

## 05.03 – TRUTH-IN-TAXATION

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### Overview

M.S. 275.065 establishes a process, generally referred to as “Truth-in-Taxation,” for establishing and communicating proposed levies for the purpose of engaging the public in the budgeting and levy process. Truth-in-Taxation (often referred to as “T-in-T,” “T-n-T,” or “TNT”) encompasses three broad components:

- Certification of proposed levies
- Preparation and delivery of parcel-specific notices of proposed taxes
- Public meetings

This section details the specific requirements for each of these components after first reviewing the applicability of the requirements and a calendar highlighting the timing of the various pieces of these components. This section concludes with a discussion of penalties for non-compliance with these provisions.

### Application of Requirements

All taxing authorities are subject to the requirement to certify proposed levies, and parcel-specific notices are sent by the county to all taxpayers. The public meeting requirement generally applies to cities with a population over 500, counties, metropolitan special taxing districts, regional library districts, and school districts. Towns, cities with populations under the 500 threshold, and special taxing districts other than metropolitan special taxing districts and regional library districts, are not subject to the meeting requirements.

#### NOTE

As a result of 2009 law changes simplifying the TNT process taxing authorities are no longer required to publish or post public advertisements.

“Metropolitan special taxing districts” are defined as the following special taxing districts in the seven-county metropolitan area that levy a property tax levy for any of the specified purposes as listed:

- Metropolitan Council under Minnesota Statutes section 473.132, 473.167, 473.249, 473.325, 473.446, 473.521, 473.547, or 473.834.
- Metropolitan Airports Commission under Minnesota Statutes sections 473.667, 473.671, or 473.672.
- Metropolitan Mosquito Control Commission under M.S. 473.711.

## Calendar of Truth-in-Taxation Provisions

Table 05.03-1 summarizes the timing of various pieces of the Truth-in-Taxation process, categorized by the three major components.

<b>Dates</b>	<b>Certification of Proposed Levies</b>	<b>Parcel-Specific Notices</b>	<b>Public Meetings</b>
On or before Sept. 15	All taxing authorities certify proposed levy (except school districts)		
On or before Sept 30	School districts certify proposed levies		
On or before Oct. 5	Deadline for home county auditor to certify rates to other counties		
On or before Oct. 7	Deadline for school districts granted an extension by the home county auditor to certify proposed levies		
On or before Oct. 10	Deadline for proposed levies to be amended due to sharing, merger, or consolidation of services		
After Nov. 10, Thru Nov. 24		Auditor and treasurer prepare and deliver parcel-specific notices	
Nov. 25 thru Dec. 26			Timeframe for holding public meeting
Prior to five business days after Dec. 20			Deadline to adopt final payable property tax levy

## Certification of Proposed Levies

### Counties and Cities

The county board and the governing body of each city (including cities with a population of 500 or less) must adopt its proposed property tax levy for the taxes for the next payable year and certify that amount to the home county auditor on or before September 15. No extension of this deadline will be granted. The proposed property tax levy certified should be the levy for all purposes, including debt service.

The proposed levies of regional rail authorities within the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, or Washington under M.S. Chapter 398A must be included with the county's proposed levy and must be discussed at that county's public meeting.

### School Districts

Each school district must adopt its proposed property tax for the next taxes payable year and certify that amount to the home county auditor on or before September 30. This deadline line can be extended to October 7 if a school district reaches an agreement with their home county auditor. The deadline can also be extended for revised levy limitations certified by the Department of Education. The proposed property tax levy certified should be the school district's proposed property tax levy for all purposes, including debt service. The school district must certify its proposed levy as either (1) a specific dollar amount by school district fund, broken down between voter-approved and non-voter-approved levies and between referendum market value and tax capacity levies, or (2) the maximum levy limitation certified by the commissioner of education according to section 126C.48, subdivision 1. "Voter approved levies" means school district taxes approved at referendums for both (a) operating purposes, and (b) debt.

It is important for counties to compare the school district's certified levy with levy limits as posted on the Department of Education's web site. Levy Limitation and Certification reports are first posted to the Department of Education's web site in early September. To ensure levy limits accurately reflect the latest estimates of student counts, expenditures, and other data that drives the levy formulas, school districts have until September 30th to submit data changes to the Department of Education. For both the Truth-in-Taxation Notice and the preliminary levy survey, counties should wait until October 1st to access these reports on the Department of Education's web site.

#### NOTE

Intermediate school districts (Nos. 287, 916, and 917) that levy a tax under M.S. Chapter 136D, joint powers boards established under M.S. 123A.44 to 123A.446, and common school districts No. 323 (Franconia) and No. 815 (Prinsburg) are to be considered as school districts for the purpose of certifying their proposed property tax levies, but otherwise they are treated as special taxing districts since they are exempt from the public meeting under Truth-in-Taxation.

Levy Limitation and Certification Reports submitted by school districts may show different limits than those shown on the Department of Education's web site for the following reasons:

- Some school districts may estimate their levy limitations for purposes of certifying their proposed levy by adjusting an early version of the Levy Limitation and Certification Report by the amount of any anticipated corrections.

- The option to certify "maximum" levy rather than a specific dollar amount enables school districts with late changes in levy limitations to avoid the need for a special board meeting to certify the revised proposed amounts. Under this option some school districts may use a preliminary version of the Levy Limitation and Certification Report when certifying their levy to the county.
- The Department will revise Levy Limitation and Certification Reports in the first week of October for any districts making data changes on September 30th or just prior.
- Districts occasionally request changes after September 30th and the Department of Education will process these requests only if the home county has agreed to accept the late change.

#### Towns

All townships must have their proposed property tax levies certified to the county auditor on or before September 15, but they are exempt from the public meeting requirements under Truth-in-Taxation. No extension of this deadline will be granted. In most cases this certification will be the certification of the levy that was adopted at the annual town meeting in March, and will be the final levy as well as the proposed levy for the township. Statute in fact refers to the September 15 certification as the final levy for a town but also allows for recertification of the final levy in December if it is changed at a special meeting.

#### Special Taxing Districts

All special taxing districts must have their proposed property tax levies certified to the county auditor on or before September 15, but they are exempt (except for the three metropolitan special taxing districts and regional library districts) from the public meeting requirements under Truth-in-Taxation. No extension of this deadline will be granted.

#### Failure to Certify a Proposed Levy

If a local government fails to certify a proposed levy by the required due date, the county auditor will use the local government's previous year final levy as its proposed levy for the purpose of determining its proposed property tax notices.

#### Market Value Based Referendum Taxes

Market value based referendum levies must be certified separately from net tax capacity levies for all taxing districts.

#### Sharing, Merger, or Consolidation of Services

If two or more taxing authorities are negotiating an agreement for the sharing, merger, or consolidation of services at the time that the proposed levy is to be certified, each of the authorities must certify its proposed levy to the county auditor and include a notification of the specific service or services involved in the agreement that is not yet finalized. Each of these taxing authorities may amend the portion of its proposed property tax levy relating to the specific service or services involved until October 10 of the levy year to reflect the result of the negotiated agreement.

When the county auditor sends the preliminary levy survey under M.S. 275.07, subdivision 4, (see Section 05.04), to the Department of Revenue, a copy of the notices from the taxing authorities negotiating an agreement should accompany the levy survey. Then when the amended proposed levies

have been certified by these taxing authorities, the county auditor is to certify the amended proposed levies for these taxing authorities to the Department of Revenue as soon as possible after October 10.

#### Cross-County Jurisdictions

In the case of a school district, city, or special taxing district located within two or more counties, the home county auditor must certify the proposed levy and the proposed local tax rate to the other county auditor(s) by October 5. (M.S. 275.065, Subd. 1a provides a September 20 deadline for this certification but because of the September 30 deadline for school districts to certify their proposed levies to the home county auditor this is impossible and October 5 allows for the five days intended by the statute.) The home county auditor must estimate the rate if another county has not certified the appropriate information. If requested by the home county auditor, the other county auditor must furnish an estimate of the appropriate information to the home county auditor.

#### JOBZ Detail

Because of JOBZ, levy certifications must separately identify levies for general obligation debt and other school district levies included in the debt service levy of the district under M.S. 123B.55, as described in Section 13.02. This practice should be implemented by all counties, even if there is no JOBZ present, to facilitate cross-county certifications and to prepare for future JOBZ properties.

## Preparation and Delivery of Parcel Specific Notices

#### Requirement and Mailing Dates

Parcel specific notices of proposed property taxes must be prepared by the county auditors in all 87 counties, and must be mailed by the county treasurers by first class mail to the property owners in each county so that the property owners do not receive the notices until after November 10, and mailed no later than November 24.

#### Electronic Parcel Specific Notices

Upon written request by the taxpayer, the treasurer may send the notice in electronic form or by electronic mail instead of on paper or by ordinary mail.

#### General Form and Content of Notices

The Commissioner of Revenue prescribes the form of the notice which is posted on the DOR website annually. The notice must inform taxpayers that it contains the amount of property taxes each taxing authority proposes to collect for taxes payable in the following year. In the case of taxing authorities required to hold a public meeting, the notice must clearly state the districts that will be holding a public meeting to hear public testimony on the proposed (or current for school districts) budget and proposed (or final for towns) property tax levy.

The parcel specific notices must show, for each taxing authority required to hold a Truth-in-Taxation public meeting, **the date, time, and place for the meeting**. While there is no required process for communicating the meetings, generally jurisdictions should notify the county auditor of the meeting date and time, along with the levy certification.

The parcel specific notices must show **telephone numbers and addresses** for the county, the city or town, the school district, and the Metropolitan Council (if applicable) in case taxpayers have questions related to the notice or want to comment on the proposed taxes. A personal phone number or address

does NOT have to be provided on the notice of proposed property taxes as the contact information for the taxing authority. If a taxing authority does not maintain a public office where calls can be received, the authority may indicate this to the county auditor who will leave the telephone unidentified on the notice of proposed property tax.

The **taxable market values** for taxes payable in both the current and following payable years must be shown on the notices. These should be the values as appearing on the records of the county assessor as of November 1 of the current year. Each parcel specific notice must clearly inform the taxpayers of the years to which the taxable market values apply, and that these market values are final values.

Each parcel specific notice prepared for residential property and agricultural property must state whether the property is classified as **homestead or nonhomestead**. Providing this information may prompt taxpayers who receive notices identifying their property as nonhomestead, to challenge or apply for homestead status. Taxpayers have until December 1 to establish use of a property as a homestead and until December 15 to provide documentation to the county assessor. If satisfactory documentation is provided, the county assessor must reclassify the property to the appropriate homestead classification for taxes payable in the following year.

The **actual taxes for the current payable year and the proposed tax amounts** must be shown net of the agricultural homestead credits in separate columns on the notice by the following breakouts:

- County;
- City or town;
- State general tax;
- Voter approved school levies;
- Other local school levies;
- The sum of special taxing districts;
- Tax increment tax;
- Fiscal disparity tax; and
- The total of all taxing authorities.

The **percentage change in the total** taxes payable from the current year to the proposed, must also be shown on the notice. Percentage changes for each breakout should not be shown.

#### Exceptions to the General Tax Breakouts

There are some exceptions to these general breakouts. In the metropolitan area, the total for metropolitan special taxing districts should be shown separate from the total for all other special taxing districts.

For a county or city levying for a lake improvement district (under M.S. 103B.501 to 103B.581), this levy must be stated separately from the remaining levy amount.

In Minneapolis, the levy for the Minneapolis Library Board and the levy for Minneapolis Park and Recreation shall be listed separately from the remaining amount of the city's levy.

In St. Paul, the levy for the St. Paul Library Agency must be listed separately from the remaining amount of the city's levy.

In Ramsey County, the levy for library purposes may be listed separately from the remaining amount of the county's levy.

If a county incurs debt pursuant to M.S. 373.47 (part of the Minnesota Anti-Terrorism Act of 2002), the levy to pay the principal and interest on the capital improvement bonds or capital notes issued under this law may be shown separately from the remaining county levy on the parcel specific notice. This is not mandatory; it is a county option. The debt incurred under this law would be for public safety communication system infrastructure and equipment for use on the statewide, shared public safety radio system.

Anoka County may choose to show its levy for bonds or notes issued to finance the cost of certain communication system infrastructure and equipment under Laws 2002, Chapter 390, Section 27 as a separate line item on the parcel specific notice between the county tax and the city or town tax.

#### Amounts Noted as NOT Being Included in Proposed Taxes

The notice must clearly state that the proposed taxes do NOT include the following:

- Special assessments;
- Levies approved by voters after the date the proposed levies are certified, including bond referenda and school district levy referenda;
- Levy limit increases as approved at the November election;
- Amounts to pay cleanup or other costs due to a natural disaster occurring after the date the proposed levies are certified;
- Amounts necessary to pay tort judgments against the taxing authority that became final after the date the proposed levies are certified; and
- The contamination tax imposed on properties which received market value reductions for contamination. (This note should not be printed for a parcel that is not subject to contamination taxes.)

#### School District Referendum

If the school district has certified under M.S. 126C.17, subdivision 9, that it will be holding a referendum on a proposed amount at the November general election, a note must be printed directly under the school tax amounts stating that a referendum is pending and that, if approved by the voters, the school tax amount may be higher than the amount shown on the notice. This notification must NOT be pre-printed on the parcel specific notices.

#### Relationship Between Tax Amounts and Abatements/Deferrals

For an eligible county that has a pending county economic development tax abatement (**county tax rate differential abatement**) under M.S. 375.194 to one or more eligible parcels of commercial and/or industrial property within the county for the taxes payable in the next year, the proposed tax rates for all affected taxing jurisdictions must be calculated without regard to the potential county tax abatement which is pending. The potential value affected by the pending abatement agreement must be included in the tax base of the affected taxing jurisdictions. The proposed property taxes shown for the parcel(s) of commercial and/or industrial property affected by the pending abatement agreement must also be the proposed tax amounts before any potential abatement.

The proposed property taxes of a county, city, town, or school district must include the estimated amount of all current year **economic development tax abatements** granted under M.S. 469.1812 to 469.1815. The tax amounts shown on the parcel specific notice are to be before the reduction for any economic development tax abatements that will be granted on the property.

The amount of tax shown on the parcel specific notice for homesteads qualifying under the **senior citizens' property tax deferral** program is the total amount of property tax before subtraction of the deferred property tax amount.

#### Supplemental Information

Historically, no additional information has been mailed with the notice. Current law, however, provides the exception that a governing body of a county, city, or school district may, with the consent of the county board, include supplemental information with the statement of proposed property taxes about the impact of state aid decreases and on the level of services provided in the jurisdiction. The information may pertain to the following year, current year, and as many preceding years as deemed appropriate by the jurisdiction. The supplemental information may only include information regarding:

- 1) The impact of inflation as measured by the implicit price deflator for state and local government purchases
- 2) Population growth and decline
- 3) State or federal government action
- 4) Other financial factors that affect the level of property taxation and local services.

The information may be presented using tables, written narrative, and graphs and may contain instruction toward further sources of information or opportunity for comment.

If a jurisdiction chooses to include supplemental information with the statement of proposed property taxes a copy of the supplemental information must also be sent to the Department of Revenue. (M.S. 275.065, subd. 3, para. (j))

#### Apportionment of Costs

The law allows a county auditor to apportion the cost of preparing and mailing parcel specific notices (as well as the costs of other county auditor services under the Truth-in-Taxation Law) between the taxing jurisdictions as follows:

- **One-third** of these costs is allocated to the **county**.
- **One-third** of these costs is allocated to the **cities and towns** within the county, including the cities of 500 population or less. These costs are also to be apportioned among the cities and towns based upon the number of parcels within each city or town within the county.
- **One-third** of these costs is allocated to the **school districts** within the county. These costs are to be apportioned among the school districts based upon the number of parcels within each school district within the county.

When apportioning costs to school districts or cities and towns within the county, the school districts and cities that are partially within the county as well as those that are entirely within the county are to be included in the apportionment.

The law does not provide for allocating any of these costs to special taxing districts (including the metropolitan special taxing districts).

#### Delivery or Posting of Notice by Owners of Rental Housing

Owners of class 4 residential property used as a residence for lease or rental periods of 30 days or more) are required to deliver a copy of their parcel specific notice to their tenants or post a copy in a conspicuous place on the premises occupied by the tenants. This must be done by November 27, or within three calendar days of the receipt of the notice from the county, whichever is later. Owners of rental property are allowed to notify the county treasurer of the address of the taxpayer, agent, caretaker, or manager of the premises to which the parcel specific notice should be mailed. However, the law does not require county treasurers to comply with such requests.

The purpose of this requirement is to notify tenants of proposed increases or decreases in the property tax on the premises they occupy which may effect their rent payments, and to provide an opportunity for tenants to voice their opinions to public officials about the proposed increases or decreases.

#### Failure to Provide Notice

Failure to substantially comply with the parcel specific notice requirement can result in penalties for the county as described later in this section. However, failure of the county auditor to prepare or the county treasurer to deliver the notice (for a parcel or in a more limited sense) does not invalidate the proposed or final tax levy or the taxes payable pursuant to the tax levy.

## Public Meetings

#### Public Meeting Requirements

In lieu of the eliminated formal TNT hearing, counties, cities over 500 population, school districts, and metropolitan special taxing districts are required to hold a regularly scheduled meeting at which the budget and levy will be discussed and the public allowed to speak. The hearing must be between November 25 and December 28 and be held after 6:00 PM. If a regular meeting is not scheduled between November 25 and December 28 after 6:00 PM it will be necessary to schedule a special meeting for this purpose.

#### Public Meeting Announcement

Counties, cities over 500 population, school districts, and metropolitan special taxing districts are required to announce, at the meeting in which the proposed levy is certified, the time and place of its subsequent regularly scheduled meeting at which the budget and levy will be discussed and the public allowed to speak. For taxing authorities required to publish a summary of proceedings in an official newspaper in accordance with M. S. 123B.09, 375.12, or 412.191, the time and place of the public meeting must also be included in the publication.

#### Public Meeting Information to the Home County Auditor

A taxing authority required to hold a public meeting must inform its home county auditor of the time and place of the public meeting at the same time the proposed levy is certified, so it may be included in the parcel specific notice.

#### No County Coordination of Hearings

The county auditor is not required to coordinate a taxing authority's selection of its hearing date to prevent a conflict with a hearing of another taxing authority.

## Final Levy Restrictions

The final property tax levy by a city of any population, county, metropolitan special taxing district, regional library district, or school district must not exceed the proposed levy, with specific exceptions. The following levies by statutory authorization may be "added-on" to the county's, school district's, city's, metropolitan special taxing district's, or regional library district's proposed property tax levy and result in a final levy that is greater than the proposed levy:

- (1) **Voter Approved Operating or Capital Expenditure Levies:** School district, county, or city levy increases for operating costs or capital expenditures approved by the voters at a referendum held after the proposed levy was certified.
- (2) **Bond Referendums:** The amount of a levy to pay the principal and interest on bonds approved by the voters under M.S. 475.58 after the proposed levy was certified. This allowance does NOT apply to bonds issued after the proposed levy was certified if the bonds were issued without voter approval in accordance with M.S. 475.58.
- (3) **Natural Disaster Costs:** The amount of a levy to pay the repair and clean-up costs due to a natural disaster that occurred after the proposed levy was certified, if the taxing authority appeals to the Commissioner of Revenue for the authorization to make this additional levy and receives the Commissioner's approval. The Commissioner's approval may be in the amount requested or in a lesser amount determined by the Commissioner based upon the information submitted in support of the appeal. The Commissioner's decision is final.
- (4) **Tort Judgment Costs:** The amount of a levy to pay the costs of a tort judgment that became final after the proposed levy was certified, if the taxing authority appeals to the Commissioner of Revenue for the authorization to make this additional levy and receives the Commissioner's approval. The amount requested cannot exceed the lesser of \$50,000 or ten percent of the taxing authority's proposed property tax levy. The Commissioner's approval may be in the amount requested or in a lesser amount determined by the Commissioner based upon the information submitted in support of the appeal. The Commissioner's decision is final.
- (5) **Non-School Levy Limitation Increase:** The amount of an increase in the levy limitation (for whatever purpose) for a county or a city over 2,500 population or for a metropolitan special taxing district, certified by the Commissioner of Revenue after the proposed levy was certified.
- (6) **School District Levy Limitation Increase:** The amount of an increase in a school district levy limitation (for whatever purpose) certified by the Commissioner of Education after the proposed levy was certified.
- (7) **School Districts; Default Avoidance:** The amount necessary in accordance with M.S. 126C.55 to pay for a potential default in payments on school district tax anticipation certificates of indebtedness, aid anticipation certificates of indebtedness, or general obligation bonds.

- (8) **Emergency Debt Certificates:** The amount necessary in accordance with M.S. 475.55 to pay emergency debt certificates authorized and issued after the proposed levy was certified.
- (9) **Recertification Due to Unallotment:** The amount necessary in accordance with M.S. 275.07, subdivision 6 to cover the increase of the proposed levy due to unallotments occurring after September 1 of the levy year.

## Penalty for Violation of Truth-in-Taxation

### Certification of Compliance

At the time the taxing authority certifies its final tax levy under M.S. 275.07 (on or before five working days after December 20), it shall certify to the Commissioner of Revenue its compliance with Truth-in-Taxation requirements. The Department of Revenue provides the forms for this certification on its website.

### Examples of Serious TNT Violations

Examples of serious violations include, but are not limited to: (a) failure to hold a public meeting when a public meeting is required, (b) failure to allow the public to speak at the public meeting, and (c) failure to complete and submit a Truth-in-Taxation compliance form (Form TNT) to the Department of Revenue when a TNT public meeting was required.

### Explanation of Penalty

If the commissioner determines that the taxing authority has failed to substantially comply with the requirements of Truth-in-Taxation, the Commissioner of Revenue shall notify the county auditor and when fixing the tax rates under M.S. 275.08 for the taxing authority that has not complied, the county auditor must use the taxing authority's previous year's levy (plus any additional amounts necessary to pay principal and interest on general obligation bonds of the taxing authority for which taxing powers have been pledged if the bonds were issued before 1989). The decision of the Commissioner is final.

### Possible Remedial Action to Avoid Penalty

If a county, school district, city with a population of over 500, or metropolitan special taxing district inadvertently commits a significant error somewhere in the Truth-in-Taxation process, it is often possible to either repeat some of the steps of the process or to take some remedial action to avoid the penalty. The Department of Revenue must be contacted immediately if this situation arises.

## Reference

M.S.275.065