



2024 SDTAT  
Conference



# Property Taxes for Townships

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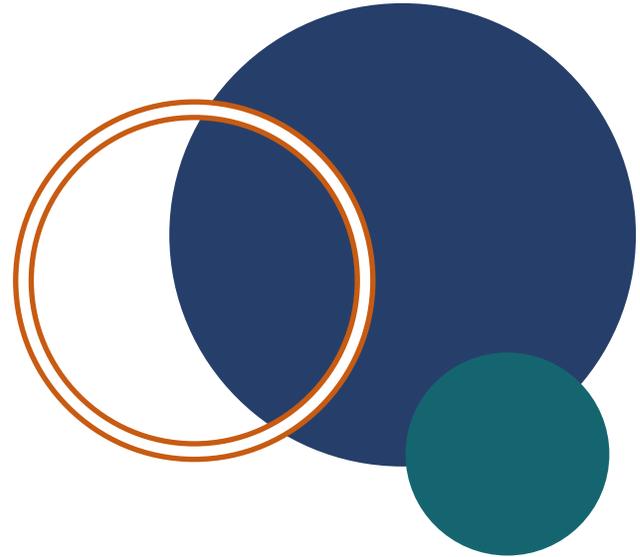
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## CONTACT US

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

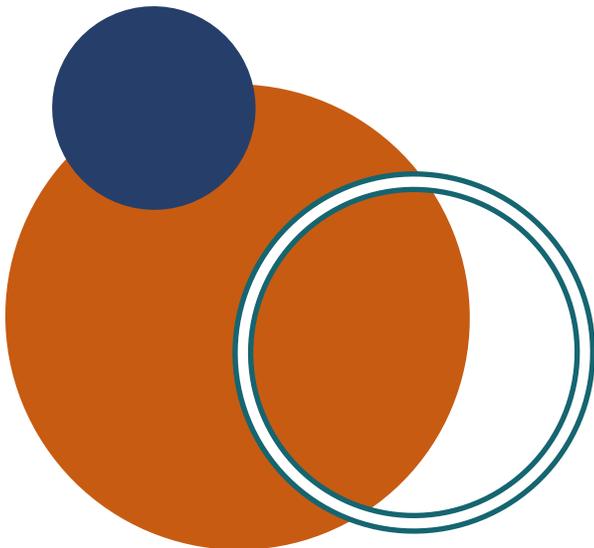
**Call toll-free:** 1-800-829-9188 (Option 2)

**Property Tax Division Email:** [proptaxin@state.sd.us](mailto:proptaxin@state.sd.us)

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

**Mailing address and office location:**

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



## Property Taxes for Townships Overview

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The property tax authority outlining the processes and rules that organized townships must follow are found in various places within Codified Law:

- ◆ [SDCL 8-10-1](#) — Grants townships the authority to impose a property tax levy.
- ◆ [SDCL 10-12-28](#) — Defines the maximum rate of a property tax levy for a township.
- ◆ [SDCL 10-13-35](#) — Limits the increase of property tax dollars that all taxing entities can receive annually.
- ◆ [SDCL 10-13-36](#) — All taxing entities have the option to “opt out” of the limitation and request additional property tax dollars through an excess levy.
- ◆ [SDCL 10-12-28.2](#) — Grants townships the authority to impose a special levy to be used solely for road and bridge purposes.
- ◆ [SDCL 8-3-1](#) — Townships must hold its Annual Meeting on the first Tuesday of March to discuss various business issues, including the property tax request.
- ◆ [SDCL 10-12-26](#) — The township must certify their annual tax dollar requests to the county auditor by the end of March.

The starting point to determining what the property tax request for a township is going to be is to review the amount of taxes levied and collected in the previous year. It is important to note what taxing authority (if more than one) the taxes came from:

- 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?

Each of these have a separate set of rules in terms of limitation.

## Levy for General Purposes

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The primary source of revenue for townships is property tax. There are several different ways that a township can levy property taxes, but the primary one is what we call the “base.” The base tax request is the amount of taxes that excludes any dollars collected from an opt out or a R&B levy.

## Calculating the Limitation

The base amount of taxes is limited to how much it can increase from year to year. The limitation states that the amount of taxes can be increased by a growth factor and a consumer price index (CPI).

The growth factor is determined by how much the township’s valuation increased due to new construction. Unfortunately, townships must set their tax requests months prior to the valuations being finalized by the county director of equalization. A township can estimate its growth percentage by using the growth percentage from the previous year, which can be provided by the county auditor.

The CPI factor is calculated in January of each year by the State Economist. ([SDCL 10-13-38](#)) It will never be above 3%, and it is the same for all taxing districts.

Example of Base Taxes Calculation:

- ◆ Last year, the township levied a total of \$1,000 in base taxes.
- ◆ They estimate a growth percentage of 0.5%. The CPI was set at 3.0%.
- ◆ The township can increase their base tax request by a total of 3.5% ➡  $\$1000 \times .035 = \$35$
- ◆ The maximum the township can request in base taxes is \$1,035.

# Opting Out of the Tax Limitation

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To “opt out” means the township needs more money from property taxes than it is allowed by the limitation.

The default is that all opt outs go towards general maintenance. However, a township can specify an opt out for fire or snow purposes, if needed.

Regardless of the limitation calculation or the opt out amount passed, a township CANNOT exceed statute levy limitations.

The maximum tax levy for townships for general purposes is \$3.00/thousand dollars of taxable valuation. ([SDCL 10-12-28](#))

## 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.

An opt out can be passed at any township board meeting.

## Resolution

The resolution must be in the format on page 6. The resolution must be signed by all members of the township board voting in favor of the opt out.

## Voting

Passing the opt out resolution **requires a two-thirds vote of the township board** on or before July 15th. The decision to opt out must be published within 10 days of decision. The opt out may be referred by a petition at least 5% of the registered voters in the township and filed within 20 days of the first publication.

*If referred to a vote, the election must be held on or before October 1st and requires a simple majority to pass.*

## Term Limit

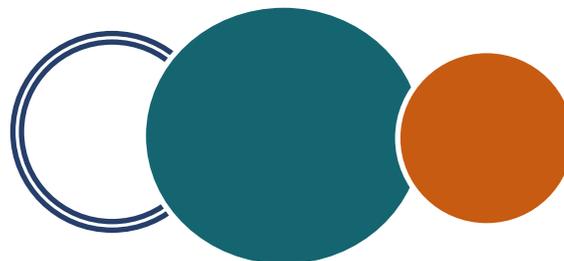
The resolution must specify the beginning year and the number of years the Opt Out will be available. The township does not have to opt out again during that timeframe unless they need to exceed the amount they are currently receiving.

Once an Opt Out is passed, it is available for the township to use for the determined number of years. **The township can decide to use all, some, or none of the Opt Out amount available in any given year.** It is not required that the district use all of the opt out in the first year.

At the end of the term, the Opt Out will expire and no longer be available. If a township needs to exceed the limitation again, the board will need to go through the process to start a completely new opt out.

When counting out the end year, make sure to add the number of years of the term to the current calendar year.

Example: A 5 year opt out passed in March 2025 for taxes payable in 2026 will expire in taxes payable 2030.



## Opt Out Publication

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### Opt Out Publication Requirements

- 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 Resolution with heading “ATTENTION TAXPAYERS: NOTICE OF PROPERTY TAX INCREASE”

**#3 & 4 are not mandatory for Opt Outs less than \$15,000.**

**For Opt Outs of \$15,000 or more #3 and 4 may be waived IF:**

- A copy of the resolution is mailed to every property taxpayer
- AND a copy of resolution is printed in each official newspaper in the township

The publication of the resolution requires only the signature of the finance officer.

The above publication requirements are required by state law. [SDCL 10-13-36](#)

Failing to follow these specifications can result in the county auditor refusing the validity of the opt out, leaving the township with no opt out dollars to levy.

## Using the Opt Out

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### Reporting a New Opt Out

As soon as the township board has finalized the resolution and publication requirements, the clerk needs to send all documentation to the county auditor. The documents needed are:

- Copy of the signed Opt Out Resolution
- Copies of the minutes of the meeting at which the Opt Out took place
- Proof of publication (or notification to taxpayers)

### Requesting Opt Out Dollars

Unless an opt out goes to a vote and fails, the opt out can be used in the next tax year. The township clerk will need to include the amount to be levied on the same tax request form as the general tax request.

The clerk should be specific on exactly how much of the opt out the township wishes to levy. Do not assume the county auditor will know the intentions of the board.

**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 _____	<b>Board Chairman</b>
_____	<b>Board Member</b>

**DATE \_\_\_\_\_**

**PT 182**

## Township Capital Improvement (Road & Bridge) Levy

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A board of an organized township has the authority to impose a levy specifically for road and bridge purposes. The revenue generated from this levy can go towards the constructing, reconstructing, repairing, and maintaining of secondary roads, bridges and culverts within the township.

The Township Capital Improvement (R&B) levy will be in addition to any other levies that are currently being levied by the township.

This levy may not exceed more than \$0.50 / thousand or the equivalent dollar amount.

The Township Capital Improvement (R&B) levy does not carry over from year to year. The township board of supervisors must act on this levy annually at the Annual Meeting.

## Requirements

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### Timeframe

The Township Capital Improvement (R&B) levy can only be authorized during the township Annual Meeting in March. Anyone in attendance of the Annual Meeting has the ability to vote on the passage of the levy.

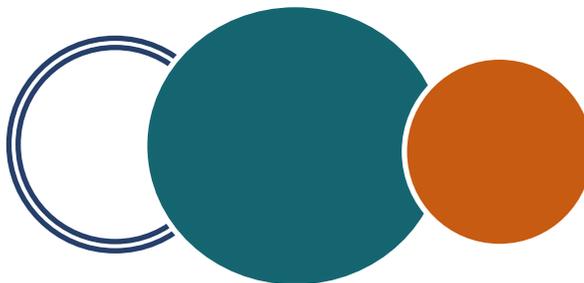
The action of the township board does not need to be published.

This levy is not referable to an additional vote of the people.

### Documentation

The township clerk must send the following to the County Auditor to ensure proper application of the levy:

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



## Special Assessments

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Special Assessments are a financing mechanism that allow payment for improvements by those properties who benefit, or for specific items, rather than general taxation.

General taxation is a tax rate that is applied to all properties. That tax rate is calculated by the county auditor and is applied to the valuation of each property.

A special assessment is a lump sum or per unit charge that is determined by the township. The board determines which properties must pay and for what reason.

### Taxation vs Special Assessment

- 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. A house worth \$100,000 will pay twice as much as house worth \$50,000.
- Special Assessment is a lump sum or an amount per unit.
  - ◆ Example: For every front foot abutting a road, the property will be charged \$5 in special assessment.
  - ◆ Example: For every homestead in the district, the property will be charged a special assessment of \$250.

## Considering a Special Assessment

It is the township's responsibility to determine if it has legal authority to pursue a Special Assessment – not the county auditor!

It is also the responsibility of the township to understand what laws apply to each type of special assessment. A specific taxing entity or special assessment authority may have different processes that must be followed. Example, a city must hold hearings and send out notifications to all taxpayers. But an ambulance district can just pass a resolution.

Always discuss your situation with your attorney, as they will be defending your actions in a court of law.

### **COMMON TOWNSHIP SPECIAL ASSESSMENTS**

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](#)

## General Rules

All special assessments must be filed with the county auditor no later than November 1.

The township must list out each special assessment. The listing should include the name of the property owner, the property address, the reason for the special assessment (along with the statute), and the total dollar amount of the assessment to be added to the tax bill.

## Road Districts

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### Township Road Districts

A township can create a road district(s) in which they can do additional special assessments on for road improvements, as needed. There are some restrictions, though, on the size of the road district. A township road district cannot exceed:

- (1) 1/2 mile of township road which provides access to a rural subdivision or unincorporated town;
- (2) 3 miles of streets in an unincorporated town; or
- (3) 5 miles of streets in a rural subdivision.

Once a township has created a road district, they can work with the owners of the road district to establish a special assessment for road improvement. At least 80% of the owners of property that is along the road must sign a petition in agreement to the special assessment. Once the petition has been completed, the township supervisors must hold a hearing. They must also send a notice to any property owners who did not sign the petition at least 10 days prior to the hearing. ([SDCL 31-13-16](#))

At the hearing, the petition about the road improvement will be discussed. If the supervisors decide to move forward, they should pass a resolution stating the amount needed for the improvement. However, the special assessment cannot exceed \$2 per front foot in any calendar year. ([SDCL 31-13-17](#))

Any taxes and special assessments on a township road district would be in addition to what the township requires as a whole.

### Incorporated Road Districts

If an area in a township wishes to become self-governing, they can incorporate into a road district. This essentially severs them from the township, and makes them into an independent entity that would be in charge of the construction and maintenance of its own roads. It would have its own budget and levy its own property taxes.

To incorporate as a road district, there are several steps that are required ([Chapter 31-12A](#))

- Survey and map of the territory within the proposed road district verified by the a surveyor,
- Petition signed by at least 25% of the eligible voters who own land in the proposed road district
  - ⇒ The petition must include the name of the road district, the need for road work, a description of the territory, and a request to the board of county commissioners to create the district.
- If approved by the county commissioners, an election of the eligible voters shall be held. A majority vote is required for incorporation.

Once incorporated, the governing board can levy property taxes and/or do special assessments.

A road district does not have a levy limit in statute. They may ask for as much in property taxes as needed to operate.

For special assessments, it is very important that an incorporated road district understand that it must follow the same rules that cities must follow for special assessments ([SDCL 31-12A-25](#)). An incorporated road district needs to do its due diligence by reviewing [Chapter 9-43](#) before they start the special assessment process. If the road district fails to follow the required steps, it may result in the special assessment being challenged by the county auditor or the district's taxpayers.