

It was requested that I also remind you of the change in Discretionary that occurred last year. (see yellow below)

The tax fact can be found on our website at this link:

<https://dor.sd.gov/media/beydzkm4/property-tax-discretionary-form.pdf>

The property tax discretionary formula is a tax incentive tool to help promote economic development in South Dakota. The discretionary formula provides a tax break on authorized new structures and additions for up to five or seven years. (SDCL 10-6-137) The eligible structure types are:

- Industrial & Commercial - New structure, addition, renovation, or reconstruction of at least \$30,000 within a designated Urban Renewal area
- Industrial - New structure or addition of at least \$30,000 value
- Agricultural - New structure or addition of at least \$10,000 value
- Commercial - New structure or addition of at least \$30,000 value
- Commercial Residential (4+ units) – New structure or addition of at least \$30,000 value
- Affordable Housing (4+ units) – Monthly rent rate must meet the requirements of SD Housing Development Authority
- Residential – New structure, addition, or renovation of at least \$5,000 in a redevelopment neighborhood
- Commercial, Industrial, or Agricultural – Reconstruction or renovation of at least \$10,000 of value

The formula can be implemented by a county by the passage of a resolution. The resolution must specify which types of structures will be receiving the incentive and what the level of tax break, or “formula”, will be. Please note: a governing body does not have the authority to change the valuation threshold that is outlined in statute for each specific structure type.

SDCL 10-6-137.1 now requires that any formula for **housing structures must be for seven years** and has certain requirements on the level of tax break.

- **Commercial Residential, Affordable Housing, and Residential structures located in a Redevelopment Neighborhood can only have a seven-year formula.**
- The formula cannot be more than 25% in the first or second year, not more than 50% in the third or fourth year, not more than 75% in the fifth or sixth year, and must be 100% in the seventh year.
 - An example is the baseline formula of 25-25-50-50-75-75-100. This formula means that in the first and second years, the property owner will have to pay taxes on 25% of the housing structure’s value. In the third and fourth years, the property owner will pay taxes on 50% of the value. The formula will adjust each year until the seventh year when the property owner is paying taxes on the full value of the structure.

- **If a county or city previously had a discretionary formula for Commercial Residential, Affordable Housing, and Residential in a Redevelopment Neighborhood (prior to July 1, 2022) it is null and void. If they want a discretionary formula for any of those three types of structures, they must have a new resolution in place that addresses the 7-year formula.** (See attachment for which counties/cities the DOR has received new resolutions.)

For non-residential structures, the rules remain the same as they always have been. The governing body can choose any level of tax break for five years.

- An example formula is 20-40-60-80-100. This formula means that in the first year, the property owner will have to pay taxes on 20% of the structure's value. In the second year, the property owner will pay taxes on 40% of the value. The formula will adjust each year until the fifth year where the property owner is paying taxes on the full value of the structure.
- The governing body can pass any variation of the discretionary formula for agricultural, commercial, and industrial structures. The formulas may vary for each structure type.
- **No resolution changes are needed to any existing discretionary formulas for Industrial & Commercial, Industrial, Agricultural, Commercial, or Commercial/Industrial/Agricultural.**

Once a county or city passes a discretionary formula it automatically applies to all authorized structures or additions. The property owner does not need to apply, rather the director of equalization automatically adjusts the values to ensure the appropriate percentage is assessed. If a discretionary formula passes, a county or city cannot refuse any property that falls within its scope. This includes properties within a Tax Increment Financing (TIF) District. The only way a discretionary formula can be disregarded on an authorized structure is if the property owner waives the right to the incentive.

For non-residential structures, a county's formula will overrule a city's formula. However, a city is allowed to pass its own formula that would overrule a formula implemented by the county if the discretionary formula is dealing with Commercial Residential, Affordable Housing, or Residential within a Redevelopment Neighborhood.

I have attached a pdf outlining the discretionary formulas we have on record. I'm also attaching an example resolution for the 7-year housing formula.

DIRECTOR
PROPERTY TAX DIVISION
SOUTH DAKOTA DEPARTMENT OF REVENUE

From: Semmler, Wendy

Sent: Thursday, June 15, 2023 2:54 PM

To: Kristie Jacobsen <kris@sdcountycommissioners.org>; 'Kade Haley' <kade@sdcountycommissioners.org>; Terry Sletten <sdatat@sdtownships.com>

Cc: Anderson, Nikki <Nikki.Anderson@state.sd.us>; Bailey, Todd <Todd.Bailey@state.sd.us>; Carlson, Robin (DRR) <Robin.Carlson@state.sd.us>; Caster, Patty <Patty.Caster@state.sd.us>; Flottmeyer, Melissa <Melissa.Flottmeyer@state.sd.us>; Jensen, Amber <Amber.Jensen@state.sd.us>; Puthoff, Jeff <Jeff.Puthoff@state.sd.us>

Subject: Legislative Update

Since July 1 is quickly approaching, I thought it would be a good time to remind you of the new laws that were passed this Session. They may affect your office or your constituents, so please share with anyone that would be interested. All bills can be found on the LRC website at <https://sdlegislature.gov/Session/Bills>

The following three bills do not necessarily change any of our normal business processes, but it's good to be aware of them"

- HB 1147 – Allows a township or fraction of a township to organize.
- HB 1189 – Entities owning agricultural land must declare to the Secretary of State's Office if they have any ties to foreign ownership.
- SB 145 – Allows for the deadline of the application for the Rural Access Infrastructure Fund to be waived if a disaster is declared and makes a change to one of the requirements for a township to be eligible.

SB 24 – Annual bill that sets the new school levies for Taxes Payable in 2024

- General Fund
 - AG - \$1.320
 - OO - \$2.954
 - OTH - \$6.113
- Special Ed - \$1.574

This bill changed three different Property Tax Relief Programs. Please note: the applications and brochures will not be updated until later this year (December-ish) so as to not get confused with the current year applications.

- SB 26 – Moved the Reduced Interest Rate Homestead relief program from Chapter 43-31 to Chapter 10. Set the income limits for the Paraplegic Tax Reduction program to increase by CPI annually. Increased the income limits for the Reduction from

Municipal Taxes program and allowed for the amounts to increase annually by the CPI.

I sent out a detailed email about 3 weeks ago pertaining to just this bill (see attached).

- SB 120 – Increased the valuation exemption for Local Industrial Development Corporations from \$750,000 to \$2,500,000.

Thanks,

Wendy Semmler

DIRECTOR
PROPERTY TAX DIVISION
SOUTH DAKOTA DEPARTMENT OF REVENUE