrate potential applications:



Please contact a Northland Public Finance professional with any questions about how Northland can serve your community.

**Troy Bernberg (CO)**

303-801-3386

tbernberg@northlandsecurities.com

**George Eilertson (MN)**

612-851-5906

geilertson@northlandsecurities.com

**Jessica Green (MN)**

612-851-5930

jgreen@northlandsecurities.com

**Jeff Heil (IA)**

641-750-5720

jheil@northlandsecurities.com

**Heidi Kuhl (IA)**

515-657-4684

hkuhl@northlandsecurities.com

**Peter Meidal (MN)**

612-851-4978

pmeidal@northlandsecurities.com

**Tammy Omdal (MN)**

612-851-4964

tomdal@northlandsecurities.com

**Chip Schultz (IA)**

515-657-4688

cschultz@northlandsecurities.com

**The Public Finance Group  
of Northland Securities, Inc.**

150 S. Fifth Street, Suite 3300  
Minneapolis, MN 55402

Phone: 612-851-5900 / Fax: 612-851-5918

[www.northlandsecurities.com/public-finance](http://www.northlandsecurities.com/public-finance)

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- Commercial, office, and other forms of development that do not fit the criteria for an economic development TIF district
- Redevelopment projects where the setting is economically obsolete, but not physically blighted.
- Public improvements that are difficult to finance with special assessments (i.e. - highway interchanges)
- Improvements, such as fiber optic systems, that cannot be financed with special assessments
- Recreational facilities and community centers
- Financial assistance to private parties made using tax abatement may create a business subsidy under State Law

## Key Limitations

Several important limitations apply to the use of tax abatement.

**Political Subdivisions.** The ability to use tax abatement is given to cities (statutory or home rule charter), towns, school districts, and counties. Each of these political subdivisions has independent authority over the use of tax abatement.

**Maximum Amount.** The total amount of tax abatements for each political subdivision is capped. The total abated taxes in any year cannot exceed the greater of (1) ten percent (10%) of the net tax capacity of the political subdivision for the taxes payable year to which the abatement applies, or (2) \$200,000.

**Duration.** The general rule is that a political subdivision may grant an abatement for 15 years or less. The maximum duration is 8 years if the authorizing resolution does not specify a duration. The maximum abatement period may increase to 20 years if one of the other political subdivisions is requested to participate and declines (pursuant to procedures in M.S. 469.1813, Subd. 6b).

**Relationship to TIF.** Parcels in a tax increment financing district may not be used for tax abatement. TIF parcels can be used for abatement after the district is decertified. Tax abatement provides a means to extend the term of financial assistance beyond the life of a TIF district.

## Bonds

Bonds can be issued to provide funding for certain activities (see “Uses”). The total principal of abatement bonds cannot exceed the sum of estimated abatements for the years granted. If the abatement is not adequate to pay principal and interest, then the political subdivision may use other legally available revenues, including property taxes, to pay interest on the bonds. The general obligation of the political subdivision may be pledged to the bonds. The bonds are not subject to the debt limit and do not require an election.

## Process

Compared to tax increment financing, the process for the use of tax abatement is simple. The governing body of the political subdivision must adopt a resolution that defines the parameters for the tax abatement. A public hearing is required before approving the resolution. Notice of the hearing must be published in a newspaper of general circulation in the political subdivision at least once more than ten days but less than 30 days before the hearing. The statute does not require any other documents or notifications.

The statute requires a finding that the use of tax abatement is in the public interest for one of the following reasons:

- Increase or preserve tax base
- Provide employment opportunities
- Provide or help with the acquisition or construction of public facilities
- Help redevelop or renew blighted areas
- Help provide access to services for residents of the political subdivision
- Finance or provide public infrastructure
- Phase in a property tax increase on the parcel

The findings are stated in the abatement resolution. The abatement resolution also includes the parcels subject to the abatement, property values of the parcels used in the abatement calculation, duration of the abatement, and any other terms needed to define use of the abatement.

An abatement levy is not currently subject to levy limits. An abatement levy must follow the procedures applicable to all other property tax levies.