



Property Tax Discretionary Formula

<https://dor.sd.gov/> 1-800-829-9188 (Option 2)

The purpose of this document is to provide a general overview of the property tax discretionary formula. It is not intended to answer all questions that may arise. The information contained in this fact sheet is current as of the date of publication.

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Overview

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 applicable new structures and additions for up to five or seven years. ([SDCL 10-6-137](#))

- The formula can be implemented by a county by the passage of a resolution.
- A city may also implement a discretionary formula if the county does not already have one established.

Formula Options

The resolution must specify which types of structures will be receiving the incentive and what the level of tax break, or “formula,” will be.

For non-residential structures, 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.
 - ⇒ Some governing bodies use a 0-0-0-0-0 formula, which means the structure is tax free for the first five years.
 - ⇒ Other governing bodies give less of a tax break than the baseline formula, like 25-50-75-100-100.

For housing structures, the formula must be for seven years and has certain requirements on the level of tax break.

- For commercial residential, affordable housing, and residential structures located in a redevelopment neighborhood, the formula must be seven years and cannot be more than 25% in the first and second year, not more than 50% in the third and fourth year, not more than 75% in the fifth and 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 where the property owner is paying taxes on the full value of the structure.

Determining the Discretionary Formula

Once a discretionary formula is passed, either by a county or a city, it automatically applies to all applicable structures or additions. There is no application required by the property owner. The County Director of Equalization will automatically adjust the values through the assessment system to ensure the appropriate percentage is applied.

If a discretionary formula exists, a county or city cannot refuse its application to any qualifying property.

- This includes properties within a Tax Increment Financing (TIF) District ([SDCL 10-6-137](#)).
- The only way a discretionary formula can be disregarded on a qualifying structure is if the property owner waives the right to the incentive ([SDCL 10-6-137](#)).

Resolution Process

The local governing board should follow the resolution process established by law.

- Counties - [SDCL ch. 7-18A](#)
- Municipalities - [SDCL ch. 9-19](#)

The resolution can establish the same formula for all building types or each building type can have a separate formula.

For non-residential structures, a county's formula will overrule a city formula. A city is allowed to pass its own formula that would overrule a formula implemented by the county when the city is dealing with commercial residential, affordable housing, or residential within a redevelopment neighborhood. However, the city must stay within the maximum requirements outlined above.

Structure Types Eligible for a Discretionary Formula

| Structure Type | Description |
|--|--|
| Affordable Housing (SDCL 10-6-137(6)) | Building Requirements: Four or more new units; monthly rental rate at or below the calculated rent for South Dakota's sixty percent area median income set annually by the SD Housing Development Authority ; for a minimum of ten years following the date of first occupancy. For more information on the rental rate, call 605-773-3181. Minimum Value for Eligibility: \$30,000 Length of Formula: Seven years Maximum Formula: 25-25-50-50-75-75-100 |
| Nonresidential Agricultural (SDCL 10-6-137(3)) | Building Requirements: New structure or addition Minimum Value for Eligibility: \$10,000 Length of Formula: Five years |
| Commercial (SDCL 10-6-137(4)) | Building Requirements: New structure or addition. Minimum Value for Eligibility: \$30,000 Length of Formula: Five years |
| Commercial, Industrial, or Agricultural (SDCL 10-6-137(8)) | Building Requirements: Reconstruction or renovation. Minimum Value for Eligibility: \$10,000 Length of Formula: Five years |
| Commercial Residential (SDCL 10-6-137(5)) | Building Requirements: New structure or addition (four or more units). Minimum Value for Eligibility: \$30,000 Length of Formula: Seven years Maximum Formula: 25-25-50-50-75-75-100 |
| Developer Lots (SDCL 10-6-144) | Building Requirements: Land only. Minimum Value for Eligibility: N/A Length of Formula: Five years |
| Industrial (SDCL 10-6-137(2)) | Building Requirements: New structure or addition. Minimum Value for Eligibility: \$30,000 Length of Formula: Five years |
| Industrial & Commercial (SDCL 10-6-137(1)) | Building Requirements: New structure, addition, renovation, or reconstruction. Minimum Value for Eligibility: \$30,000 Length of Formula: Five years |
| Residential within a Redevelopment Neighborhood (SDCL 10-6-137(7)) | Building Requirements: New structure, addition, or renovation in a redevelopment neighborhood (SDCL 11-7-2 and SDCL 11-7-3) Minimum Value for Eligibility: \$5,000 Length of Formula: Seven years Maximum Formula: 25-25-50-50-75-75-100 |

Impact on State Aid to Education Funding

The baseline discretionary formula for non-residential structures is 20-40-60-80-100. The baseline discretionary formula for residential structures is 25-25-50-50-75-75-100 ([SDCL 13-13-20.4](#)). If a governing board chooses to pass a discretionary formula that gives a larger tax break than the baseline, then the school district must be made whole in terms of the state aid to education funding.

- The county auditor must impose an additional levy on all properties within that school district for both the general and special education funds.
- The levy is based on the difference between tax generated from the baseline formula and the actual formula passed.

Example:

County Formula

- A county passes a formula for commercial of 0-0-0-0-0, which means the structure is tax free for the first five years.

Property Value

- The property has a value of \$500,000.

Impact on State Aid to Education Funding

- By providing a tax break more than the established baseline discretionary formula, the county agrees to make up for the differences in taxes for the state aid formula calculation.
- For the first year, the baseline discretionary formula would have required this property owner to pay taxes on 20% of the value ($\$500,000 \times 0.2 = \$100,000$). This equals \$400,000 in exempted value ($\$500,000 - \$100,000$).
- Based on the formula the county established, the property owner is receiving an exemption on the full property value (\$500,000). The county is giving an additional tax break of 20% in the first year (\$100,000).
- The Department of Revenue provides the county auditor with the amount of taxes that would have been generated because of the additional tax break for both the school general and special education funds. The county auditor will calculate the additional levy for that amount of taxes.
- The above process will be completed annually for the remaining four years, based upon the county's adopted discretionary formula.

Example:

City Formula

- A city passes a formula for affordable housing of 10-10-20-20-40-40-100, which means the structure is receiving a larger tax break than the baseline formula.

Property Value

- The property has a value of \$500,000.

Impact on State Aid to Education Funding

- The education funding formula must be reimbursed by calculating the difference between the actual tax break versus the break that is allowed by the baseline discretionary formula.
- For the first year, the baseline discretionary formula would have required this property owner to pay taxes on 25% of the value ($\$500,000 \times 0.25 = \$125,000$). This equals \$375,000 in exempted value. ($\$500,000 - \$125,000$).
- Based on the formula the city established, the city is giving an additional 15% tax break in the first year. The property owner only has to pay taxes on 10% of the value, and therefore is receiving an exemption of \$450,000.
- The Department of Revenue provides the county auditor with the amount of taxes that would have been generated because of the additional tax break for both the school general and special education funds. The county auditor will calculate the additional levy for that amount of taxes.
- The above calculation will continue for the remaining six years based on the city's adopted discretionary formula.

Contact Us

If you have any questions, please contact the **South Dakota Department of Revenue**.

Property Tax Division Email: proptaxin@state.sd.us

Mailing address and office location:

South Dakota Department of Revenue
445 East Capitol Ave
Pierre, SD 57501

Call toll-free: 1-800-829-9188 (option 2)

Website: <https://dor.sd.gov/>