

SOUTH DAKOTA DEPARTMENT OF REVENUE

Property Taxes for Townships

December 2024
Wendy Semmler



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Overview



Base Tax & Limitation



Opt Outs



Road & Bridge Levy



Special Assessments

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Overview

- **SDCL 8-10-1**
Townships' authority to impose a property tax levy.
- **SDCL 10-12-28**
Maximum property tax levy for townships → \$3.00/thous
- **SDCL 10-13-35**
Property Tax Limitation (for all taxing districts except schools)
- **SDCL 10-13-36**
Opt Outs
- **SDCL 10-12-28.2**
Township Road & Bridge levy
- **SDCL 8-3-1**
Townships Annual Meeting on the first Tuesday of March
- **SDCL 10-12-26**
Township property tax request submission deadline

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Determining the Property Tax Request

- What portion of the taxes were for general purposes only?
- Are any of the dollars due to an opt out?
- Was there a road and bridge (R&B) levy passed last year?

What did you receive last year?

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Property Tax Limitation

Base Taxes

Amount of taxes that does not include dollars from an opt out or R&B levy.

Amount of taxes levied for last year, increased by a growth and CPI

Only Base Taxes can increase annually!!

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Definition of Opt Out

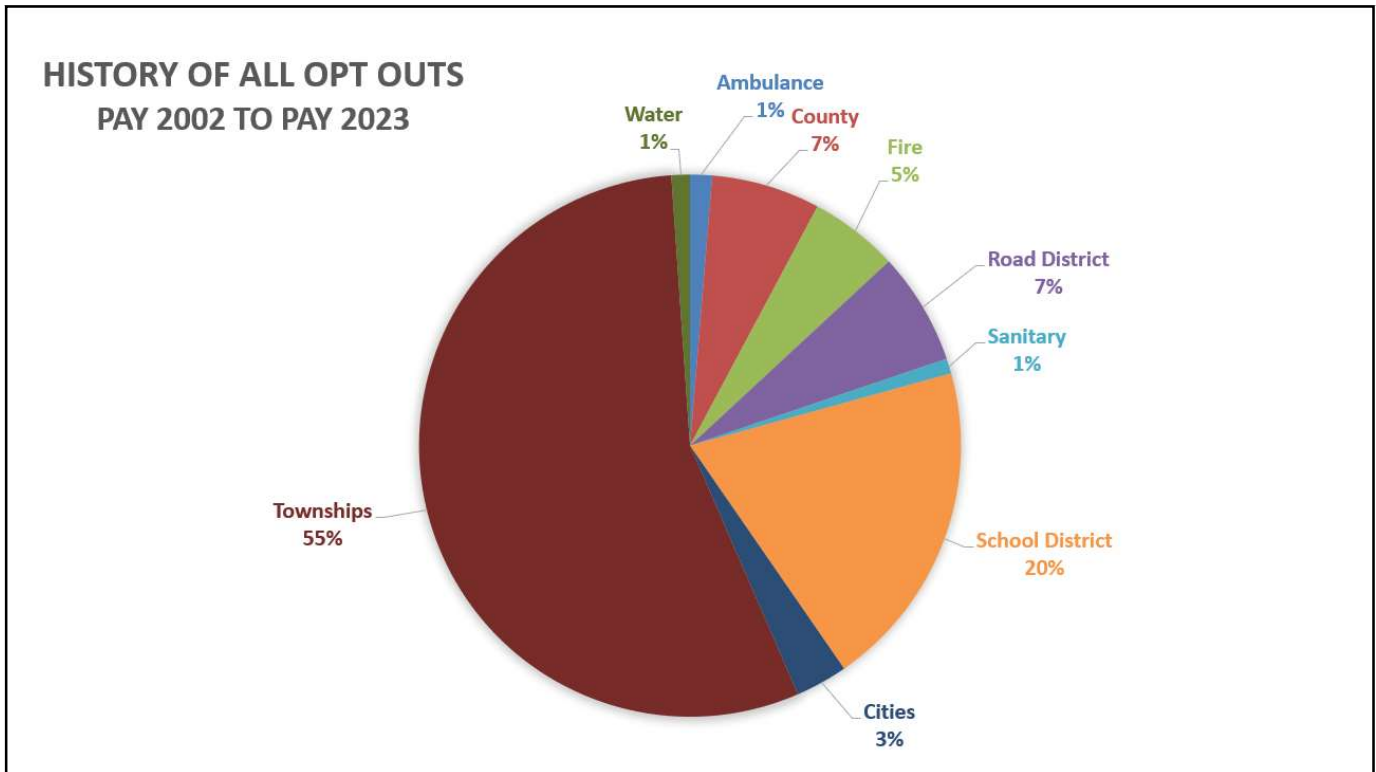
Opt Out

- An entity needs more money than they are allowed by the law
- They are opting out of the property tax limitation

Property Tax Limitation

- SDCL 10-13-35
- A taxing entity is limited to what they can request annually
 - Taxes can only increase from the previous year's tax request by CPI and new growth

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Timeframe

Action of the board must occur between January 1 and July 15

- Requires 2/3 vote of the governing board

Should be done in the year prior to the year the taxes are payable

If district wants money for Taxes Payable in 2026

They should pass the resolution between January 1, 2025 and July 15, 2025

Opt Out Deadline is July 15

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Resolution

- Must be on a form prescribed by the Secretary of Revenue
- 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.
- Must show dollar amount they want per year and number of years

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

Term Limitation

- The resolution must specify the beginning year and the number of years the Opt Out will be available.
- Any Opt Outs passed prior to July 1, 2002 are "forever opt outs"
 - will not expire unless the governing body votes to dissolve the Opt Out.

ATTENTION TAXPAYERS:
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Calendar Year – Actual calendar year.
 What year are we in?

Taxes Payable in the Calendar Year –
 What is the next Taxes Payable year coming up?

How years do they want? – There is no requirement. No minimum, no maximum.

Ending Year

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

RESOLUTION FOR OPT OUT

Make sure to account for
1st year!

- 1st year – Pay 2026
- 2nd year – Pay 2027
- 3rd year – Pay 2028
- 4th year – Pay 2029
- 5th year – Pay 2030

THE GOVERNOR, 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.

Starting with calendar year 2025 taxes payable in the calendar year 2026. This opt out will be for 5 years, which will be through taxes payable in the calendar year **2030**.


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Publication

1. Must publish within 10 days of decision
2. At least twice in legal newspaper—with 5 days between publications
3. Three newspaper columns in width and 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"

The background image shows a newspaper page with the title "Public Notice" and "DUVAL COUNTY LEGAL NOTICE". It contains several "NOTICE OF PUBLIC SALE" entries for property auctions, including details about storage units and household goods. The newspaper is dated Thursday, March 17, 2022.

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Election

Governing body can choose
Special resolution that will automatically send it to a vote

Referable by the taxpayers
Requires a petition at least 5% of the registered voters in the taxing district and filed with the governing body within 20 days of the first publication

Must be held by October 1
Requires simple majority to pass

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Opt Out Documentation

- Taxing Districts must send to County Auditor
- County Auditor will send to DOR
- Copy of the Opt Out Resolution
- Copies of the minutes of the meeting at which the Opt Out was passed
- Proof of publication
- The outcome of the election (if referred to a vote)

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Availability

- Once an Opt Out is passed, the taxing entity can decide to use all, some, or none of the dollar amount available in any given year.
- At the end of the time specified in the resolution, the Opt Out will expire.
- If a taxing district needs to exceed the limitation again, the board will need to go through the process to start a new one.

It is not required that the district request the full dollar amount in the first year.

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Township Road & Bridge Levy

- R&B
- Secondary Road Capital Improvement
- RAIF levy
- SB1
- In addition to all other levies
- Cannot exceed \$0.50/thous (or equivalent dollar amount)
- Does not carry over from year to year
- **MUST BE PASSED AT ANNUAL MEETING**

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R&B Levy Requirements

Can only be passed at Annual Meeting in March

- Anyone in attendance can vote on it
- No publication needed
- Not referable to a vote

Documentation to Auditor

- Copies of the minutes of the Annual Meeting which show the R&B levy was discussed, motioned for, and approved.
- A tax request showing the specific tax amount requested for road and bridge purposes.

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Definition of a Special Assessments

- Financing mechanism for improvements by those who benefit
- Lump sum or Per Unit charge
 - Township Board determines which properties must pay and for what reason
 - There must be legal authority in codified law!!

General Taxation

Taxation is a tax rate that is applied to the total value of a property.

Example: All property in the district must pay a tax rate of \$1.00/ thous of value.

Special Assessment is a lump sum or an amount per unit.

Example: For every homestead in the district, the property will be charged a special assessment of \$250.

Special Assessment

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Considering a Special Assessment

Anyone considering a special assessment should review statutes and consult legal counsel

Drainage – SDCL 46A-11-4, 46A-11-5

Irrigation Districts – Chapter 46A-4

★ **Mowing/Trees/Weeds – SDCL 31-31-5, 31-31-6** ★

Nuisances – SDCL 21-10-6

Sanitary Districts – Chapter 34A-5

Water User District – Chapter 46A-9

Watershed – Chapter 46A-14

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General Rules of Special Assessments

Must be filed with County Auditor no later than November 1 (unless otherwise specified in statute)

Request must list out each special assessment and should include:

- the name of the property owner
- the property address
- the reason for the special assessment (along with the statute)
- the total dollar amount of the assessment to be added to the tax bill.

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Township Road Districts

- Owners of properties along a township road can request a special assessment for road improvement purposes
- At least 80% must sign petition
- Township Board must hold hearing
- Any property owner that did not sign petition must be notified
- Special Assessment cannot exceed \$2 per front foot

Township Road District continues to pay township levies

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Incorporated Road District

- **Severs from the township (does not have to pay township levies)**
- **Self-governing**
- **Creates budget and levies property taxes independently**
- **No levy limit**
- **No limit on special assessments but does require a detailed process**

To Incorporate

- **Survey and map of the territory**
- **Petition signed by at least 25% of the eligible voters**
- **If approved by the county commissioners, an election of the eligible voters shall be held (a majority vote is required)**

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Questions?



South Dakota
Department of Revenue



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