

TAX LIMITATION AND OPT OUT INFORMATION



SCHOOL DISTRICTS

ONLY

For Taxes Payable in Calendar Year 2020



OPTING OUT OF THE TAX LIMITATION (For School Districts Only)

If the school district cannot operate on the revenues generated by the maximum levy for general fund and monies from state aid as determined by the funding formula, then the school district may choose to “opt-out” of the general fund levy limitations. School districts may opt out for General Fund only. Opting out is to impose an excess levy. The excess levy shall maintain the same proportion represented in the mathematical relationship at the maximum levy.

Opting out **requires a two-thirds vote of the governing body** on or before July 15th. Decision to opt out must be published within ten days of decision. That decision may be referred upon a petition signed by at least five percent of the registered voters in the taxing district and filed with the governing body within twenty days of the first publication. *Election must be held on or before October 1st.*

***IMPORTANT* All Opt Out resolutions must specify the number of years it will last.**

If an Opt Out Resolution was passed prior to July 1, 2002 the taxing district does not have to opt out again unless they need to exceed that limitation, in which case, that Opt Out must meet the same requirements of any other passed July 1, 2002 and after.

If a school district opts out of the tax limitation, they need to send the County Auditor the following:

- Copy of the Opt Out Resolution
- Copies of the minutes of the meeting at which the Opt Out took place
- Proof of publication/notification
- If the Opt Out is referred to a vote, the school finance officer must certify the outcome of the election to the County Auditor.

The taxing entity has up to that Opt Out amount to use for all years within the time period set by the resolution. **The entity may choose to use none, some, or all of the Opt Out amount during any of the applicable years.**

How to Determine an Opt Out Dollar Amount

Example: School District “A” needs \$7,000,000 to fund their budget. They know they will receive \$6,000,000 through the funding formula*. They will also receive \$875,000 through other funding outside of the formula. The amount of Opt Out dollars needed is \$125,000.

$$\$7,000,000 - \$6,875,000 = \$125,000$$

*For a detailed explanation on how the State Aid Formula works, please visit the Department of Education website <http://doe.sd.gov/ofm/schoolbudget.aspx>

OPT OUT TIMEFRAME

An Opt Out should not be done until after January 1 BUT must be done on or before July 15 of the year prior to the year the taxes are payable.

If the Opt Out decision has been referred to a vote and has been defeated, the governing board may opt out again if done so prior to July 15 of the year prior to the year the taxes are payable.

The decision to opt out may be rescinded if done prior to July 15 of the year prior to the year the taxes are payable. However, the governing body CANNOT rescind if the Opt Out decision was referred to a vote and withstood the vote (meaning the voters supported the Opt Out). Instead, they can simply not ask for the amount of the Opt Out.

GENERAL FUND MAXIMUM LEVIES

AG – all value classified as agricultural – receives a \$1.473 / thousand levy

OO – all values classified as owner-occupied – receives a \$3.296 / thousand levy

OTH – all other values that are not AG and not owner-occupied – receives a \$6.821 / thousand levy

UTIL – all values of utility companies (Railroad, Electric, Water, Pipeline, Telephone) centrally assessed by the Department of Revenue – receives a \$6.821 / thousand levy.

*The valuations of mobile homes will not be used in state aid calculations and will NOT be used in determining any property tax levy for school purposes (SDCL 13-13-3.1). However, the appropriate levy will be applied to these types of property and taxes will be payable.

RESOLUTION

The resolution must be on a form prescribed by the Secretary of Revenue. (See attached documents)

Administrative Rule 64:04:01:28. Form required for opt out resolution. The form for the opt out resolution required by SDCL subdivision 10-12-43(4) and SDCL subdivision 10-13-36(4) is PT 182. The time period specified in the opt out resolution shall commence with the taxes payable in the year following the year the opt out is passed and run for the consecutive years stated in the resolution. The resolution form shall be signed by all members of the governing body voting in favor of such opt out. However, the publication of the resolution requires only the signature of the finance officer accompany the notice.

Guidelines for Publication

Opt out - \$15,000 & more

- 1) Must publish within 10 days of decision
- 2) At least twice in legal newspaper – 5 days between publications
- 3) 3 newspaper columns in width – four inches in length or 1/6 page in size, whichever is greater
- 4) Must contain the Opt Out Resolution with heading "ATTENTION TAXPAYERS: NOTICE OF PROPERTY TAX INCREASE"

#3 & 4 may be waived IF:

A copy of the resolution is mailed to every property taxpayer
AND copy of resolution is printed in each official newspaper in the governing units boundary

Opt out – less than \$15,000

- 1) Must publish decision within 10 days of decision
 - 2) At least twice in legal newspaper – 5 days between publications
- 3 & 4 above can also be done, but are not mandatory

EITHER CASE – #1 and #2 MUST BE DONE

SCHOOL REORGANIZATION

Any reorganization plan for a school district may include an excess levy, if an Opt Out currently exists in one or more of the school districts. This excess levy, if approved by the voters may only be for five years following the date of the reorganization. The statute concerning the reorganization plan and the inclusion of the Opt Out can be found in SDCL 13-6-13. A form is included with this brochure specifically for the excess levy and vote to be held in conjunction with the reorganization plan election. Please note that this Opt Out publication must follow the same publication requirements in SDCL 10-12-43.

13-6-13. Contents of reorganization plan--Acceptance or rejection of annexed area by receiving board--Excess tax levy. The plan shall contain:

- (1) A map or maps showing the boundaries of the proposed district or districts, the boundaries of the existing districts involved, the location of existing and proposed attendance centers and a description of the facilities, and the proposed school bus routes, if any;
- (2) A legal description of the boundaries of the proposed district or districts;
- (3) Estimates of the school age population within the proposed district or districts;
- (4) The assessed valuation of all taxable property of each existing district and of the proposed district or districts;
- (5) Outstanding general obligation bonds of any component district, funds in all school accounts and estimated receipts in all accounts in process of collection;
- (6) If a joint district, the designation of the county of jurisdiction;
- (7) The official name of the proposed district;
- (8) A statement with regard to a proposed method of adjustment of assets and liabilities;
- (9) The proposed number of school board members if a new entity is to be created;
- (10) A description of the proposed educational program;
- (11) A reasonably detailed budget showing estimated annual receipts and expenditures for the operation of the proposed district or districts;
- (12) A process for a landowner to request their land be transferred to another school district when their land is adjacent to a school district other than a school district involved in the reorganization;
- (13) Such additional information as may be necessary to show compliance with the standards for school districts as adopted by the South Dakota Board of Education Standards.

If the plan proposes the dissolution and annexation of a school district to one or more school districts, the school board of the receiving district, or districts, shall by resolution express their acceptance or rejection of all or part of the district to be dissolved as set forth in the proposed plan.

If the school boards of two or more school districts are developing a plan to consolidate, and two-thirds of the members of each affected school board agree, the plan may also include the provisions of an excess tax levy authorized in § 10-12-43 if an excess tax levy currently exists in one or more of the school districts. If the plan is approved by the voters, the proposed excess tax levy may be applied in the new consolidated school district. If a proposed excess tax levy is included in the plan, the plan shall state the amount of the proposed excess tax levy. The proposed excess tax levy may be applied for taxes payable in any of the five years following the date of reorganization. In addition, each school board involved in the development of the plan shall announce the inclusion of the proposed excess tax levy in the plan to the taxpayers in the manner set forth in § 10-12-43.

SOUTH DAKOTA CODIFIED LAW

10-12-43. Excess tax levy authorized for school districts--Vote by governing body--Announcement requirements--Referendum election. The governing body of the school district may raise additional revenues for general fund purposes only, from property tax through the imposition of an excess tax levy. The governing body of a school district may impose the excess tax levy with an affirmative two-thirds vote of the governing body on or before July fifteenth of the year prior to the year the taxes are payable. On any excess tax levy approved after July 1, 2002, the governing body of the taxing district shall specify in the resolution the year or number of years the excess tax levy will be applied.

The requirements for an announcement made pursuant to this section are as follows:

(1) The decision of the governing body to originally impose or subsequently increase an excess tax levy shall be first published within ten days of the decision;

(2) Publication shall be made at least twice in the legal newspaper designated pursuant to § 13-8-10, with no fewer than five days between publication dates, before the opt out takes effect;

(3) The announcement shall be at least three newspaper columns in width and four inches in length or at least one-sixth of a page in size, whichever size is greater;

(4) The announcement shall be headed with the following statement in a typeface no less than eighteen point type: "ATTENTION TAXPAYERS: NOTICE OF PROPERTY TAX INCREASE OF \$(fill in amount)." The remainder of the announcement shall consist of a reproduction of the "Resolution for Opt Out," including the amount that property taxes will be increased annually by the proposed opt out and a statement of the right to refer the decision of the board to a vote of the people as provided in this section. The secretary of revenue, in rules promulgated pursuant to chapter 1-26, shall prescribe a uniform form to be used by the school district for notification of taxpayers as required by this section.

However, the requirements of subdivisions (3) and (4) shall be waived if:

(A) The opt out is for less than fifteen thousand dollars; or

(B) A copy of the resolution for opt out is mailed to every property taxpayer in the local governmental unit, by first class mail or bulk mail, within twenty days of the decision to opt out; and

(C) A copy of the resolution for opt out is printed in each official newspaper in the local governmental unit's boundaries.

For the purposes of subsections (A), (B), and (C), the first publication is not deemed to have occurred until three days after the mailing is sent or the resolution is delivered to the official newspaper.

The opt out decision may be referred to a vote of the people upon a resolution of the governing body of the school district or by a petition signed by at least five percent of the registered voters in the school district and filed with the governing body within twenty days of the first publication of the decision. The referendum election shall be held on or before October first of the year prior to the time the taxes are payable.

**ATTENTION TAXPAYERS:
NOTICE OF
PROPERTY TAX INCREASE
OF \$ _____**

RESOLUTION FOR OPT OUT

THE GOVERNING BOARD OF _____ do state that the above said board is unable to operate under the tax limitation measure currently in statute. We therefore OPT OUT of such tax limitation in the amount of \$ _____ starting with calendar year _____ taxes payable in the calendar year _____. This opt out will be for _____ years, which will be through taxes payable in the calendar year _____. This action has been taken by the board and approved by at least a two-thirds vote of the board.

This decision may be referred to a vote of the people upon a petition signed by at least five percent of the registered voters in the district and filed with the governing body within twenty days of the first publication of this decision.

Unless this action is referred to a vote of the people and reversed by such vote, this resolution authorizes the county auditor to spread an excess levy to raise tax dollars in the above stated amount.

Signed _____ Board Chairman

_____ **Board Member**

_____ **Board Member**

_____ **Board Member**

_____ **Board Member**

_____ **Board Member**

_____ **Board Member**

_____ **Board Member**

DATE _____

PT 182

**ATTENTION TAXPAYERS:
NOTICE OF
PROPERTY TAX INCREASE
OF \$ _____**

RESOLUTION FOR OPT OUT AND VOTE TO BE HELD

THE GOVERNING BOARD OF _____ do state that the above said board is unable to operate under the tax limitation measure currently in statute. We therefore OPT OUT of such tax limitation in the amount of \$ _____ starting with calendar year _____ taxes payable in the calendar year _____. This opt out will be for _____ years, which will be through taxes payable in the calendar year _____. This action has been taken by the board and approved by at least a two-thirds vote of the board.

Also, be it resolved that the GOVERNING BOARD OF _____ will conduct an election to approve or disapprove the tax levy opt out pursuant to SDCL 10-12-43. The election will be held on _____.

Signed _____ Board Chairman

_____ **Board Member**

_____ **Board Member**

_____ **Board Member**

_____ **Board Member**

_____ **Board Member**

_____ **Board Member**

_____ **Board Member**

DATE _____

**ATTENTION TAXPAYERS:
NOTICE OF
PROPERTY TAX INCREASE
OF \$ _____**

**RESOLUTION FOR OPT OUT AND VOTE TO BE HELD
IN CONJUNCTION WITH REORGANIZATION PLAN ELECTION**

THE GOVERNING BOARD OF _____ do state that the above said board is unable to operate under the tax limitation measure currently in statute. We therefore OPT OUT of such tax limitation in the amount of \$ _____ starting with calendar year _____ taxes payable in the calendar year _____. This opt out will be for _____ years, which will be through taxes payable in the calendar year _____. This action has been taken by the board and approved by at least a two-thirds vote of the board.

Also, be it resolved that the GOVERNING BOARD OF _____ will conduct an election to approve or disapprove the tax levy opt out with the election for the reorganization pursuant to SDCL 10-12-43 and 13-6-13. The election will be held on _____.

Signed _____ Board Chairman

_____ Board Member

_____ Board Member

_____ Board Member

_____ Board Member

_____ Board Member

_____ Board Member

_____ Board Member

DATE _____