



## UNITED STATES – January 2019

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## ARIZONA

### Effort Underway To Ban Property Taxes For All Senior AZ Homeowners

In Arizona, property taxes are collected and managed by the counties to pay for public education, emergency services, health, water and many other community services.

But, a self-proclaimed "tax activist" and California transplant has found Arizona's property taxes "unpredictable and inexplicable" comparatively.

Since moving here in 2016, Lynne Weaver has tried multiple times to enact similar reforms, but failed.

This year, she is working with former state GOP chairman Randy Pullen to permanently ban property taxes on Arizona home owners who are 65 and older.

Weaver, who admitted she is over 65, said the current program freezing taxes for eligible seniors who make less than \$37,008 a year (\$46,260 as a couple), has found the renewal process too burdensome and excluding for most seniors.

"We have too many people losing their home, unable to pay property taxes," she said. "Why should just low-income people be able to stay in their home after they retire and they're on a fixed income?"

In her latest proposal, anyone age 65 or older would be excused from paying a property tax.

She has reasoned that, even when an elderly resident has substantial property, it can disappear quickly in a medical crisis.

"You may be well-off today," Weaver said, "But you may be diagnosed with something tomorrow that's going to take everything you've got to keep up with it. Your luck changes quickly."

When it does change, she continued, "People over 65, most are not working. And they can't go back and get a second job or a better job."

She based her prior proposals off of California's Proposition 13, a 1978 measure rolling back property valuations and capping year-over-year increases.

In this initiative, Weaver thinks she will have better luck targeting only Arizona's seniors, but that will take gathering 356,467 valid signatures before July 2, 2020 to make the ballot next year.

Opponents to Weaver's plan point out that if her initiative passes, home owners under 65 would have to bear the entire property tax burden, which is necessary to fund public education, emergency services and other community programs.

## CALIFORNIA

### Proposition 13 is no longer off-limits in California

Proposition 13 is untouchable.

That's been the thinking for 40 years in California. Politicians have feared for their careers if they dared suggest changes to the measure that capped property taxes, took a scythe to government spending and spawned anti-tax initiatives across the country.

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However, that is beginning to change. With Republican influence in California on the wane and ascendant Democrats making tax fairness an issue, advocates are confident that the time is right to take a run at some legacies of the 1978 measure.

High on their list: making businesses pay more and ending a sweetheart deal for people who inherit homes and their low tax bills, then turn a profit by renting them out.

Legislative Democrats hold so many seats that they don't have to worry about the GOP blocking such ideas from going before voters. Gov.-elect Gavin Newsom has said that "everything would be on the table," including Prop. 13, as he formulates a plan to reform the state's tax structure.

Perhaps most important, Prop. 13's age is becoming an advantage to would-be reformers: California's voting demography is changing. The generation of homeowners that grew up with Prop. 13 is well into retirement now, and some younger Californians blame flaws in the measure for everything from the underfunding of public schools to growing wealth inequality.

"For Californians who grew up in the public education system that came after Prop. 13, their education was robbed from them. They didn't get the same education their parents did," said Catherine Bracy, executive director of TechEquity Collaborative, which is trying to rally the tech community to support changes to the state's tax structure.

Bracy, 38, moved to the state six years ago from Chicago. "For newcomers (to California) like me, who were born after Prop. 13, we want to experience the California dream, too," she said. "But we don't have the opportunity to, because all the goodies have been locked up by the older generations."

Prop. 13 was a remedy for a side-effect of one of California's first housing bubbles — spiking property taxes. Moved by their own tax bills and horror stories of longtime homeowners being forced to sell because of skyrocketing assessments, voters overwhelmingly passed the measure. It rolled back assessments for homes and businesses to 1976 levels and capped annual tax increases at 2 percent.

Jon Coupal is president of Prop. 13's fiercest defender — the Howard Jarvis Taxpayers Association, named after the initiative's co-author. He agreed that "the number of homeowners who were around in 1978 is shrinking. And many younger people don't remember the fear and anger about losing your home."

But Coupal said that "notwithstanding the leftward movement of politics in California," his organization's internal polling shows support for Prop. 13 remains strong. And a survey in March by a nonpartisan group unaffiliated with Coupal's organization, the Public Policy Institute of California, found that 65 percent of likely voters surveyed said Prop. 13 "turned out to be mostly a good thing for the state."

Under Prop. 13, residential and commercial property alike is reassessed only when it is sold. But while homes often change hands every few years, many large businesses remain in the same ownership for a long time. Some businesses are paying property taxes based on assessments that haven't changed in 40 years.

That's one main target of people who want to tweak Prop. 13. The League of Women Voters of California says it has gathered enough signatures for a 2020 ballot measure that would create a so-called split roll system, under which businesses' property would be reassessed every three years. Agricultural land and businesses with 50 or fewer employees would be exempt. Residential property would not be affected.

The change could raise \$11 billion in tax revenue statewide, including \$2.4 billion for Alameda, Contra Costa, Marin, San Francisco and San Mateo counties, according to a January study by the USC Program for Environmental and Regional Equity. The study found that 56 percent of all Bay Area commercial properties had not been reassessed for 20 years, and 22 percent had assessments dating back to the 1970s.

Could a split-roll measure pass? It might be close. Forty-six percent of likely voters surveyed by the Public Policy Institute of California in January said they supported the idea, while 43 percent were against it. Support was far higher among likely voters under 35 (57 percent) than with those over 55 (41 percent).

However, the split-roll concept has actually been growing less popular over the years, the institute said: Six years ago, 60 percent of likely voters backed it.

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Helen Hutchison, president of the League of Women Voters of California, acknowledged that changing the law will be difficult because “Prop. 13 still has some kind of magical pull. But we think the time is right to do this.”

State Sen. Jerry Hill has introduced a ballot initiative that would limit a tax break for heirs of

Hill’s proposal, Senate Constitutional Amendment 3, takes aim at Proposition 58, which voters approved in 1986. The measure allowed parents to give their residential property to their heirs without triggering a tax reassessment. The intent of the measure was to insulate children from absorbing a huge spike in property taxes and help them stay in the family home. California is the only state to offer this tax break.

Hill proposed the change after learning that many heirs are using their inherited properties as second homes or renting them out for many times more than what they’re paying in Prop. 13-controlled property taxes.

The proposed ballot measure would require people who inherit property in this way to move into the home within a year if they wanted the property tax break. The change would apply to future heirs, not those who have already inherited homes.

Getting this measure on the ballot in 2020 requires Hill to corral a two-thirds majority from both houses of the Legislature. If it makes it to the ballot, it could be passed by a simple majority of voters.

Hill is mindful of the politics around property taxes.

“We’re not touching Prop. 13. We’re touching Prop. 58,” Hill said. “The goal is to get people to pay their fair share.”

Coupal, head of the Howard Jarvis Taxpayers Association, doesn’t think Hill’s measure is the biggest threat to Californians concerned about taxes.

## MASSACHUSETTS

### **Westboro officials optimistic about tax deal for Pennsylvania-based company**

A special town meeting will be held Jan. 10 to decide the fate of a proposed Tax Increment Financing Agreement that would save a Pennsylvania-based company less than \$1 million, but generate nearly \$4 million for the town.

The meeting will be held in the Town Hall at 34 West Main St., beginning at 6:30 p.m. The proposed TIF is the only warrant article for the special meeting.

Olympus Corporations of Americas, the nation’s largest distributor of endoscopes, is seeking approval of a 15-year TIF, proposed to begin July 1, 2020, the beginning of fiscal 2021. The company plans to invest \$45 million to construct a 150,000-square-foot building on 17.6 acres of undeveloped land at 800 West Park Drive. The facility would be used as the company’s corporate offices, as well as for research and development.

The Center Valley, Pennsylvania-based Olympus Corporation has its Olympus Scientific Solutions America division in Waltham and its surgical technologies division in Southboro. The nearly 100-year-old company - which employs more than 5,300 throughout North and South America - had approximately \$2.6 billion in net sales as of March 31.

The warrant article also seeks authorization for the Board of Selectmen to create an Economic Opportunity Area at the West Park Drive site, with the potential to later include 12.74 acres of undeveloped land at 1200 West Park Drive.

The company expects to relocate up to 400 employees to the new Westboro facility, and add another 25 full-time positions.

The article takes a simple majority vote to pass.

According to town officials, approval of the TIF will result in no tax revenue loss; only a temporary reduction in how much of a tax increase would be applied to the increase in value of the property. The real estate tax exemption would decline over the life

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of the agreement and would range from 50 percent the first year to 10 percent in years 5-15. The personal property tax exemption would range from 25 percent the first year, to 5 percent in year five; and 0 percent in years 6-15.

The undeveloped property at 800 West Park Drive is currently valued at a little over \$2 million.

Chief Assessor Jon Steinberg said any amount of valuation over the \$2 million would be reduced the first year of the TIF by 50 percent. He estimates that over the course of the 15-year TIF, the real estate tax benefit to Olympus would be \$767,523, while the town would receive approximately \$3.8 million in real estate taxes. The company would also save a little over \$6,000 in personal property taxes, but would pay the town \$117,000.

"It's a big benefit to the town ... considering right now the property is only worth \$2 million," Mr. Steinberg said of the proposed TIF.

Selectmen Chair Leigh Emery was surprised to learn from a reporter Thursday that Olympus was fined \$646 million by the U.S. Department of Justice for allegedly paying millions of dollars in kickbacks to doctors and hospitals to purchase its medical products. In the 2016 statement from the DOJ, a subsidiary of Olympus, the largest distributor of endoscopes and related equipment, also agreed to pay \$22.8 million to resolve criminal charges relating to improper payments to health officials in Central and South America.

In a Dec. 10, 2018 press release Kiroyuki Sasa, president and representative director of Olympus Corporation, said the company "deeply regrets its failure to e and supplement the (Medical Device Reports) identified in the plea agreement and accepts full responsibility for these failures."

Ms. Emery said the board first heard about Olympus Corp. at its last meeting on Dec. 8, when the special meeting was called. But the board did not know anything about the fines Olympus had to pay. She said she does not think knowing would have stopped the special town meeting.

"My take on it is the town isn't at any risk. We're offering them a TIF and they have to comply with the TIF. If they don't, then they would have to relinquish the benefits they receive," she said by phone Thursday. "We are happy to have a vibrant company in town that will give us more taxes. And to bring in 400 more workers, that will presumably be good for our economy."

Former Town Manager James Malloy, who left in August to become town manager in Lexington, said he first met with representatives of Olympus in April. But he did not learn about the federal charges and fines until Thursday. He said he Googled every pharmaceutical company that he could think of and added the word "fine," and found that they had all been fined. He said there were practices openly done in the pharmaceutical industry that are not being done today because they are watched much more closely.

He said the only thing he would have done differently, if he had known, was to make sure Olympus is not longer involved in the kinds of practices that resulted in the large fine. The 2016 DOJ press release said the company was cooperative and is committed to full compliance with the reform and requirements outlined in the agreement.

"They appeared to be a very good company," Mr. Malloy said of his interactions with Olympus representatives. "This is a prime piece of property that has been a priority for the town to develop for a long time, like 20 years. New construction in Westboro ... I think it's a good thing."

## NEW JERSEY

### 2019 Commercial Property Tax Appeals

A reduction in the real estate tax component of a commercial property owner's expenses will be reflected directly in the bottom line. Therefore, it is important to consider whether or not the assessed value of commercial property (shopping centers, office and industrial buildings, and multi-family apartments) are paying more than their fair share of taxes.

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The assessments on which real estate taxes are based, if inappropriate, can be challenged. However, property owners who wish to consider an appeal of their 2019 property tax assessment have a limited window of time to act.

#### *FAQs and Important Dates*

**Notice of Assessment:** Local assessors are required to notify each taxpayer by mail of their 2019 assessment on or before February 1, 2019.

**How Assessments Are Calculated:** If the municipality has conducted a municipal-wide revaluation or reassessment, the assessment will be in the amount of the assessor's estimate of the market value of the property (the so-called "true value") as of . Otherwise, the assessment will be in the amount of the assessor's estimate of the market value of the property as of October 1, 2018, adjusted by the average ratio of the assessed value to the market value of other properties in the municipality. This average ratio is determined by the State Director of Taxation. In considering an appeal, property owners need to determine the true value of the property reflected in the assessment to ascertain whether there is a basis for a tax appeal.

**Filing an Appeal:** An appeal from the 2019 assessment must be filed on or before April 1, 2019; however, if the assessment is the result of a municipal-wide revaluation or reassessment, the appeal deadline is extended to May 1, 2019. Appeals are filed with the County Board of Taxation, except in instances where the assessment exceeds \$1,000,000, in which case an appeal can be filed directly with the New Jersey Tax Court.

Special rules apply to property in Monmouth County where County Tax Board appeals must be filed by January 15, 2019 and Tax Court complaints must be filed by April 1, 2019.

#### The Appeals Process and Sample Outcomes

The Tax Court rules mandate that parties must participate in a settlement conference, and, in fact, most tax appeals do settle. Examples of past settlements in which the firm represented the owners of various types of properties include:

- The assessment of contaminated vacant land was reduced by 45% from \$550,000 to \$300,000.
- The assessment of a vacant office building was reduced by 53% from \$16,110,000 to \$7,519,200.
- The assessment of a 130,000 square foot office building was reduced by 47%, from \$5,900,000 to \$3,119,800.
- The assessment of 288 condominium units was reduced by 46% from \$121,395,500 to \$65,464,000.
- The assessment of a 197,000 square foot industrial building was reduced by 26% from \$4,400,000 to \$3,227,200.
- The assessment of a hotel/office building was reduced by 22%, from \$12,458,100 to \$9,672,000.
- The assessment of a multi-tenanted warehouse/self storage facility with 21,000 square feet was reduced by 18% from \$1,523,700 to \$1,250,000.
- The assessment of a 115-room hotel was reduced by 16% from \$5,262,300 to \$4,400,000.
- The assessment of a shopping center with a total area of 57,500 square feet was reduced by 14% from \$6,513,400 to \$5,600,000.
- The assessment of a 93-unit cooperative was reduced by 13% from \$10,320,000 to \$8,900,000.
- The assessment of a 240-unit garden apartment complex was reduced by 12% from \$19,230,700 to \$16,800,000.

On occasion, the difference between the property owner's estimate of market value and that of the town cannot be reconciled. In those cases, formal appraisals are exchanged and the parties prepare for trial.

## NEW YORK

### **Why NY's property-tax cap faces a critical year**

Gov. Andrew Cuomo wants to make the property-tax cap permanent in 2019, but he will face pressure from powerful special-interest groups and a new state Legislature who may not support his proposal.

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The cap is one of Cuomo's top legislative achievements because it has slowed the growth of property taxes in New York, which has among the highest taxes in the nation.

As part of his 2019 agenda, Cuomo pledged to make the cap permanent. It expires in 2020, but is legally tied to rent-control laws, which end in June.

In a speech Dec. 17 laying out his priorities, Cuomo appeared to tie making the tax cap permanent to another issue important to Democrats: keeping higher taxes on the rich.

"Our state tax code is more progressive today than it has ever been. We must maintain our millionaire's tax, also make permanent our two percent cap on the regressive local property taxes," Cuomo said.

Cuomo got the state Legislature to install the tax cap in 2011, his first year in office. It has worked as he intended: School taxes went up on average 5 percent a year prior to the cap. Now it's limited to less than 2 percent growth annually.

Democrats will control the state Legislature in January, and the powerful teachers' union in particular may look to chip away at some of the provisions of the cap.

About that cap

The cap limits the growth in property taxes for all local governments and schools to 2 percent a year or the rate of inflation, whichever is lower.

The tax can be overrode by a 60 percent vote by a municipality's governing board or by 60 percent of voters during school budget referendums each May.

The cap has been difficult for schools to pierce: The public rarely approves an override.

School groups have wanted to do away with the 60 percent supermajority provision and instead only require a simple majority to override the cap.

They have also sought to get rid of tying the cap to inflation, because in some years the cap hovered at 1 percent or less, severely limiting governments' ability to raise revenue for their budgets.

"Our position has not changed," Carl Korn, spokesman for the New York State United Teachers union, said.

"The tax cap is arbitrary and undemocratic. It unfairly limits the ability of local communities to decide for themselves how much to invest in their own local schools."

Cuomo stands pat on cap

Cuomo has been steadfast in opposing any wholesale changes to the cap, and his efforts were supported by Republicans who held the Senate majority — who also pushed for the cap to be made permanent, but didn't win support from the Democratic-led Assembly.

The cap has been extended in the past, but never made permanent.

The issue will come up again this year because making the cap permanent could be a bargaining chip for Cuomo in what will be a fight over reforming rent-control laws in New York City and its suburbs.

"It's an issue that we'll discuss with our members in January," said Michael Whyland, a spokesman for Assembly Speaker Carl Heastie, D-Bronx.

In 2015, a Siena College poll showed 70 percent of New Yorkers supported the cap, and it has been defended by upstate and suburban lawmakers where property taxes are most pronounced.

Cuomo said the cap is important, especially because the federal government is limiting state and local income-tax deductions to \$10,000 a year in 2019, called SALT.

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The Democratic governor also hinted at looking to lower taxes next year.

"We will fight SALT to the death, and I will once again propose cutting taxes for our hardworking middle-class families," he said Dec. 17.

What's next

Some upstate counties, including in the Rochester area, pay among the highest property taxes in the nation compared to home values.

The New York City suburbs, meanwhile, including the lower Hudson Valley, pay among the highest property taxes total in the country.

Incoming Senate Democratic Leader Andrea Stewart-Cousins, D-Yonkers, has stressed in recent weeks that she's a suburban lawmaker who acutely understands the issue of property taxes in New York.

She has already ruled out raising taxes on New York, despite calls from incoming members to raise taxes on the wealthy.

If Cuomo can make the tax cap permanent, it would be a major part of his legacy as governor, said E.J. McMahon, president of the Empire Center for Public Policy, a fiscally conservative think tank in Albany.

McMahon has applauded the cap's ability to control taxes and has warned against efforts to water it down.

"The best possible result is that he stands firm against any change and he insists that it be permanently enacted," McMahon said.

## Understanding NY's Property Taxes

Whether people like it or not, taxes are necessary, and it is particularly true in the case of property tax. Local governments levy a tax on property to generate additional revenue. This is used as funding for public schools, the local police and fire departments, garbage collection and disposal services, as well as maintaining our streets.

Unfortunately for those with properties in New York, The Balance reveals that the state's property tax is quite high. It is, in fact, one of the highest in the country, and is computed like this: the property's assessed value multiplied by the local property tax rate. The tax rates are set by local governments, and they vary from location to location. Local assessors, meanwhile, are tasked to assess every property in-state (except in New York City and Nassau County) at a uniform percentage of market value — determined by the local assessor's office — annually.

This means that your property tax this year will likely be different from that of next year, and the year after, and so on. The reason for this is that the uniform percentage of market value will likely vary from year to year. Even the tax rate might change from year to year as well, like what happened in 2017 in Mount Vernon. As reported here, Mount Vernon City Council adopted that year the city's lowest budget. Yet they increased the property tax rate to 1.82% for that same fiscal year.

Still it should be noted that there are certain tax reliefs that can lower your property tax in New York. Those who use their homes as their primary residence, for instance, are entitled to an exemption. Senior citizens, veterans, and persons with disabilities (PWDs) also get exemptions. Owners of residential buildings, meanwhile, can gain tax abatements to ease the burden of high property taxes.

The J-51 tax abatements are a prime example of this. The J-51 tax abatements article by Yoreevo states they were first made available way back in 1955, right after the city required all buildings to provide basic utilities such as central heating, indoor plumbing, and hot water. Response to the mandate was lukewarm, with landlords complaining that they didn't have the money to add said utilities to their buildings. The J-51 tax abatements were born, with a simple premise: invest in improvements, and

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recoup the costs via tax breaks. Today, the J-51 tax abatements are incentivizing building improvements, and both landlords and tenants are benefiting — the former get lower property taxes, while the latter enjoy better amenities.

These tax breaks, clearly, are important nowadays for property owners in New York, especially in New York City. As stated already, New York has some of the highest property taxes in the U.S., and property taxes in the Big City are still rising “at an alarming rate”. The rise is particularly alarming when juxtaposed with the income of New Yorkers. Over the past decade, New York City’s property tax rate “has grown at triple the rate of New Yorkers’ incomes.” This means that property taxes are getting an increasingly larger portion of a homeowners’ income.

It’s quite unfortunate that property taxes in New York are so high, and it seems they are continuing to rise. At the very least, there are tax breaks, and the onus now is on property owners to take advantage of them.

## Amazon HQ2 tax breaks scrutinized by city comptroller

*Comptroller Scott Stringer has issued a request to the EDC for information that would help him fact check the numbers behind the deal*

City Comptroller Scott Stringer has publicly decried Amazon’s deal with the city, calling it a “taxpayer-funded entitlement program” in an early December op-ed in the Gotham Gazette. Now, Stringer has issued a firm request to the city’s Economic Development Corporation for the detailed information behind the numbers that sealed the Amazon deal behind closed doors.

On Friday the comptroller requested the EDC return specific information that would help him fact check the assertion that Amazon’s Long Island City development would provide a 9-to-1 return on investment, as well as breakdowns on the refundable tax credits Amazon stands to gain through the Relocation and Employment Assistance Program (REAP) and the Industrial and Commercial Abatement Program (ICAP), the New York Daily News reports.

REAP is a tax credit program originally designed to help attract employees outside of Manhattan’s business core. In his Gotham Gazette op-ed, Stringer says Amazon stands to receive some \$900 million in tax credits from the program. By comparison, last year 205 firms shared \$32 million in tax credits under the program; but because there’s no cap on REAP, Amazon can accrue \$75 million in tax credits from the program in a single year.

The program as it stands also does not require its recipients to meet performance goals, so if Amazon does not deliver on its promise to hire 25,000 employees at an average pay rate of \$150,000—and instead hires 25 employees at an average pay rate of \$30,000, for example—it can still receive the tax credit.

In the op-ed predating the EDC request, Stringer called for a reevaluation of the program, considering that “our economy is already doing the work of REAP. Indeed, from 2007 to 2017, 83 percent of new jobs in New York City were outside of Manhattan, raising the question of whether the REAP program is needed in a city where businesses are already spreading across the five boroughs on their own.”

ICAP is a tax credit that offers incentives to companies that renovate or build outside of Manhattan to spur economic development. Amazon stands to gain \$400 million in property tax abatements from this program, Stringer says.

When an ICAP tax break exceeds \$1.5 million, it requires the receiving group to seek at least three bids for construction from city-certified minority- and women-businesses enterprises (MWBE). Because Amazon’s tax break could be nearly 267 times that minimum threshold, Stringer has inquired whether Amazon will be seeking more than three MWBE bids for the project.

Stringer has also requested of the Economic Development Corporation information on its agreement to lease Amazon public buildings, including buildings used by the departments of transportation and education.

The comptroller has requested that the EDC return the information by January 11.

## NORTH CAROLINA

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## Revaluation in Sampson nears finish

A sweeping revaluation of properties in Sampson County is nearing the backstretch, as the schedule of values has been approved and new tax bills are slated to be mailed out in a mere two months, a process that is often followed by a caravan of informal and formal appeals by property owners.

State law requires counties to undergo a revaluation of real property a minimum of every eight years. Sampson's last revaluation became effective Jan. 1, 2011 and the current revaluation will become effective January 2019. The purpose is to assure all properties reflect current market value and to promote equity and fairness within the tax base.

The current reval process began with the award of the bid for revaluation services to Pearson Appraisal Service in December 2016. Fred Pearson of Pearson's Appraisal Service and Robert Ezzell, project manager for Pearson and the supervisor for Sampson's 2019 appraisal.

They spearheaded the Sampson reval, which included visits to approximately 50,000 total parcels in this county. The appraisers collected basic characteristics of the property, such as building dimensions, total square footage, type and quality of construction, type of heating and cooling, plumbing, age, condition, desirability, usefulness and other characteristics.

As part of the reappraisal process, uniform schedules of values, standards, and rules to be used in appraising real property at its true value and at its present-use value are prepared. Those have to be reviewed before Jan. 1 of the year they are applied. The proposed schedule of values were delivered on Nov. 5, and the required public hearing was held on Nov. 26.

The Sampson Board of Commissioners signed off on them earlier this month.

"This schedule of values contains the base rates, adjustment tables, depreciation factors — the actual tools that we'll need, as appraisers, to assess property for the next eight years in Sampson County," said Tax administrator Jim Johnson. "We anticipate at this point in time that the (tax) notices for 2019 will be mailed some time around March 1. That will give approximately two months for Pearson to hold informal appeals prior to the Board of (Equalization and Review) convening and having their appeals and their verdict."

In Sampson, the Board of Commissioners acts as the Board of E&R, hearing appeals from property owners.

Revaluation covers all residential and commercial land and structures, such as homes, apartments, and office buildings, stores and warehouses. It does not include what is known as "personal property," such as cars, boats and airplanes. The values for those are adjusted annually.

Property is appraised at "fair market value," which is the most probable price a property would bring in a competitive and open market. Property values for revaluation are determined by comparing sales prices for similar properties, what it would cost to replace a property, the potential income for a property and many other factors.

At the beginning of this year, according to the North Carolina Department of Revenue, the most recent sales ratio study listed Sampson County as just over 100 percent of market value. Pearson's appraisers said some properties will go up in value, meaning higher tax bills, while some may decrease.

"There will be areas where we will have a little bit of an increase, there will be some areas that go down and a lot of areas will remain very close to the same," Ezzell said earlier this year, speaking to Sampson's revaluation. "Our job is to make it as uniform and as equitable as we can, not overtax anybody and try not to undertax anyone."

New tax bills to be mailed in March; appeals follow

OHIO

## TJX requests changes to proposed tax abatement agreement

We're learning more about the finer details and changes made to a proposed tax abatement agreement between the Village of Lordstown and the upcoming TJX HomeGoods distribution center project.

### International Property Tax Institute

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The core of the proposed agreement has not changed; TJX is still seeking a 75 percent, 10-year property tax abatement for the company's proposed 1.25-million-square-foot distribution center, and in return for the tax abatement, TJX would give Lordstown Local Schools a \$500,000 donation.

Mayor Arno Hill has said that after that, the school district should receive about \$405,000 each year after the plant is up and running.

However, TJX requested some minor changes to the agreement.

One request touches on the promise of 1-thousand permanent jobs by the end of 2024. TJX still plans to meet that promise but is asking for a little leeway in the event that a new industry moves into the area or GM restarts and pulls from their workforce.

"Say they have employment and all of a sudden General Motors came back and everyone rushed to General Motors, then they would want 90 days to be able to get their employment numbers back up because the abatements are reviewed every year and they want to make sure they are covered," said Hill.

This comes at a time when the village and the Valley have seen job loss due to General Motors' decision in early and mid 2018 to cut two shifts at its Lordstown facility -- and then GM's recent decision to idle production at the plant altogether due to a decline in sales of the Chevy Cruze, GM Lordstown's sole product.

The proposed Lordstown TJX facility itself has been met with both eagerness and animosity, with a legal battle over rezoning residential land lasting for months.

The tension caused the issue to be put before voters and a judge.

At one point, TJX said that it was considering pulling its proposal from Lordstown, due to the amount of rejection it was facing.

But with the facility now moving forward, the tax abatement approval is seen as another hurdle in the effort to bring TJX to Lordstown.

The proposed changes to the agreement were approved by council.

Council will cast a third and final vote on the proposed tax abatement agreement on January 2nd from there it will be passed on to the Trumbull County commissioners, who would hold a public hearing.

A TJX representative said they hope to begin construction in March and complete the project two years later. Although the contract has a proposed firm date of the end of 2024.

## PENNSYLVANIA

### **Pennsylvania schools can tax the land on which billboards stand, appeals court says**

In a tax case involving two Delaware County school districts and more than 20 billboards along I-95 and Route 322, a Pennsylvania appeals court last week overturned a long-accepted property-tax exemption for billboards in counties outside Philadelphia.

The finely tuned opinion upheld tax exemption for billboards themselves and the structures that support them, but said the assessed value of the land where the signs stand should take into account the rent paid to the property owner.

As the current law does not permit taxing billboards, the Chester-Upland and Chichester School Districts were hoping to increase the assessment of the land the signs were on because the rent could raise the value of the land. The creative legal move was seen as a desperate attempt by school districts to increase revenue amid strained budgets.

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A prominent Philadelphia-area real estate attorney called the Dec. 27 decision significant because it could lead to a “creep” that would undermine other exemptions, such as those for silos, amusement park rides, and wind turbines, in the 2006 Consolidated County Assessment Law.

“Here’s what worries me as a property owner’s lawyer: What’s next?” wondered Peter F. Kelsen, of Blank Rome LLP, which does not represent billboard companies.

Lawmakers already denied exemptions to cell-phone towers, Kelsen said Thursday. “But what other things could now become taxable because there’s a rent being derived by the landlord or the property owner?”

Kelsen said he expected that billboard companies would attempt to take the case to the state Supreme Court to gain final clarity.

An attorney for one of the billboard companies, Outfront Media Inc., said Wednesday that the company was still deciding how to proceed. “We think Commonwealth Court is clearly wrong and what it did conflicts with what the legislature provided in the statutory exceptions,” said Alan C. Kessler of Duane Morris LLP.

Donald J. Weiss, the attorney for the school districts, said he came up with the idea for taxing billboard parcels in 2013 while sitting by a pool reading the statute.

The statute says that “no sign or sign structure shall be assessed as real property. It doesn’t say the ground on which the sign sits shall not be taxed,” Weiss said in 2017.

“If I own a piece of ground and I’m renting it to a billboard company for \$2,000 a month, why shouldn’t I have to pay tax on the ground as if I can rent it for \$2,000 a month?” Weiss said.

Weiss, who brought the case on a contingency basis, said this week that he found it gratifying that the three-judge Commonwealth Court panel agreed with him and did not find his argument “nebulous and unfocused,” as did Delaware County Court of Common Pleas Judge Charles B. Burr II in a 2017 decision that upheld the exemption for the billboard parcels.

The Commonwealth Court decision is not expected immediately to lead to higher tax bills on billboard parcels. The ruling is of enough “public importance that the Supreme Court may want to take a look at it,” said John P. McBlain, chairman of the Delaware County Council.

## Philly property assessments are flawed, audit finds

Philadelphia’s property assessments do not meet accuracy standards and are plagued by deficient data, according to an audit of the city’s Office of Property Assessment released Thursday.

The audit, commissioned by City Council last year after a reassessment of residential properties sparked outrage by homeowners facing large tax increases, found that flaws in the city’s methods lead to inequities in assessments. An Inquirer and Daily News analysis found that more than 165,000 of the city’s properties — better than 35 percent of the total — were overassessed.

The audit’s impact remained unclear Thursday. It will have no immediate effect on existing assessments or thousands of pending appeals filed by taxpayers. But its release set off a public clash between Council President Darrell L. Clarke and Mayor Jim Kenney’s administration, which oversees the Office of Property Assessment (OPA).

Clarke used the audit to call for a change of leadership in the assessment office and the hiring of an outside company to help correct inaccurate data.

“Based on the existing operation of OPA, we clearly have some challenges,” Clarke told reporters.

Meanwhile, Kenney’s office said the audit was based on “faulty data,” and criticized it for not including specific recommendations for improvement.

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"It would be inappropriate, and frankly unfair, for the OPA team to become political scapegoats in light of the progress they have made," said Mike Dunn, a spokesperson for Kenney.

Clarke, who said the audit validated the concerns he has long raised about OPA, shot back. "The truly inappropriate thing to do would be to dismiss an independent assessment's findings because they are politically inconvenient," said Jane Roh, his spokesperson.

City Council paid J.F. Ryan Associates, Inc., a Massachusetts-based firm, \$160,000 to complete the audit.

Among its findings:

- Assessments — the value assigned to a property to calculate real estate taxes — do not meet industry standards for residential and commercial properties as well as vacant land.
- In many areas of the city, assessments are off, on average, by more than 15 percent. The report did not distinguish between properties that are overassessed or underassessed, finding simply that the assessments are not uniform.
- Land values vary greatly among similar properties, showing that assessments are not uniform.
- OPA has deficient data and does not document all of its procedures. "There are many activities performed either in an ad hoc manner or in disconnected ways that preclude either addressing or solving the problems," the report stated.
- The assessment methods are not made public, making it difficult for property owners to determine how their values were calculated.

While the Kenney administration took issue with the audit's findings, Dunn said OPA has also hired its own consultant to recommend how to improve assessments.

"The value of the audit toward improving the work of OPA is extremely limited," Dunn said. "Still, we take the spirit of the auditor's concerns seriously."

The audit also found some successes: Condominium assessments meet accuracy standards, and it applauded the informal appeal process, known as a first-level review. The city's speed of reviewing first-level reviews, however, is lacking. The audit noted that only 36 percent of requests filed in May had been completed by mid-September, which was about two weeks before the deadline for taxpayers to formally appeal their assessment.

Councilman Alan Domb said he was pleased to hear that the audit found that inequities notwithstanding, the city's total assessed value of properties nearly matches the total market value of the city. That was an improvement, he said.

"The goal here should be for Council and the administration to work together and come up with suggestions and reforms and recommendations to make the process better," Domb said.

The Inquirer and Daily News analysis of the city's most recent assessments found that assessment inaccuracy remains a problem, as lower-priced properties tend to be overassessed, resulting in owners paying more than their fair share in property taxes, while owners of higher-priced homes are getting relative tax breaks. City assessment officials disagreed with the newspapers' findings, citing concerns similar to those they found with the audit released Thursday.

The average assessment of a single-family home increased 10.5 percent with last year's reassessment, prompting City Council members to express doubts about OPA as they heard complaints from residents about large tax increases. Council rejected Kenney's proposed 4.1 percent property tax rate increase last year, citing the tax increases that many residents already faced due to their increased assessments.

Philadelphia's property assessments have long been a source of controversy. The city launched the Actual Value Initiative (AVI) in 2014 as a means of eliminating unfair and inaccurate assessments. Under AVI, the city assesses every property at 100 percent of market value, or the amount for which it could be sold.

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City officials touted the AVI system as one that would do away with steep increases because assessments would be kept current and updated every year. Last year, however, was the first time since AVI began that the city reassessed all residential properties. The reassessment led to the largest number of appeal cases since 2014.

## TEXAS

### Updated Texas Property Tax Information Available

New and updated property tax information has just been compiled by Shelby County Appraisal District and is available now to assist taxpayers. This property tax information is current and covers a wide range of topics, such as taxpayer remedies, exemptions, appraisals and is of value to select groups, such as disabled veterans and persons who are 65 years of age or older.

“Whether you are a homeowner, business owner, disabled veteran or a taxpayer, it’s important you know your rights concerning the property tax laws.” said Robert Pigg, chief appraiser of Shelby County Appraisal District. “You can contact us about any property tax issues with full confidence that we will provide you the most complete, accurate and up-to-date available information to assist you.”

This includes information about the following programs:

- **Property Tax Exemptions for Disabled Veterans** - The law provides partial exemptions for any property owned by veterans who are disabled, surviving spouses and surviving children of deceased disabled veterans. This includes homesteads donated to disabled veterans by charitable organizations at no cost or not more than 50 percent of the good faith estimate of the homestead’s market value to the disabled veterans and their surviving spouses. The exemption amount is determined according to percentage of service-connected disability. The law also provides a 100 percent homestead exemption for 100 percent disabled veterans and their surviving spouses and for surviving spouses of U.S. armed service members killed in action.
- **Property Tax Exemptions** - Non-profit organizations that meet statutory requirements may seek property tax exemptions and must apply to the appraisal district by a specific date. Businesses that receive tax abatements granted by taxing units; ship inventory out of Texas that may be eligible for the freeport exemption; store certain goods in transit in warehouses that are moved within 175 days; construct, install or acquire pollution control property; own and operate energy storage systems; convert landfill-generated gas; or store offshore drilling equipment while not in use may also be eligible for statutory exemptions.
- **Rendering Taxable Property** - If a business owns tangible personal property that is used to produce income, the business must file a rendition with its local county appraisal district by a specified date. Personal property includes inventory and equipment used by a business. Owners do not have to render exempt property such as church property or an agriculture producer’s equipment used for farming.
- **Appraisal Notices** - A Notice of Appraised Value is mailed to each taxpayer in mid May. This is the taxpayer’s opportunity to check for any discrepancies in their value, property description, address, exemptions, etc.
- **Property Taxpayer Remedies** - This Comptroller publication explains in detail how to protest a property appraisal, what issues the county appraisal review board (ARB) can consider and what to expect during a protest hearing. The publication also discusses the option of taking a taxpayer’s case to district court, the State Office of Administrative Hearings or binding arbitration if the taxpayer is dissatisfied with the outcome of the ARB hearing.
- **Homestead Exemptions** - A homestead is generally defined as the home and land used as the owner’s principle residence on January 1 of the tax year. A homestead exemption reduces the appraised value of the home and, as a result, lowers property taxes. Applications are submitted to the appraisal district.
- **Productivity Appraisal** - Property owners who use land for timberland production, agricultural purposes or wildlife management can be granted property tax relief on their land. They may apply to the appraisal district for an agricultural appraisal which may result in a lower appraisal of the land based on how much the taxpayer produces, versus what the land would sell for in the open market.

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- **Residence Homestead Tax Deferral** - Texas homeowners may postpone paying the currently delinquent property taxes due on the appreciating value of their homes by filing a tax deferral affidavit at the appraisal district. This tax relief allows homeowners to pay the property taxes on 105 percent of the preceding year's appraised value of their homestead, plus the taxes on any new improvements to the homestead. The remaining taxes are postponed, but not cancelled, with interest accruing at 8 percent per year.
- **Property Tax Deferral for Persons Age 65 or Older and Disabled Homeowners** - Texans who are 65 years of age or older, or who are disabled as defined by law, may postpone paying current and delinquent property taxes on their homes by signing a tax deferral affidavit. Once the affidavit is on file, taxes are deferred, but not cancelled, as long as the owner continues to own and live in the home. Interest continues to accrue at 5 percent per year on the unpaid taxes. You may obtain a deferral affidavit at the appraisal district.
- **Notice of Availability of Electronic Communication** - Chief appraisers of a county appraisal district and appraisal review boards may communicate electronically through email or other media with property owners or their designated representatives. Written agreements are required for notices and other documents to be delivered electronically in place of mailing.
- **Protesting Property Appraisal Values** – Property owners who disagree with the appraisal district's appraisal of their property for local taxes or for any other action that adversely affects them may protest their property value to the appraisal district's appraisal review board.

For more information about these programs, contact the Shelby County Appraisal District at (936) 598-6171. More information is also available from the state Comptroller's Property Tax Assistance Division website at [www.comptroller.texas.gov/taxes/property-tax/](http://www.comptroller.texas.gov/taxes/property-tax/).

## WASHINGTON

### **Mayor Durkan sends controversial waterfront tax to City Council**

The new Seattle waterfront will be made possible by the demolition of the Alaskan Way Viaduct and \$711 million in state, city and private money.

On Thursday, Mayor Jenny Durkan announced the finance plan is ready to go and transmitted the Waterfront Local Improvement District and its property tax to the City Council.

"This will be transformative for Seattle. Mark my words, every one of you is at the equivalent of the groundbreaking of the Space Needle," Durkan said at a news conference at the Seattle Aquarium.

Downtown and waterfront property owners will chip in \$160 million on top of their regular property taxes. That's down from the original, \$200 million plan.

The mayor says it will cost the median condo owner \$1900 spread over 20 years.

While Durkan says condo owners are now on board, condo owner Karen Glisen still opposes the plan. "No, she's not correct in that assessment."

Glisen told us the assessment for her medium-priced, two-bedroom condo will be \$18,000 on top of the property taxes she already pays.

"The argument that we have increased property values as a result of the park could be said about any park in Seattle, any park that's being developed. And yet no one is assessing the adjacent property owners for that.

In a twist, Glisen says, developers of a parking lot say it will be assessed on its value as a parking lot -- not the \$200 million high-rise the developers have applied for permission to build.

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In addition to the cost, there will be years of construction and traffic congestion, but Durkan says it will be worth it.

“This a waterfront for all, and we mean that. It is something to be enjoyed by everybody in Seattle, regardless of where they live or where they’re from, and not just tourists and others who we’re going to welcome with open arms.”

The Waterfront Improvement District still needs approval from the City Council. A vote is expected in the next few weeks.

## WISCONSIN

### Closing the Dark Store Loophole?

Referendum results deliver resounding ‘yes’ for eliminating tax wrinkle that benefits big-box stores

For a seemingly abstruse issue, the so-called dark-store loophole in state law received a resounding rejection when it was put on the ballot this past November. In referenda held in 23 counties, cities, villages and towns throughout the state, the dark-store loophole was voted down by a majority of the people who showed up to polling places on Tuesday, Nov. 6. On average, 78.65% voters answered “yes” to ballot questions asking if the loophole should be closed. The rejection vote was far bigger in individual places. In Dane County, for instance, 91.79% of voters called for ending the loophole, as did 89.59% in the nearby village of DeForest, 89.5% in Sun Prairie and 87.88% in Glendale.

Since the referenda were all non-binding, they will result in no actual changes to state law, but legislators in Madison are already taking notice. So, then, what exactly is the “dark-store loophole”? To critics, it’s an unfortunate wrinkle in Wisconsin’s tax system that unfairly shifts taxes onto homeowners and non-retail businesses. Rather than via state law, the loophole originated in the Wisconsin Supreme Court’s 2008 decision in the case of *Walgreens v. City of Madison*.

The case bore directly on how local assessors calculate the property values of retail stores for tax purposes. The Supreme Court found that local assessors should be calculating these values not merely by trying to learn what a particular building might be generating in lease income, or how much it cost to build; instead, they should be taking into account the sales prices of similar properties, even if those properties were vacant, or “dark,” at the time of the sale.

Critics of the loophole argue that it has allowed big retailers to pay far less than their fair share of property taxes. Thriving stores see their tax bills reduced every time a nearby vacant building once used for retail is sold for a fraction of what its value had been when it was a going concern.

Loophole opponents say they aren’t out to pad local governments’ budgets. Since local officials are prohibited by state-imposed caps from raising property taxes beyond a certain amount every year, eliminating the dark-store loophole would not bring in additional money. Groups like the League of Wisconsin Municipalities instead claim they’re merely after fairness. The league has long noted that, when the dark-store loophole lets a retailer like Walgreens lower its tax bill by a certain amount, it’s not as if local governments’ need to collect money diminishes proportionally. Rather than forgo revenue, local officials meet their budgetary needs by turning to other types of taxpayers. Homeowners and smaller businesses find themselves having to pick up the slack.

Who Pays?

The result is a shift in who pays for local government. The League of Municipalities estimates that homeowners in Wisconsin now shoulder 68% of the total property tax burden. Jerry Deschane, executive director of the League of Wisconsin Municipalities, said such facts should be persuasive in themselves. The recent referenda results merely underline the point for state lawmakers.

That’s not to say it will be easy getting something passed in the Wisconsin Legislature. In the state’s most recent legislative session, strong bipartisan support for bills meant to close the dark-store loophole was not enough. One piece of legislation had 84 legislative sponsors from both sides of the political aisle, yet it was never given a vote on the floor of the state Assembly or Senate.

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One of the biggest defenders of the dark-store loophole has been the business lobbying outfit Wisconsin Manufacturers & Commerce (WMC), which spent \$407,800 to lobby the state legislature in the first six months of 2017, the most of any such group. Cory Fish, director of tax policy at WMC, said the recent referenda results were far less damaging to WMC's case than many might believe. For one, Fish said, it's obvious the ballot questions were phrased in a leading way. In West Milwaukee, for instance, the question put to voters started with the words: "Should the state legislature protect residential property taxpayers by preventing commercial and manufacturing property owners from using tax loopholes that shift an ever-increasing tax burden to homeowners who already pay 68% of the statewide property tax levy...?"

"The referendum results were exactly what you would expect with such biased questions," Fish said. He also quibbled with the League of Wisconsin Municipalities' figures. Fish conceded that homeowners do pay about 2/3rds of all property taxes in Wisconsin but said the league fails to note that about 2.5% of the total burden has shifted to businesses in the past 10 years.

All this is not to say Fish and others at WMC don't think the current system can be improved. On Tuesday, Dec. 11, a legislative study committee released draft proposals calling for a series of reforms that are at least close to something WMC could support, Fish said. Among other things, the legislation would require businesses to furnish more of the sort of information that assessors could use to assess a property according to its income and let municipalities share with counties and schools the cost of defending property assessments that are challenged.

Fish also questioned the League of Wisconsin Municipalities' advertising tactics. He said the group sent out a letter to municipalities soliciting money that was eventually used to pay for a large online ad campaign. "All of it was taxpayer dollars," Fish said. But even a heavyweight like WMC might not exercise enough influence to get its way on this issue. Members of both parties, including some of the most conservative Republicans, still favor closing the dark-store loophole, and Governor-elect Tony Evers has said he would sign legislation doing just that.

Brian Sikma—a spokesman for state Sen. D Huey Stroebel, a Republican from Saukville—said this coming legislative session could very well be the time when the dark-store loophole is closed forever. Deschane said that he and others at the League of Wisconsin Municipalities similarly like their chances. "Although, with the legislature, you never want to say it's a slam dunk," he said. "There are still people putting a lot of energy into trying to say, 'There's nothing to see here,' which defies all common sense."

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