Contents

THE TOP 10 PROPERTY TAX MYTHS ........................................................................................................... 2
NJ AND HAWAII: THOUSANDS APART, IN MILES, PROPERTY TAXES ......................................................... 4
THE SLOW HOUSING MARKET CAN HURT GOVERNMENT REVENUES, BUT DOESN’T HAVE TO .................. 5
CALIFORNIA ............................................................................................................................................. 5
NO DEAL WOULD BE THE BEST DEAL ON SPLIT ROLL IN CALIFORNIA .................................................. 5
DELWARE .................................................................................................................................................... 7
COURT PROVIDES GUIDANCE ON APPLICABILITY OF TRANSACTION PRICE AS MEASURE OF FAIR VALUE ....... 7
ILLINOIS .................................................................................................................................................... 8
THUMBS-DOWN TO ASSESSOR’S RESIGNATION COMING FAR TOO LATE .................................................... 8
FORD COUNTY TENTATIVE MULTIPLIER ANNOUNCED ............................................................................ 8
INDIANA .................................................................................................................................................... 9
STUDY: LOCAL GOVERNMENTS HAVE LESS REVENUE THAN 2007 THANKS TO PROPERTY TAX CAPS ........ 9
DARK BOX TAX ASSESSMENTS BILL PASSES THE SENATE, MOVES TO HOUSE ........................................ 10
MICHIGAN .................................................................................................................................................. 10
NOW IS THE TIME TO CONSIDER APPELLING YOUR 2019 PROPERTY TAXES ......................................... 10
DR. WOLFRAM TALKS ABOUT REFORMING MICHIGAN’S PROPERTY TAX .................................................. 11
MONTANA ................................................................................................................................................... 12
BOZEMAN HAS FOURTH-HIGHEST PROPERTY TAXES PER CAPITA, FOURTH-LOWEST MEDIAN HOUSEHOLD INCOME ......................................................................................................................... 12
NEW HAMPSHIRE ....................................................................................................................................... 12
STRIVING FOR FAIRNESS WITH NH’S PROPERTY TAX SYSTEM .................................................................. 12
NEW JERSEY ............................................................................................................................................... 13
PROPERTY TAXES COULD SKYROCKET IN NJ — HERE’S WHY (ANALYSIS) ................................................ 13
THese TOWNS HAVE SOME OF THE STEADIEST TAX RATES IN THE STATE. WHAT’S THEIR SECRET? ............... 14
NEW YORK ................................................................................................................................................ 16
A PIED-À-Terre TAX WILL BRING REVENUE NEW YORK NEEDS .................................................................. 16
DIFFERENCE BETWEEN MARKET VALUE AND ASSESSED VALUE? ............................................................ 18
REAL-ESTATE INDUSTRY BLASTS ‘PIED-À-Terre’ TAX ON HIGH-VALUE SECOND HOMES .............................. 19
The Top 10 Property Tax Myths

Are you missing an opportunity to reduce your property tax liability?

Nearly all local taxing jurisdictions, including municipalities, counties and boards of education, generate tax revenue through the imposition of property tax, which is one of the most substantial sources of local government revenue. For many businesses, property tax is the largest state and local tax obligation and one of the largest regular operating expenses incurred.
Unlike other taxes, property tax assessments are based on the estimated value of the property, and thus, are subject to varying opinions. Businesses that fail to take a proactive approach in managing their property tax obligations may be missing an opportunity to reduce their tax liability. Below are 10 common property tax myths and the truths that counter them.

MYTH #1: If a property’s value does not increase year to year, the property tax liability should remain the same.
TRUTH: The annual tax rate is determined by the tax levy necessary to fund the applicable governmental budget for services such as schools, libraries, park districts, fire departments and police. Essentially, the governmental budget is divided by the total assessment within a jurisdiction to calculate the tax rate. The tax rate is applied to a property’s individual assessment to calculate tax. Rates can fluctuate annually and can result in higher or lower taxes even if your property value stays consistent.

MYTH #2: Fair market value is equivalent to assessed value.
TRUTH: Fair market value is an estimate of the price at which property would change hands in an arm’s length transaction. Assessed value is a valuation placed on a property by the assessor, which forms the basis of a property owner’s annual property tax. Assessed value is typically a percentage of the fair market value and takes into account factors such as quality of the property and market conditions. Taxpayers should reconcile jurisdictional ratios in order to understand what is considered the fair market value of their property.

MYTH #3: Property tax bills can be appealed.
TRUTH: Unfortunately, you cannot challenge your property’s value once you receive the tax bill. An appeal must be filed within a set window of time after receiving your assessment notice, which in some cases could be a year prior to receiving the tax bill. If an appeal is not filed during the determined period, a taxpayer would have to wait to appeal until the next year’s assessment.

MYTH #4: Obsolescence adjustments do not apply to newer properties.
TRUTH: Property is typically taxed on a value that takes into account the ordinary diminishment of value occurring because of factors such as physical wear, age and technological advancements. Obsolescence is an additional form of impairment resulting from internal or external factors affecting value, such as functionality of equipment, processes that inhibit business or external forces that have impacted financial performance. Regardless of the age of the property, obsolescence factors should be annually reviewed to determine the fair market value of property.

MYTH #5: Assessors establish annual property tax rates.
TRUTH: Property tax rates are set by local governments based on the budget necessary to fund governmental services. Property taxes typically fund city, municipality, county and school district services provided to the community. Assessors determine the value of your property so that the tax burden can be distributed. Assessors do not determine the property tax. The amount of tax payable is calculated by the tax rate applied to your property’s assessed value.

MYTH #6: During a property tax audit, the taxpayer’s role is complete once information is provided to the auditor.
TRUTH: Left alone, auditors can make inaccurate or aggressive decisions. They heavily rely on asset listings and balance sheets to determine if items have been appropriately reported. Taxpayers have a lot to gain by staying in contact with auditors throughout the process. Auditors should know the story that goes with the data. Are all assets on the list physically located on property? Are construction-in-progress (CIP) assets held on site or at a vendor? Is the supplies balance an annual or year-end balance? In the absence of taxpayer direction, auditors will make assumptions based on limited data. Once audit results are finalized, taxpayers can appeal, but now the burden of proof may have shifted.

MYTH #7: Reducing my property taxes makes me appear to be a bad corporate citizen.
TRUTH: For many businesses, property taxes are their greatest state and local tax burden and, on average, account for approximately 38 percent of the total state and local tax liability. Property owners should ultimately be paying their fair share of property taxes and not more. As property taxes are a cost of doing businesses, certain businesses that overpay may need to make decisions that result in reduced workforce or reduced business output. The reductions necessitated by higher tax liabilities may have more negative impact on the community than ensuring that the property taxes remain fair.

MYTH #8: Assessor’s record cards are accurate.
TRUTH: A property record card is a document retained by the assessing jurisdiction that includes assessment information about your property used to determine the value. A property record card includes information such as building dimensions, total land acreage, zoning or use of property, construction detail and other elements to describe the property. Any discrepancies or outdated information may affect the value of your property. Property owners should obtain their property record cards to determine if errors exist that need to be corrected and could result in a lower assessment.

MYTH #9: I pay more property tax in jurisdictions that tax both real and personal property.

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IPTI Xtracts - The items included in IPTI Xtracts have been extracted from published information. IPTI accepts no responsibility for the accuracy of the information or any opinions expressed in the articles.
TRUTH: Property subject to taxation for property tax purposes can vary by jurisdictions. The tax can be imposed on real estate or personal property. All states tax real property and approximately 38 states tax personal property. Regardless of types of property taxed, the governmental budget will determine amount of tax needed to fund services and the property tax burden will be distributed among taxable values. Therefore, a property owner’s tax liability may be as significant in a jurisdiction that only taxes real property.

MYTH #10: A tenant cannot appeal property taxes.  
TRUTH: Tenants may have the ability to directly appeal property values in situations where the owner provides written consent or the lease terms allow the tenant to appeal. Property taxes are typically passed through to the tenants, therefore it benefits the tenant to review the annual assessment to determine if an appeal opportunity exists to reduce the property’s assessment.

Any business that owns property has a property tax obligation. Failure to correctly comply with local property tax laws could result in seizure of property and/or penalties. Business owners should be aware of their property tax obligations, and consider a strategic approach to minimize the tax burden.

NJ and Hawaii: Thousands Apart, in Miles, Property Taxes

Garden State has highest US property taxes, Aloha State the lowest, based on median home value

What do Hawaii and New Jersey have in common? Probably not much, but especially when it comes to property taxes, per WalletHub, which says what you pay on your real estate can range from a "small inconvenience" to a "major burden."

The Aloha State falls under the former’s umbrella, designated as the state with the lowest property taxes, per the site’s analysis of US Census Bureau data on real estate taxes and median home values. The Garden State, meanwhile, is the highest-taxed state in the land.

Here, the top nine other states that deplete homeowners’ wallets:

New Jersey: 2.44% effective tax rate, $321,100 median home value, $7,840 annual taxes on home priced at median home value  
Illinois: 2.31%, $179,700, $4,157  
New Hampshire: 2.20%, $244,900, $5,388  
Connecticut: 2.07%, $270,100, $5,582  
Wisconsin: 1.94%, $169,300, $3,286  
Vermont: 1.83%, $220,600, $4,040  
Texas: 1.83%, $151,500, $2,775  
Nebraska: 1.80%, $142,400, $2,565  
New York: 1.68%, $293,000, $4,915  
Rhode Island: 1.66%, $242,200, $4,013

States with the lowest property taxes:

Hawaii: .27% effective tax rate, $563,900 median home value, $1,529 annual taxes on home priced at median home value  
Alabama: .42%, $132,100, $558  
Louisiana: .52%, $152,900, $795  
Colorado: .55%, $286,100, $1,575  
District of Columbia: .55%, $537,400, $2,930  
Delaware: .56%, $238,600, $1,329  
South Carolina: .57%, $148,600, $653  
West Virginia: .59%, $111,600, $653  
Wyoming: .61%, $204,900, $1,256  
Arkansas: .63%, $118,500, $743
The Slow Housing Market Can Hurt Government Revenues, But Doesn't Have To

How much home sales impacts a place depends a lot on its property tax policies.

Home sales have been ticking down for months. It’s been particularly bad in the West, where 15 percent fewer homes were sold in December compared to the previous December. The slowdown is widely expected to continue, but how it affects local governments will differ.

That’s largely thanks to a government’s property tax policies. According to a new analysis from Fitch Ratings, the places least vulnerable to a slow housing market have strong caps on property tax rates and have assessed property values that lag far behind market values.

That bodes well for places out West, such as California, which has one of the nation’s toughest restrictions on property taxes. Thanks to Proposition 13, which caps property tax rates, counties in California were spared from severe drops in property tax revenue when the housing market collapsed in 2007 because that revenue was already artificially depressed, according to Fitch’s analysis.

“You have a huge way to go for the market decline to affect the assessed value,” says analyst Amy Laskey, who co-authored the report. “That’s why in Los Angeles, you saw big home price declines, but there was no corresponding decline in assessed value.”

By contrast, places without caps on property tax revenue have assessed values that trend closer to actual home values. That creates more volatility.

So while Los Angeles and Chicago had similar declines in home values -- about 40 percent between 2006 and 2012 -- assessed values in L.A. only dipped by 2 percent. In Chicago, they fell by a whooping 28 percent.

Reasons for the Slow Housing Market

Rising mortgage rates and home prices are largely being blamed for the current slowdown.

According to new data from the National Association of Realtors, the market is slowest in the West, which along with the Midwest, has shown minimal or zero gains in prices from a year ago. Nationally, prices are up nearly 3 percent from last December, but that’s roughly half the average growth rate in 2017.

Some believe that the 2017 federal tax overhaul’s new limits on mortgage interest and property tax deductions will create more downward pressure on home prices in certain places across the country. That will affect localities differently, too.

Cumberland Advisors CEO John Mousseau is watching places where wealth is concentrated and where taxes are high, including Boston, New York City and its suburbs in Northern New Jersey and Fairfield County, Conn. Homeowners in these places are no longer getting the tax breaks they used to on their properties. “As long as there’s no recession,” he says, “I think home prices in places like these will stagnate or maybe even decline a little.” That could further hurt the local government’s property tax revenues.

But declining home prices aren’t necessarily a bad thing, Mousseau says. According to Fitch’s data, several major markets -- including many out West -- are currently overvalued. “I think what you’ll see is a realignment of house prices,” he says. “The idea that house prices can go up 6 or 7 percent a year -- I think that’s going to go away.”

CALIFORNIA

No deal would be the best deal on split roll in California

International Property Tax Institute
IPTI Xtracts- The items included in IPTI Xtracts have been extracted from published information. IPTI accepts no responsibility for the accuracy of the information or any opinions expressed in the articles.
It’s open season these days on ballot initiatives, propositions placed on California’s ballots every two years after hundreds of thousands of voters sign petitions to put them there.

The as-yet-unnamed and -unnumbered initiative known as the “split roll” is not exempt.

Thanks to a 2014 law, legislators and other state officials who don’t like ordinary citizens to make this state’s biggest policy decisions now can maneuver to get already-qualified initiatives taken off the ballot. If they work out a deal with the initiative sponsors, the measure will go away.

For the split roll measure, whose sponsors including the League of Women Voters gathered more than half a million signatures, that means it would not be Californians at large deciding what is arguably the most important tax issue now before the state, but rather a bunch of insiders.

British Prime Minister Theresa May, opposing a second national referendum on whether the United Kingdom should pull out of the European Union, said for much of the winter that holding a second vote “would undermine public faith in democracy.”

That’s just what a back-room deal taking the split roll initiative off the November 2020 ballot would do.

No doubt, split roll would upset quite a few apple carts. But that is what the early 20th Century Republican Progressive Gov. Hiram Johnson had in mind when he engineered the initiative process to let voters make key decisions.

Make no mistake, the split roll verdict is a key decision. It would make the first significant change in Proposition 13 since that landmark property tax-cutting measure passed by almost a 2-1 vote in 1978. For almost 41 years since then, commercial property has been taxed at the same rate as residential, owners of both types paying 1 percent of the latest purchase price, plus a 2 percent yearly increase. Property in the same hands since 1975 gets taxed at 1 percent of its assessment that year, plus the same 2 percent annual increment.

Split roll would change this formula for commercial property, while leaving homes alone. Business property would immediately be taxed based on current valuations, bringing in as much as $11 billion in new government revenue every year. Business interests like chambers of commerce around the state will fight this change.

But the question may never actually get to a yes-or-no vote. Last summer, for example, the Legislature passed new privacy rules entitled all Californians to know what information Internet giants like Google and Yahoo and Facebook and eBay and Amazon have about them. They will soon be able to prohibit companies from selling that information and force companies to delete it after they learn what’s been gathered.

That was progress, but a far cry the ballot initiative those new rules replaced. The original would have forced companies to get consumer permission before gathering, maintaining or selling information on what Internet searches people make, what they buy and what products they look at but don’t buy — and much more.

Initiative sponsors scrapped those things when they compromised with Big Internet, sparing the sponsors from having to raise many millions of campaign dollars while still risking a loss and a return to Square 1.

This was the kind of compromise intended when the 2014 law passed. But it deprived voters of a voice via a classic backroom deal made shortly before the deadline for ballot measures to be assigned proposition numbers.

Now Gov. Gavin Newsom has said he’d like to broker a deal staving off an expensive and emotional campaign over Proposition 13. He wants to simply California’s tax code in the process and make it more fair, at the same time making the state budget less dependent on income taxes generated by stock and bond investments.

No one is now claiming a far-reaching tax deal is likely or even possible. But if it happens and it takes the split roll off the ballot, voters will again lose the chance to make an important decision that could affect all Californians for many years to come.

And that would be a major detriment to democracy.
DELAWARE

Court provides guidance on applicability of transaction price as measure of fair value

Two Delaware appraisal decisions issued in 2018 illustrate that, following the Delaware Supreme Court’s decisions in Dell and DFC, the Delaware courts remain willing to give substantial evidentiary weight to the deal price as an indicator of fair value where the underlying transaction was the product of an open process characterised by the objective indicia of reliability. Conversely, the Delaware courts may place lower evidentiary weight on the deal price where the transaction appears not to have resulted from a process subject to a full market review.

Solera’s acquisition

In his 30 July 2018 decision for In re Appraisal of Solera Holdings, Inc,(1) Chancellor Bouchard of the Delaware Court of Chancery applied the market efficiency principles endorsed by Dell and DFC in holding that the fair value of the petitioners’ shares was the deal price of $55.85 per share less $1.90 per share of estimated merger synergies. Solera, a global leader in the data and software industry, was acquired by an affiliate of Vista Equity Partners for $55.85 per share in cash. The merger was the product of a two-month outreach to potential financial buyers, a six-week auction conducted by an independent and fully empowered special committee and ongoing public disclosures relating to the sale process. In addition, the merger agreement permitted a 28-day go-shop period, which afforded favourable terms to allow a key potential buyer (and competitor) of Solera to bid for the company.

Bouchard found that the Solera merger resulted from a transaction process that had the requisite objective indicia of reliability emphasised by DFC and Dell, including:

- robust public information concerning the company’s stock price;
- a relatively unrestricted auction process;
- multiple parties with the incentive to profit and opportunity to bid;
- an empowered special committee consisting of independent, experienced directors; and
- no disabling conflicts of interest for negotiators that compromised the sale process.

Therefore, the chancellor concluded that the deal price, minus synergies, was the best evidence of fair value and deserved dispositive weight in the appraisal valuation.

Norcraft’s acquisition

That same week, on 27 July 2018, the Delaware Court of Chancery issued its post-trial opinion in Blueblade Capital Opportunities LLC v Norcraft Companies, Inc,(2) an appraisal litigation concerning the May 2015 acquisition of Norcraft, a cabinet manufacturer and retailer for new home construction and existing home remodelling markets, by Fortune Brands Home & Security, Inc for $25.50 per share in cash. In the decision, Vice Chancellor Slights found that the single-bidder pre-signing process did not provide a pre-signing market check. He also concluded that some of the deal protection measures negotiated in the transaction would not support reliance on the transaction price as the best measure of Norcraft’s fair value. In addition, given the relative absence of record evidence regarding the efficiency of the market for Norcraft’s common stock, the court was unwilling to adopt the pre-merger trading price of the company’s stock as a reliable indicator of fair value.

Given those findings, Slights conducted an independent discounted cash flow (DCF) analysis, which was based on the company’s base case projections and which adopted certain assumptions and inputs reflected by the parties’ respective expert witnesses. Relying on that DCF analysis, while considering the variance of the result from the merger price as a “reality check”, the vice chancellor concluded that the fair value of Norcraft’s stock was $26.16 per share. This was a slight premium to the transaction price of $25.50, but materially below the $34.78 per share valuation suggested by the petitioners.

Comment

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Importantly, the courts in both Solera and Norcraft expressed their displeasure with what they perceived to be the practice of parties in appraisal actions offering expert valuations that appeared to be results-oriented because they skewed heavily towards the parties’ respective legal positions. In particular, Bouchard’s decision in Solera emphasised that a DCF that produces a valuation that is drastically different from the transaction price may lack credibility. Slights also critiqued the parties’ respective valuation experts for making choices in their DCF analyses that were not supported, in the court’s view, by the evidence or accepted financial principles.

Endnotes

(1) In re Appraisal of Solera Holdings, Inc, CA 12080-CB (Del Ch 30 July 2018).

(2) Blueblade Capital Opportunities LLC v Norcraft Companies, Inc, CA 11184-VCS (Del Ch 27 July 2018).

**ILLINOIS**

**Thumbs-down to assessor’s resignation coming far too late**

Former Kingston Township Assessor Jennifer Cleveland appears in court Tuesday at the DeKalb County Courthouse in Sycamore. Cleveland pleaded guilty to forgery and official misconduct and has resigned as assessor.

Thumbs-down: To corruption in a township assessor’s office. Jennifer Cleveland resigned Tuesday as the Kingston Township assessor, the same day she pleaded guilty to charges of official misconduct and forgery in connection with an incident where she forged documents to secure a tax break for her son. Cleveland’s guilty plea was no surprise – she’d essentially admitted she’d signed a former property owner’s name on a document in order to lower the assessment on her son’s property in 2017. Cleveland continued to hold her public position for more than a year while these charges were pending, presumably assessing property in the township. She resigned Tuesday, but she had no choice – Illinois law forbids convicted felons from holding office. She should have resigned when she was indicted in November 2017. Assessed value is a key factor in determining people’s property tax bills, and residents should have confidence that the people charged with this duty are doing so honestly.

Thumbs-down: To missing incumbents. This week, there were two community forums for DeKalb School District 428 Board candidates. The two incumbent board members, Fred Davis and Rick Smith, did not appear at either of them. At the first event, on Tuesday, the board members had a meeting to attend. They both also missed the next, on Thursday at University Village. Candidate Steve Irving, on vacation in Arizona, also was absent from both. There are nine candidates for four seats on the district board, and these forums are a good way for people to determine which candidates’ views make them best suited. We also would welcome the opportunity to hear from sitting board members about their record the past four years.

Thumbs-down: To an unfortunate end to a groundbreaking appointment. Kimberly Everhart became the first female police chief in Hinckley’s history – and the second woman to be a local police chief in DeKalb County history – in 2017, but her tenure ended abruptly late last year with her dismissal. On Tuesday, Everhart was arrested after being charged with eavesdropping and official misconduct for secretly recording a conversation with Village President Nancy Nelson in June 2017. Everhart has not made a plea in the case, but no matter the outcome in court, the story of Hinckley’s first female police chief has certainly taken a turn for the worse.

Thumbs-up: To the arrival of spring. The snow has melted, the birds are back and local baseball and softball teams are back in action. The coming week will be spring break for students in many schools, including in DeKalb and Sycamore. Things are waking up everywhere after a long winter. Take the time to enjoy a moment of warmer weather when you find it.

**Ford County tentative multiplier announced**
Ford County has been issued a tentative property assessment equalization factor of 1, according to David Harris, director of the Illinois Department of Revenue.

The property assessment equalization factor, often called the “multiplier,” is the method used to achieve uniform property assessments among counties, as required by law. Such equalization is particularly important because some of the state’s 6,600 local taxing districts overlap into two or more counties — for example, school districts, junior college districts or fire protection districts. If there were no equalization among counties, substantial inequities among taxpayers with comparable properties would result.

State law requires property in Illinois to be assessed at one-third of its market value. Farm property is assessed differently, with farm homesites and dwellings subject to regular assessing and equalization procedures, but with farmland and farm buildings assessed according to standards based on productivity.

The equalization factor is determined annually for each county by comparing the sales price of individual properties sold over the previous three years to the assessed value placed on those properties by the county’s supervisor of assessments.

If the three-year average level of assessment is one-third of market value, the equalization factor will be 1. If the average level of assessment is greater than one-third of market value, the equalization factor will be less than 1. And if the average level of assessment is less than one-third of market value, the equalization factor will be greater than 1.

Assessments in Ford County are at 33.07 percent of market value, based on sales of properties in 2015, 2016, and 2017.

The equalization factor currently being assigned is for 2018 taxes, payable in 2019.

Last year’s equalization factor for the county was 1.0236.

The tentative factor is subject to change if the county’s board of review takes actions which significantly affect the county assessments or if local officials or others can present data showing that the Department of Revenue’s estimates of the average level of assessments in the county should be adjusted.

A public hearing on the tentative multiplier will be held between 20 and 30 days after the tentative factor is published in a newspaper of general circulation within the county.

A change in the equalization factor does not mean total property tax bills will increase or decrease. Tax bills are determined by local taxing bodies when they request money each year to provide services to local citizens. If the amount requested by local taxing districts is not greater than the amount received in the previous year, then total property taxes will not increase even if assessments may have increased.

The assessed value of an individual property determines what portion of the tax burden a specific taxpayer will assume. That individual’s portion of tax responsibility is not changed by the multiplier.

INDIANA

**Study: Local Governments Have Less Revenue Than 2007 Thanks To Property Tax Caps**

*The study blames property tax caps for the revenue decline*

Local governments across Indiana are taking in less revenue than they did before 2007.

That’s according to a new study from Indiana University’s O’Neil School of Public and Environmental Affairs. The study says the decline in revenue is a direct result of property tax caps championed by former Gov. Mitch Daniels.
Property taxes are the primary source of revenue for local governments but the caps limit the amount of money they can receive.

Professor Justin Ross is one of the study’s authors. He says the full impact of the policy is just now being felt. Ross says local governments in other states are seeing their revenues increase, while Indiana’s remained flat.

“Every other state has largely rebounded from the Great Recession in terms of their local government,” he says. “Indiana has not because of the property tax caps.”

The study was commissioned by the Indiana Fiscal Policy Institute, a non-profit that researches the effects of tax policy in the state.

**Dark Box Tax Assessments Bill Passes The Senate, Moves To House**

A bill creating a uniform property value assessment passed smoothly through the Senate Tuesday afternoon. The legislation aims to help local governments struggling against retailers who want even lower taxes.

Big box stores have come under scrutiny of governments for using tactics to reduce property tax payments – a move some Indiana cities say is costing them dearly. The Indiana Farm Bureau says Boone County has spent more than $400,000 on legal costs fighting big box store chains that appeal property taxes.

Bill author Sen. Brian Buchanan (R-Lebanon) says he brought his local issue to the Statehouse hoping to close loopholes in current law and help other communities.

“And I will say no one likes paying property taxes, but when we have a property tax system, it’s important we all pay our fair share,” says Buchanan. “A lot of large commercial property, when they file an appeal often times they’re asking for a 35 to 40 percent reduction. And again, like I said, nobody likes paying property taxes, but when you do that it gets shift to other tax payers.”

However, Sen. Victoria Spartz (R-Noblesville) says she fears the bill’s language determining the tax value of a property impacts all businesses, including smaller ones.

“In this bill, not just affects big boxes, it affects everyone. Big companies, small company, moms and pop stores, anyone,” she says. “So it means if you are a small business owner and something happen, economy dips down or the government just decide they’re going to close out that intersection, you have no traffic to the store. That is not normal obsolescence. You know, this you still will be pay on this higher values.”

The bill passed 42-7 and now goes to the House, where Buchanan says he plans to keep improving it.

**MICHIGAN**

**Now Is The Time To Consider Appealing Your 2019 Property Taxes**

Arriving in a mail box near you is your annual property tax Notice of Assessment. Property taxes are a significant business operating expense and they are typically the second highest expense of homeowners after their mortgage. We routinely assist industrial and commercial property tax appeals for our clients. Our experience practicing before the Michigan Tax Tribunal can help you achieve significant tax savings depending on the circumstances.

Deciding whether to challenge an assessment, business and property owners should consider a variety of factors including current market value of their property, valuation methods used, and practices used by local assessing authorities. Once the decision has been made to appeal, the procedures involved are often technical, complex, and time sensitive. The legal requirements for filing an appeal are usually strictly enforced against the property owner. Experienced legal counsel is invaluable in protecting the taxpayer’s rights.
If you disagree with the valuation on the Notice of Assessment, you can reach out to your local assessor to gain either a better understanding of the factors used. In some communities this process is required as an “assessor’s review.” If you can’t reach an understanding or an agreement with the assessor’s office, the next step is to protest to the Board of Review.

For most industrial and commercial property owners, a protest to the local Board of Review is not a requirement. There are, however, certain types of property tax claims that do require a Board of Review protest, even for industrial and commercial property owners. Although it does not happen often, there are instances where a taxpayer protests an assessment and the Board is made aware of something, typically a factual matter, that provides some relief. Other times, the assessor may notice a discrepancy on closer examination that may actually cause the assessment to increase.

If the Board of Review denies your protest, you can always proceed to the Michigan Tax Tribunal. The Michigan Tax Tribunal is an administrative tax court that has authority over assessment disputes relating to both property and non-property tax matters. While most property tax reductions are obtained through the process of negotiation, on occasion, however, formal hearings or court action are necessary to achieve the desired result.

Procedural matters in the Tax Tribunal is perhaps where many property owners go wrong. While the Tax Tribunal is not a court in the formal sense, many taxpayers fail to appreciate that the Tribunal nevertheless has its own procedures, formalities, and timelines. For a number of reasons, the Tax Tribunal is rather strict in the application of its rules and is rather unforgiving regarding its deadlines. Substantial compliance is an argument one never wants to have to make.

Another area where taxpayers tend to go astray is in appreciating how the Tax Tribunal approaches property tax claims and evaluating evidence. Property owners have a sense of what their property is worth, what features, in their subjective knowledge, add and/or detract from its value, and a feel for the local market. A valuation, for property tax purposes, must meet a certain evidentiary threshold, and involves an expert appraiser that comes in and gives an exact value on the property based on a greater number of factors that a property owner in a general sense may not be aware of or able to articulate. The Tax Tribunal looks and evaluates the valuation evidence much the same way.

All of this being said, it is important to consult with professionals, a tax attorney, qualified appraiser and other experts to evaluate if an appeal is in your best interest and to properly guide you through the process. And now is the time to consider this with your Notice of Assessment arriving in the mail soon.

**DR. WOLFRAM TALKS ABOUT REFORMING MICHIGAN’S PROPERTY TAX**

Dr. Gary Wolfram, who holds the William E. Simon Chair of Professor in Economics and Public Policy and is their Director of the Economics Program, as well as a Professor of Political Economy, was on the Live with Renk Show to discuss his thoughts about Michigan’s property tax law Proposal A.

Michigan’s Proposal A was passed in 1994 and capped the annual growth in taxable property values at the rate of inflation or 5%, whichever is less. The legislators did this in order to protect Michigan property owners from what they called runaway tax increases during a boom economy.

Now according to a report in the Detroit News there is a push to reform Prop A.

The concern is coming from local governments who rely on property taxes to pay for what they call essential services in their cities and maintain their infrastructure. Their concern comes from the fact that Michigan’s taxable property values dropped sharply during what was called the Great Recession. According to Michigan Treasury data, these values remain below 2008 levels in more than 700 cities, townships and villages in Michigan.

Dr. Wolfram was quoted in the article stating:

Nobody — nobody — was thinking about what would happen to local units of government if the property tax values were to collapse...And that was never corrected.

Dr. Wolfram went on to say that Michigan should look at reforming our current property tax law by allowing property tax values to fully rebound in the aftermath of an economic decline while retaining the cap in growth in the years after the recovery. He was quoted in the article stating:

Dr. Wolfram, who holds the William E. Simon Chair of Professor in Economics and Public Policy and is their Director of the Economics Program, as well as a Professor of Political Economy, was on the Live with Renk Show to discuss his thoughts about Michigan’s property tax law Proposal A.

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That’s what I would do, but it’s unfortunate that it’s in the Constitution, because it makes it a little bit harder

MONTANA

Bozeman has fourth-highest property taxes per capita, fourth-lowest median household income

On Monday, a data report will be given to the city commission that shows where Bozeman ranks in taxable revenue compared to other cities.

The study will be presented by Economic Research Specialist Michael Wallner, who looked at data collected from 13 cities including Billings, Whitefish, Boulder and Fort Collins.

Wallner said the most shocking information was that Bozeman ranks fourth highest in property taxes collected per capita, yet has the fourth lowest median household income.

“If we keep increasing this property tax,” said Wallner, “eventually people in the middle class are not going to be able to afford to live here. And then we will become more like a Sun Valley or a Jackson Hole, and I think everybody recognizes that we have a high quality of life. We have an amazing community, and that is something that we are striving to support in this valley.”

Wallner said one of the ways to decrease this property tax burden is through a local option sales tax, which the city of Bozeman has been lobbying for at the Montana Legislature.

Deputy Mayor Chris Mehl said with Bozeman’s second high school, the building of a new Public Safety Center, and the possibility of a new Law & Justice Center, property taxes are going up.

“You can’t keep going to the well and not dry it up,” said Mehl. “It’s not fair and it’s not right, so it is a lot to put on one tool. So if you can diversify that, I think it is fair but it is also more stable and frankly, there is gonna be more acceptance over the long run.”

Mehl said one of the options the city is pushing for is the local option sales tax. Right now, the city is lobbying for House Bill 195, which would give cities in Montana the ability to ask citizens to vote on implementing a 2% sales tax on certain goods and services.

NEW HAMPSHIRE

Striving for fairness with NH’s property tax system

Last week in Concord, the House voted ought-to-pass on five bills related to schools and taxes, all with the goal of making school funding more fair and reducing property taxes.

Our state constitution says that the state must provide certain services to the citizens, and in turn, the citizens must pay for them with taxes. The constitution also says that taxation should be proportional, but does not clearly define the proportion. One interpretation is that taxation should be fair. The courts and the Legislature have interpreted it narrowly — the rate should be consistent for a given tax base. For example, the base of the Unearned Income Tax is income from interest and dividends. The rate is a flat 5 percent. As a state, we have chosen to tax narrow bases — a rooms-and-meals tax, but not a general sales tax; a business enterprise tax, but not a general income tax.

And then there is property tax. Property tax is essentially a municipal tax, but it pays for about two-thirds of state and local expenses. The base for property tax is the value of property within each town. Each town sets its own tax rate, but the amount
of money towns need to raise is affected by state requirements that towns pay for education, county government, parts of Medicaid, and pensions for municipal workers.

Towns with low property values and many students end up with much higher property tax rates than towns with high property values and few students. For instance, Claremont has about 1,800 students and total taxable property value of $700 million. Moultonborough has about 475 students and total taxable property value of $3.2 billion. The education portion of Claremont’s tax rate is $24.87 per thousand. Moultonborough's is $4.07 per thousand, and Moultonborough spends about $7,000 more per student than Claremont does. (A $200,000 house in Claremont would have a $4,974 tax bill. The same house in Moultonborough would have an $814 tax bill.) Even if this fits the current legal interpretation of proportionality, it fails the fairness test.

One way to assess fairness is to look at the amount of property value it takes to pay for one pupil’s schooling (“equalized property value per pupil”). Claremont’s equalized-property-value-per-pupil is the total property value ($700,000,000) divided by the number students (1,729), equals about $405,000. For Moultonborough, the equalized-property-value-per-pupil is $6,731,000. The state average $1,043,000, but 77 percent of students are in municipalities below that number. Dover’s equalized property value per pupil is about $887,500.

To understand state education funding, there a few more terms to know. The “adequacy grant” is what the state says it costs to give a student an adequate education. The base amount is $3,636, with an additional $1,818 for low income students and $1,956 for student with special education needs. The actual average cost per student is about $15,000. Dover’s per student spending of about $12,000 (including adequacy grants) is among the lowest in the state. The first source of money used to pay for the adequacy grant is the “State Wide Property Tax.” The rate is a little over $2 per thousand incorporated into your local tax bill. If the SWPT does not raise enough to pay for the town’s adequacy grants, the state supplements from the Education Fund. If the SWPT raises more than enough, the town keeps the extra.

In most towns and cities, the difference between the adequacy grant and the actual per pupil cost is made up for by local property tax. In 2011 a change in the way aid was calculated would have caused some municipalities to lose large amounts of aid. To prevent this, those towns started to receive “stabilization grants.” A 2017 change to the law started to phase out stabilization grants without addressing the problem they were supposed to fix, and a number of poorer towns and cities were facing severe budget cuts.

Fast forward to last week. HB 177-FN restores stabilization grants for one year to give immediate aid to affected municipalities. HB 709-FN creates a medium-term fix by replacing stabilization grants with “fiscal capacity disparity aid,” which directs extra adequacy aid to municipalities with low equalized per pupil valuation. HB 551-FN creates a study commission to figure out a workable long-term approach to school funding. In addition to making school funding fairer, these bills should also provide some property tax relief for municipalities with lower equalized property valuation, like Dover and Somersworth.

But if the state government is going adequately fund education, it needs revenue. That is where HB 623 and HB 686 come in. HB 623 halts a scheduled business profits tax reduction. In the last three years, the rate has dropped from 8.5 to 7.9. A bill passed last year would lower it to 7.5 over the next three years. HB 623 keeps the rate steady at 7.9, saving about 63 million dollars per year, which will be available to help towns with education costs and other municipal aid. HB 686 changes the existing unearned income tax by including capital gains in unearned income. Because retirees often depend on unearned income, this bill raises the exemption for a couple over 65 from $7,200 to $25,000. Even with the higher exemption, this change will raise between $100 million and $150 million. That new revenue is dedicated to reducing the SWPT rate by 25 percent and increasing per pupil adequacy aid. This is a direct reduction to your property tax bill.

NEW JERSEY

PROPERTY TAXES COULD SKYROCKET IN NJ — HERE’S WHY (ANALYSIS)

It’s no secret that school funding is what drives New Jersey’s highest-in-the-nation property taxes. Assemblyman John Burzichelli, D-Gloucester, said during budget hearings on Wednesday that school funding “haunts this legislature from year to year.”
Gov. Phil Murphy continues to insist the way to provide relief is to spend more. At a news conference in Woodbridge on Monday, Murphy said the burden of funding schools should not rest solely with local taxpayers, and “the state must continue to take the necessary steps to pay our fair share and provide property tax relief.” Unfortunately, New Jersey doesn’t have the money to spend more, and local taxpayers may be forced to pay more.

Under the new school funding formula approved last year, all districts receive what is known as the “local fair share.” The aid is calculated using a complex formula that takes into account actual student enrollment as well as projected population growth. It also phases out so called “adjustment aid” many districts have been receiving for years, essentially giving some districts more money than they were entitled to.

Under the new formula, some districts will be receiving more state aid, but a third of districts will receive less. Panicked school officials testified during budget hearings about the impact of the lost aid, warning of teacher firings, school closures, and increased class sizes.

Support is increasing among lawmakers for allowing those districts to dramatically increase property taxes to make up for the loss in state aid. The legislature would have to specifically authorize such a move, because schools districts are bound by a 2 percent property tax cap. Districts where the aid cuts are deepest could see double-digit property tax increases for years.

One idea is allowing districts to ignore the 2 percent cap until their local “fair share” of aid is fully funded by the state under the new funding formula. Another idea involves a “cap bank.” If towns raise taxes less than 2 percent in a given year, they could add that to future years. In other words, if taxes go up 1 percent one year, they could go up 3 percent in subsequent years.

Old Bridge Superintendent David Cittadino was among those pushing for a lawmakers to allow bigger local tax increases. “If the goal of the fair funding formula is to put the responsibility back on taxpayers,” Cittadino said, “let our taxpayers support that.”

Taxpayers are likely to be shocked if their tax bills arrive with a huge increase after hearing Murphy and lawmakers boast of increasing overall school aid by hundreds of millions of dollars last year and another planned increase this year. Old Bridge resident Clay Barton told lawmakers on Wednesday he had made “my peace” with New Jersey’s high taxes, and was proud he has been able to afford a home in Old Bridge. But if he is hit with a massive property tax hike, he’s out of here.

“For the first time in all my years,” Barton said, “I’m seriously considering packing up and leaving New Jersey for good.”

**These towns have some of the steadiest tax rates in the state. What’s their secret?**

Last year, the average property tax bill in the state set another record high, at $8,767. However, despite New Jersey’s sky-high property taxes, some townships managed to lower their municipal tax rates or keep them steady.

So, what’s the secret?

We looked at two townships’ municipal operations to find out.

Robbinsville Township has done something few New Jersey municipalities have been able to accomplish — cut its municipal tax rate. This is after having one of the fastest-growing municipal tax rates in Mercer County, according to Mayor David Fried.

The town of about 15,000 has something in common with its smaller neighbor to the north — Cranbury. The average homeowner’s municipal tax payment in Cranbury Township is set to reach a historic low in 2019 with a reduction of about $650 on average, and the rate could stay flat for the next two years, according to Mayor Jay Taylor. The municipal tax rate already stayed flat in 2017 and 2018.

Small towns like Cranbury, which is home to 3,900, are almost always pointed to as a “model of inefficiency,” Taylor said. But in this town’s case, it’s the opposite, he said.

Keep in mind, however, that the municipal portion of the tax bill is just one slice of it, and accounts for 20 to 26 percent of the bill in these towns. While the municipal share stayed steady or even declined, the overall tax bills did increase between 2017 to 2018 due to the county and school district increases.
Here’s how the mayors of Robbinsville and Cranbury say they did it.

Making Cuts

Fried, elected in 2005, said his philosophy is to look at property owners as if they are shareholders.

“What can I do to make our shareholder’s values increase?” Fried said. “The basic thing that I can do for them is keep taxes stable.

“And number two, what can I do to create a better surrounding, a better quality of life which will also increase the value of their home.”

The township consolidated its fire district, eliminating the need to pay for a commissioner, lawyer and attorney for each district. Since the consolidation, the township only needs to pay for one of each per year, saving the township $1 million annually.

It also eliminated its salary steps program in the police union’s contract, which used to give officers 15 percent raises incrementally, to its current system which hires officers at higher salary and limits pay raises to 2 percent per year.

A cut that Fried said will benefit future administrations is the elimination of lifetime health benefits for township employees. Non-union represented township employees stopped receiving health insurance benefits after retirement in 2007. The same policy went into effect for the fire division in 2008 and the police department in 2009, Fried said.

"Those are some of the things [we cut], and you know some of them were tough,” Fried said. “None of them happened easily, but we were able to do each one. “

“There’s no one big thing that we did. It’s all little things.”

Cranbury has also made cuts to its budget over the past decade.

“We went in and we slashed our budgets,” Taylor said. “We told residents, ‘look, we can increase taxes or we can cut our budget.’”

To save costs, the small town held off on replacing two police officers that retired and made cuts to its operating budget and municipal alliance funding for school programs, bringing down the budget substantially to match what it was in 2007 before the recession, Taylor said.

The township only made needed road repairs, and spent little on capital improvements.

Adding Ratables

Cranbury’s low municipal tax rate is partially the result of the township establishing a robust warehouse district that, in the past decade, welcomed Wayfair, Amazon and Home Depot.

Both Route 130 and the New Jersey Turnpike run through the small Middlesex County township, making it an ideal location.

When businesses came into the warehouse district, they paid added assessment and sewer connection fees, bringing in additional surplus for the township, Taylor said. The township also does not offer any PILOT (payment in lieu of taxes) programs, a controversial tool that attracts new business but allows the company to avoid paying its full share in taxes, sometimes for 30 years.

Robbinsville also has an advantageous location to help attract more ratables. And the businesses the township went after - warehouses.

“We started to think about what we could be great at and retail had been done, and we realized we were in a great spot, location-wise between east and west. We had the (New Jersey) Turnpike and Route 195 so we could, in theory, be really good at warehousing,” Fried said.

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Fried said they surveyed those who needed warehousing and found the biggest challenge was getting employees in on time and their warehouse facilities built within budget.

Robbinsville had more than 700 acres of open land, so the township went to work marketing itself as a destination for large corporations that needed warehouse space, Fried said. The township’s 21 warehouses are split between five industrial parks.

Some of the warehouses that occupy the space include Mercedes Benz, Green Mountain Coffee, McMaster Car and Amazon, which was granted a 20 PILOT plan.

The township has added approximately 6.7 million square feet of ratable space valued at approximately $245 million in ratables since 2005, Fried said. More commercial property helps keep tax rates down because they bring in more tax revenue while using fewer local services, Fried said.

Open Space

Robbinsville has one of the highest open space preservation taxes per person in the state, but that tax has helped lower municipal taxes, Fried said.

Using the funds generated by the tax to buy up land that could otherwise be turned into housing has slowed growth and reduced the number of families with school-age children, in turn keeping the overall local tax rate lower, Fried said.

“It’s inexpensive to keep up a farm,” Fried said. “It’s not so with a house. So, every time you add a new house, you add more costs and we’re very lucky in that our residents continue to vote and support our open space tax.”

Meanwhile, while Cranbury has a warehouse district on one side of Route 130, but the other side to the west is a residential zone, supported by farmland preservation. “Farmland doesn’t generate a lot of revenue, but it also doesn’t generate any liabilities,” Taylor said.

In 2018, $121.19 of the average homeowner’s bill went to conserving municipal open spaces, according to the municipal budget.

“We have a high percentage of preserved farmland in the community,” Taylor said. “To a large extent, it worked. Farmers worked with us. They either sold us development rights or they sold the land to the town as farmland.”

Taylor emphasized the importance of keeping residents in town rather than driving them out with New Jersey’s notoriously high taxes.

“A lady in front of me at the supermarket was ordering bologna at the cold-cuts counter. The guy cut up five slices and she said, ‘No, I only want four because I can only afford four.’ And I thought to myself, ‘Wow,’ here’s somebody that’s struggling. That’s who we’re accountable to, not just people who are making $1 million a year.”

Fried believes any municipality in New Jersey can hold the line on spending, as long as its leaders are willing to make difficult decisions.

“You can’t keep doing the same things and hope for different results,” Fried said. “You have to really start from the beginning. You have to take a look at every single budget. You have to be willing to have uncomfortable conversations.”

NEW YORK

A Pied-à-Terre Tax Will Bring Revenue New York Needs

A tax on second homes of over $5 million won’t solve income inequality, but it could help boost the city’s coffers.

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Two months ago, the hedge fund magnate Kenneth C. Griffin paid a record-breaking $238 million for a penthouse on Central Park South, and it wasn’t even what most people would call home. Mr. Griffin is from Chicago, where he can put his feet up in a penthouse he bought for $59 million, or in one of the rooms on two floors he bought for $30 million in a hotel there. He also has a $60 million Miami condominium and a $122 million London mansion.

The New York City comptroller, Scott Stringer, estimates about 5,400 properties in the city are worth more than $5 million and are not the owner’s primary residence. Some, like Mr. Griffin’s pad, are luxurious pieds-à-terre for out-of-towners. Many others were bought by shell companies that don’t reveal their true owners, meant to allow overseas tycoons to stash money out of sight.

At a time of soaring inequality and towering infrastructure needs, taxing these gleaming penthouses is an enticing idea. The logic is straightforward: It is one way in which New Yorkers can benefit from the desire of other people to visit the city that New Yorkers own and operate.

New York certainly needs the money.

There’s the added benefit that so-called pied-à-terre taxes are politically palatable. Sending a higher tax bill to wealthy homeowners who don’t live, pay taxes or vote in New York will be far more popular with lawmakers than broader assessments on wealthier residents, such as raising income taxes on millionaires or property tax rates on all luxury homes. Democrats, having won full control of the state government in November’s elections, are seriously considering a pied-à-terre tax in this year’s budget.

The proposal, which could be revised, would allow New York City to impose an additional tax on homes that are not an owner’s primary residence and are worth more than $5 million. These properties would be taxed on an ascending scale, from 0.5 percent on a market value of more than $5 million, up to 4 percent on the values above $25 million. Mr. Stringer estimates the tax could generate roughly $650 million in annual revenue based on current conditions.

Cities that have adopted such taxes have seen drops in prices and construction of high-end homes. New York City would almost certainly see similar results — it’s just a question of by how much. In cities that have tried it, other factors also affected prices. Still, the tax is one small way to make New York City a little fairer and raise revenue that could be used for the city’s subways, schools or affordable housing.

It’s no substitute, though, for more difficult reforms of the property tax system.

Rental apartment buildings bear a disproportionate share of the city’s tax burden while multimillion-dollar brownstones and co-ops and condos at the high end of the market get steep breaks. In 2017, for example, the owners of a $500,000 home in Elmhurst, Queens, had a $4,297 tax bill — the same as a $9 million home in Carroll Gardens, Brooklyn, according to data from the city’s Finance Department.

Home buyers who need a mortgage in New York pay a mortgage recording tax, while wealthier buyers who purchase property in cash pay none. Mr. Stringer, the comptroller, has proposed eliminating the mortgage recording tax and instead increasing the transfer taxes on high-priced properties. That would put New York in line with other cities better at capturing revenues from the super wealthy. “They’ve gotten a free ride in New York,” Mr. Stringer said.

In terms of generating a new revenue stream, when funds are urgently needed, the pied-à-terre tax is a good start.

Many governments worldwide have moved to capture a piece of soaring real estate prices through similar schemes. Paris has a tax aimed at second homes used as investment properties. So does Melbourne. In 2016, Britain imposed a 3 percent surcharge on the purchase of second homes.

While the British tax raised 1.68 billion pounds ($2.1 billion) from 2016 to 2017, higher taxes on home sales in general may have contributed to a slowdown in the real estate market, according to a report from the London School of Economics. It’s also widely believed that turmoil over Brexit could have weakened the market.

Housing sales around Vancouver, British Columbia, which recently adopted several new taxes on nonresident buyers and the owners of empty homes, declined by more than 30 percent in 2018, according to the Real Estate Board of Greater Vancouver. Yet that decline could also have been caused, or exacerbated, by rising interest rates. Vancouver officials said they expected one of the taxes, a 1 percent levy on vacant homes, to raise $38 million annually.
The Real Estate Board of New York, an industry lobbying group, says the proposed tax would cripple the housing market, where luxury sales already sharply declined last year. The industry group also says the tax would bring in about half the revenue the comptroller estimates.

Concerns about the tax’s effect on the real estate market are worth considering, since the industry has provided New York with tax revenue and jobs. But the money the tax would generate, even if less than now estimated, makes it worthwhile.

With the state projecting lower income tax revenue, and the fate of an effort to legalize — and tax — marijuana in question, the pied-à-terre tax is gaining steam. Lawmakers are pushing to include the proposal, sponsored by State Senator Brad Hoylman and Assemblywoman Deborah Glick, in the state budget. Gov. Andrew Cuomo has said the revenue should go toward the Metropolitan Transportation Authority.

Wealthy people from around the world who invest in New York City real estate reap rewards on that investment because of the goods and services the city provides. Asking them to pay more is common sense.

**Difference between market value and assessed value?**

The determination of one of the largest annual costs of New York real estate ownership, the property tax, is often poorly understood by even the most sophisticated real estate professionals. The result is that many property owners inadvertently pass on opportunities to reduce their operating expenses.

The common “ad valorem” standard used for property taxation is simple in concept but riddled with nuances that can lead to big differences between an owner’s notion of potential “market value” and what ought to be a lower tax assessment value. The assessed value of real estate is not necessarily what the property might sell for.

Credible asset valuations require a clear understanding of what I refer to as the “rules of the game” for the intended purpose of the appraisal; the ultimate value determination may be dramatically different — and result in a massive swing in tax liability — depending on the assumptions the appraiser made. Did the assessor consider some future potential the property may possess, or did she restrict her analysis to the existing use? Did she go beyond valuing just the real estate? Valuation assumptions are governed by differing rules for each appraisal assignment, whether tax assessment, mortgage financing, eminent domain, investment purposes, or selling a business.

Yes, the same property could be properly appraised with multiple values on the same date, and each might be valid for a different purpose.

Assessors sometimes knowingly or unintentionally conflate alternate notions of value with the standards that govern tax assessment. This is particularly true for properties that involve a “going concern,” such as hotels, self-storage facilities, big box retail stores, gas stations, and shopping malls, where the real estate serves a larger business need of the user.

For virtually all commercial properties with an existing improvement, the governing standard in New York for property tax is the value of the property in its existing use, rather than some potential higher-value use. A 50-year-old bowling alley that barely breaks even but that sits on a prime site zoned to permit the construction of a high-rise condominium must still be valued by a tax assessor as the bowling alley that it is, warts and all.

The law prohibits the assessor from considering what a developer with grander visions might pay, and a smart owner, and their advisor, will spot this distinction.

While the legal standards for assessing based on current use rather than potential value don’t always seem fair (especially to neighboring owners), they are a product of meeting a Constitutional standard of fairness in tax assessment that requires all similarly situated owners to be treated the same, rather than attempting to generate higher values for some properties where the assessor thinks there may be an opportunity to do so without recourse. The assessor’s job is to treat all property owners equitably, not to raise taxes as much as possible.

Similarly, some tax assessors neglect to consider that their mandate is to value real estate alone, and ignore other components of value that may be present. So, while a hotel may sell for a premium price, the assessor is required to recognize that the sale
includes valuable non-real estate assets such as furniture, fixtures, and equipment; franchise business value; the value of a trained workforce; non-realty contracts, and other items that must be separated before the property can be fairly assessed. Therefore, a sale of a going concern, or the sale of an interest in a leased property where the value of the lease is tied to the business and not the real estate, must be disregarded for tax assessment purposes. In sum, while some real estate-based sales may provide premium evidence of market value for tax assessment purposes, each sale must be evaluated on its own circumstances.

Owners are well-advised to review their tax assessments long before the bill arrives, and go beyond a mere reflexive consideration of the value based on what a sale might bring. Look under the hood at whether that value, even if seemingly reasonable by market standards, may fail to meet the legal standards for a legitimate assessment and provide an opportunity to reduce the annual tax.

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Real-Estate Industry Blasts ‘Pied-à-Terre’ Tax on High-Value Second Homes

John Banks, president of the industry lobbying group the Real Estate Board of New York, said it was a “bad tax that has no analysis behind it” that could have ripple effects in the city’s economy.

He said that if wealthy foreigners stay away, it could cut into revenues of restaurants, retailers, and even taxis, and lower property-tax collections as apartment values fall.

Legislators who support the tax say it is appropriate to ask wealthy nonresidents to pay more at a time of growing income inequality, and when the city’s infrastructure is desperately in need of upgrades.

The proposal for a so-called pied-à-terre tax on homes worth $5 million or more on nonresidents has been lingering in Albany since 2014. The plan gained traction in the last few years as Gov. Andrew Cuomo and the legislative leaders, all Democrats for the first time in years, grasped for new revenue to close a large budget gap. At one point last week, Mr. Cuomo said it was the only tax proposal they were able to agree on.

“If they have the money to buy a $5 million apartment, which is not their prime residence, and it’s their little Manhattan getaway, they can afford the tax,” Mr. Cuomo said in recent radio interview.

The owner of a home valued at $41 million would owe an additional $1 million in taxes each year, an analysis of the proposed legislation shows.

The measure could be adopted in the next few weeks, as the state races to adopt a budget by the start of the new state fiscal year on April 1.

Manhattan real-estate sales fell 12% last year compared with 2017 levels, the worst sales pace since 2009. Developers and brokers warn that the new tax could drive down sales and prices further and halt construction projects.

Since the purchase of a second home depends on sentiment rather than need, the hefty tax would lead buyers to look elsewhere, brokers say. That could put architects and construction workers out of work.

The real-estate industry isn’t the only one urging caution. Citizens Budget Commission, a civic group, has urged the state to take more time to study potential impact of the measure before acting.

Vancouver and Paris have imposed extra taxes on apartments deemed to be vacant in an effort to free up apartments in a housing shortage. But New York’s effort is focused solely on the wealthy and imposes a vast new tax burden that in many cases will be five times to 10 times higher than property taxes paid by New Yorkers.

The nominal tax rates range from 0.5% for the portion of homes valued above $5 million up to 4% for the portion of a home above $25 million. But the proposal establishes a new higher method to value properties not imposed on owners of other condos and co-ops, making the new taxes far beyond what would otherwise be charged.
A 50-foot wide mansion on East 71 Street near Central Park that last sold in 1989 is now facing a $347,000 annual tax bill. But the city values the mansion, owned by a non-city resident, at nearly $56 million, and it would face an additional $1.6 million in taxes each year under the bill.

Or take the 20th-floor penthouse at 15 Central Park West purchased for $88 million in 2012 by the daughter of a Russian billionaire. Since New York law bars assessors from looking at actual sale values, the tax bill on the penthouse is about $153,000. Under the proposal, she would owe nearly $2.9 million more each year, based on the $88 million value.

The potential revenue from the bill is in dispute. City Comptroller Scott Stringer, who supports the measure, said the tax could raise $650 million or more, based on a Senate bill introduced by Brad Hoylman, a Manhattan Democrat.

But the bill as written would force many New York residents to pay, too. The new tax would apply to any individual who bought a home through a corporation or a limited liability corporation.

Using city tax and property records, The Wall Street Journal estimated that there were about 14,400 co-ops, condos and houses worth $5 million or more, of which about a third were held in corporate names.

The comptroller’s office estimated that about 5,400 pied-à-terre owners would have to pay the tax. But that figure includes full-time New York residents who bought homes through an LLC. If those homeowners end up excluded from the new tax, the revenue would be likely be lower, according to the real-estate industry.

Asked if some New York residents would be hit by the tax, Mr. Hoylman said that the final legislation would give the city council or the city’s finance commissioner the ability to shape the final rules fairly.

He said that an owner of a $6 million home would pay a modest premium of $5,000, less than monthly maintenance on some condos. “These are extremely wealthy individuals; these are second and third homes,” he said. “So this is not about the ability to pay.”

Bruce Cohen, real-estate lawyer, said that if the new measure drives away wealthy buyers, New York won’t get all of the expected tax windfall. Gains from the tax would be offset by the loss of city and state transfer taxes, which typically total 2.825% of the sale price for properties sold for $1 million or more.

Pam Liebman, the president of the Corcoran Group, said that if the tax goes through, it could cut property-tax revenues. She said one buyer looking at a $30 million condo decided to hold off after learning of the legislation.

“If the real-estate market suffers, everybody will suffer,” she said. “The condos will become rentals, the construction trades will lose out. Nobody will build another building.”

**Target, big-box store lawsuits in CNY would push property tax burden to rest of us**

Big-box retailers and chain drug stores are bringing to the Syracuse suburbs a tax-dodging strategy that has lowered their property tax bills in other states.

Target, Walmart, Kohl’s, home improvement and drug stores are trying to get their property tax bills reduced by as much as 99 percent in suburban towns in Central New York and across the state, according to a Syracuse.com analysis of lawsuits.

If it works, it would shift that property tax burden to every other taxpayer in those towns.

Target has filed lawsuits in Manlius, Cicero and Camillus. In each, they argue that their assessments should be lowered from about $9 million to about $900,000.

In Cicero, for example, it would lower the school, town and county property tax bills from about $327,000 a year to about $33,000.

The amount is so low that it’s laughable to town assessors.
“Oh gosh, $900,000? That would be ridiculous,” Cicero Assessor Karen Tavernese said. “That wouldn’t be fair to other businesses.”

The stores are unlikely to win that lowball amount. But the tactic has successfully reduced their taxes in other parts of New York. And stores have filed dozens of similar lawsuits against town assessors from Buffalo to Long Island.

Walmart has a more reasonable ask. The world’s largest retailer wants to reduce assessments in DeWitt, Cicero and Camillus from $11 million and $12 million to $8 million and $9 million, records show.

After a string of store wins in Midwestern states, The Standard & Poor’s rating service warned that this strategy could stress the budgets of suburban towns and school districts that rely on retail to pay the bills.

The tactic is nicknamed the “dark store theory,” and it works like this:

Store lawyers argue that their fully functioning stores should be valued the same as vacant stores when it comes to charging local property taxes.

Those amounts are much lower than the values town assessors come up with. Assessors apply a formula that relies on a potential cost per square foot, as if the stores leased the buildings. But assessors know, the stores are not really leased.

Upstate NY town forced to pay

In Queensbury, near Lake George, a judge sided with Home Depot in a case that has alarmed town assessors across New York.

The town was forced to lower the store’s assessed value from $9 million to about $5 million. The school district, the town and the county were ordered to pay back about $500,000.

Queensbury Assessor Teri Ross said she never saw it coming. Big retailers are constantly challenging their assessments. It takes years to reach the point where they have to hire an appraiser and show their math. Even when the issue reaches court, a judge typically picks a number somewhere in the middle, she said.

“I’ve never, since I’ve been here, seen a judge make a decision absolutely hook, line and sinker for the petitioner,” she said.

Home Depot hired appraiser Chris Harland to make its successful argument. Harland has also challenged assessments for Rite Aid, Walgreens, Target, Walmart, and Raymour and Flanigan – mostly in the Albany and Dutchess County areas.

Property tax cases are unique and complicated. But Harland’s argument is simple: “If Target was to sell a store, they are selling a vacant building. They are not selling a building with a long-term lease on it.”

In Queensbury, he compared the Home Depot store’s value to seven vacant big-box stores outside of the region. The state appeals court was satisfied.

“I’ve never used the term ‘dark store theory,’ ” he said. “That’s somebody else’s characterization of the concept.”

Onondaga County challenges

In Onondaga County, Target is suing the towns of Manlius, Camillus and Cicero. In those cases, Target is represented by the same Long Island law firm that won in Queensbury, records show.

The way Manlius Assessor Patrick Duffy runs the numbers, the 125,000-square-foot Target store at Towne Center is worth about $9.1 million.

That means the store pays an annual school, town and county property tax bill of $365,000.

Target’s lawyers say the store is worth only $915,000. That would put the tax bill at $36,000.

The price difference is nearly the same in the Camillus and Cicero lawsuits.

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So far, their arguments do not show how they came up with the numbers.

The Target stores have already had tax advantages. Even though New York state frowns on tax breaks for retail, the stores in Camillus, Cicero and Manlius had government help.

The Onondaga County Industrial Development Authority granted tax exemptions for 10 years to help lure the Target store to a dead mall in Fayetteville. At the time, they estimated it would save Target about $770,000 in property taxes.

Cicero offered a tax exemption that reduced the assessment by 50 percent for the first three years, then lower percentages over the next 7 years. In the last year, the store saved $11,000 in taxes, Tavernese said.

Target had a similar deal in Camillus, Assessor Celeste Karakas said.

As soon as those tax breaks expired, the stores filed lawsuits to lower their taxes.

Target Corp. reported net income of nearly $3 billion in 2018.

How assessments are set

Most real estate values in New York are based on the recent sale price of a similar property.

Duffy is constantly comparing sales in the town of Manlius. He can quickly look up the going rate on bank branches, for example, and adjust assessments to match the market. But there is only one Target store in the town of Manlius.

Without a similar comparison, he uses an income-based approach. He starts with a potential rental cost per square foot based on market research. He subtracts potential vacancy and credit losses, adds miscellaneous income like vending machines and subtracts operating expenses like snowplowing.

Until now, courts in New York state upheld that method.

“That’s what New York state hangs its hat on,” Duffy said, referring to the generally accepted practice for town assessors around the state.

The income approach is not perfect. But assessors say it would be wrong to compare a working store to a vacant store for several reasons. Vacant stores are, well, vacant and often in less desirable places. They were often built for one type of store and have deed restrictions that limit the types of buyers. They sometimes sell at distressed prices. Sale prices can also be misleading because assessors do not know about the other assets that went into the sale, like a list of customers, for example.

“They say a fair comparison is something that is mothballed and there is no comparison there,” Duffy said.

Both sides: It’s really about the money

Each side blames the other for simply trying to save or raise money.

“These people don’t want to pay their taxes and the tax rate in New York is so high that when they look at their operating costs, they see that their taxes are way out of line with other states,” Clay Assessor Rob Bick said.

Bick said he is in constant negotiations with Walmart, Rite Aid and other retail stores. He said he sometimes gets grievances from competing law firms on behalf of the same property.

“They file arbitrary and ambiguous lawsuits, hoping that some town assessor is dumb enough to settle with them,” Bick said. “It’s quite preposterous and in some ways entertaining.”

Harland, the appraiser for Home Depot and others, said: “It doesn’t surprise me that assessors are advocating for higher assessments.”

What’s the solution?

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Harland says a resolution would have to come from the courts. Rulings around the country are all over the place, he said.

Harland lost in another New York case. He argued the value of a Target in Colonie should be compared to the sale price of vacant stores outside the region including one in Massachusetts.

“New York is not the only state dealing with this issue,” he said. “Maybe the only way it gets resolved is if it goes up to the highest courts, to bring uniformity into the assessment practice and to give guidance to assessors, appraisers and attorneys in all locations.”

Successful retail lawsuits in Michigan and Indiana have resulted in hundreds of millions of dollars in estimated lost tax revenue to local governments, S&P analysts warned last year. The tactic is expected to spread to other states and to include small retail stores, auto parts stores and fast food chains, analysts said.

Town assessors and county officials in New York are hoping to stop the spread of the “dark store” tactic with state legislation.

Assemblyman Ken Zebrowsky, a Democrat from Rockland County, introduced a bill last month at the urging of the New York State Assessors’ Association and the New York State Association of Counties.

If passed, the new law would require assessors to compare properties that are similar in condition, use, type of construction, location, design, physical features and economic characteristics including similarities in occupancy and income-generating potential.

Assembly Bill A4752 does not have a Senate companion.

Warren Wheeler, an assessor in Oswego County and the executive director of the state assessors’ association, said a change in the law could head off use of the “dark store” theory in New York.

“The tax implications can be devastating to small towns,” he said.

As pied-à-terre tax gains steam, NYC real estate industry pushes back

Both real estate insiders and a fiscal watchdog group caution against a second-home tax

As the deadline for a new state budget looms in Albany, one formerly stalled piece of legislation—the pied-à-terre tax, to be levied on second homes in NYC valued at $5 million or higher—is gaining steam, with support from both state and city legislators.

But New York’s powerful real estate industry is now flexing its muscle over the tariff, according to the Wall Street Journal, which could change the proposal’s fate. And the Citizens Budget Commission, an independent fiscal watchdog group, recently called the proposal “appealing but problematic” in a blog post, noting that it’s “not a substitute for real property tax reform that increases equity.”

A proposed second-home tax has been lingering in the state legislature since 2014, when it was first proposed by Sen. Brad Hoylman. But broad support for the bill didn’t coalesce until earlier this year, when hedge funder Ken Griffin became the owner of a $238 million penthouse at 220 Central Park South, which is the single most expensive home purchased both in New York City and the United States.

The optics of the sale—the fact that Griffin previously acknowledged that it would not be his primary home, and its location along Billionaires’ Row—led to outrage. And as the New York Times notes, the city’s byzantine property tax laws also mean that Griffin, who is one of the world’s richest men, will pay a relative pittance each year: Under the current tax laws, it is valued at around $9 million, meaning Griffin may only “pay approximately $516,000 in taxes per year.”

This, supporters say, is why the tax is necessary: “It is not unreasonable to ask those who can afford to buy a $238 million second home in New York to pay a little more to keep our subways and schools running,” Hoylman said in a statement after the tax was included on the state’s budget resolution.
And Gov. Andrew Cuomo, who previously said he was loathe to support new taxes to provide funding for the MTA, has changed his tune. “If they have money to buy a $5 million apartment, which is not their prime residence, and it’s their little Manhattan getaway, they can afford the tax,” he said during an interview last week. The estimated $650 million generated annually by the tax could be put toward critical subway fixes, he argues.

But as the WSJ notes, “[t]he new tax would apply to any individual who bought a home through a corporation or a limited liability corporation,” meaning it would likely apply to New Yorkers purchasing primary homes.

Real estate industry insiders believe that the tax—and its potential to drive wealthy buyers away from New York City—could have a ripple effect. “If the real-estate market suffers, everybody will suffer,” Corcoran president Pam Liebman told the WSJ. “The condos will become rentals, the construction trades will lose out. Nobody will build another building.”

That’s a concern echoed by the CBC, which also notes that levying taxes based on who owns it and why, rather than the property itself, is “another piecemeal approach” to making the property tax laws less confusing. Those who might purchase pricey New York apartments—whether as second homes or for other reasons—may be less likely to in the future. “[L]awmakers should seriously consider lower tax rates that will do less harm to the attractiveness of New York City,” the CBC concludes.

**Pied-à-terre tax 'appealing but problematic,' watchdog warns**

*Citizens Budget Commission calls for systemic, not “piecemeal” approach*

A proposed pied-à-terre tax might be on solid footing politically, but its underlying logic is slipshod, a fiscally conservative advocacy group argued Wednesday.

The Citizens Budget Commission sought to slow the sudden political momentum behind a proposed excise on “foot on the ground” housing—residences belonging to foreigners and Americans who live (and pay taxes) elsewhere. Gov. Andrew Cuomo’s office suggested last week that such a levy might reap $9 billion for the moribund Metropolitan Transportation Authority over the next decade and Assembly Speaker Carl Heastie reiterated his chamber’s support proposal at a Crain’s breakfast forum days later. For what it’s worth, Mayor Bill de Blasio gave it his blessing as well.

Legislation in both chambers of the state Legislature calls for imposing an annual surcharge of 0.5% to 4% on the market value of residences worth $5 million or more. Hastily organized opposition including the Citizens Budget Commission and the Real Estate Board of New York has sprung up to head off passage of the tax, which is likely to be part of the state budget due April 1.

The budget watchdog, which has ties to New York business interests, called the notion “appealing but problematic,” and noted that rich out-of-towners make for an easy foil in part because they don’t vote. It even admitted that many second residences are “undertaxed” because of New York City’s complicated and much-maligned property tax system. But the group maintained that a pied-à-terre duty would not fix the overarching problems in that system and would create a new tax category on a questionable basis.

"The property tax should be levied based on the characteristics of the property, not its ownership," the organization argued in a blog post. "A pied-à-terre tax is not a substitute for real property tax reform that increases equity."

The group worried that the levy would further weaken the enervated luxury housing market and deter rich, part-time New Yorkers who contribute to the economy in other ways.

Also troubling to the commission was Cuomo’s suggestion that the state allocate the tax’s revenues to the MTA. First, the group asserted, this would do nothing to address the vast bureaucratic and labor inefficiencies that bloat the authority’s costs. Second, it would set a precedent for using “piecemeal” cash-gathering approaches to fund the system instead of receipts from sources directly connected to commuters and transit.

"In short, the state should not adopt a pied-à-terre tax without thoughtful deliberation about whether it is needed and without revision of the proposal to mitigate the negative impacts,” the blog post concluded.
How a $238 Million Penthouse Turned a Long-Shot Tax on the Rich Into Reality

The record-setting sale of a $238 million apartment on Central Park South in Manhattan has helped build support for a possible pied-à-terre tax.

The road to the nation’s first tax on superluxury second homes may well have begun at 220 Central Park South, where a four-story, 24,000 square-foot penthouse, unfinished and unfurnished, recently sold for $238 million.

That deal — the most expensive residential sale in United States history — seemingly set the stage for New York’s sudden embrace of a so-called pied-à-terre tax, a potential windfall for the city’s subway system and a small, subtle victory for those who believe Manhattan has become an unfettered playground for the rich.

If the measure is passed and signed into law, New York would join cosmopolitan hubs like Paris, Singapore and Vancouver, which already charge fees on secondary or part-time homes. It would also be a prime example of how headlines and hard times can sometimes intersect with a political moment, giving an outre idea a chance to become policy.

“When over six million New Yorkers are dealing with a crumbling and dysfunctional subway and the crisis in public housing, to see this opulence in the sky by someone who doesn’t even live here, struck a chord,” the City Council speaker, Corey Johnson, said.

The tax seems to be riding on a unique crest and confluence of several factors, including shaky tax revenue, uncertainty over the prospects for legal marijuana, and a general anti-rich, anti-corporate mood exemplified by the recent collapse of the Amazon deal in Queens.

The outlook for the tax is good: Both houses of the State Legislature and Gov. Andrew M. Cuomo support the proposal. Under the proposal, owners of second homes worth more than $5 million would be subject to a sliding tax surcharge and fees; homes that are valued more will incur higher fees and taxes.

The financial impact could be significant. New York City has about 75,000 pieds-à-terre, according to a city estimate in 2017. Of those, about 5,400 residences were sold for $5 million or more, the threshold where the proposed pied-à-terre tax would begin to kick in.

Mr. Cuomo estimated on Monday that the state could raise $9 billion in bonds off that revenue that would help fund repairs for the city’s troubled subway system. But the philosophical and psychological impact might be even more profound, offering a concrete, almost classist, rebuke to ultra-wealthy apartment buyers who sojourn in the city, enjoying its services and amenities, but often pay few taxes.

“There’s a growing realization with Billionaires’ Row, and the super-talls, that a lot of these homes are vacant and viewed as sky-high security deposit boxes for very wealthy foreigners,” said State Senator Brad Hoylman, the Manhattan Democrat who has sponsored the tax legislation for several years. And, he said, “because of our system of laws, because of our fire and police, because we are a secure financial investment, they should be charged for that.”

The speed with which the pied-à-terre tax has become politically popular is also remarkable: The idea was floated by a liberal think tank and lawmakers in New York in 2014, but had repeatedly been shunted to death in committee by Republicans leading Albany’s upper chamber, and quietly ignored by Democrats leading the Assembly.

The blue wave of November, however, changed the balance of power in Albany, with Democrats taking both houses of the Legislature, and unleashing a phalanx of progressives on the capital, part of a left-wing movement bent on correcting income inequality and pushing for higher taxes on the rich.

Liberal supporters of the tax had long pointed to a range of problems associated with pieds-à-terre, including encouraging real-estate speculation, inflating property values and associated taxes and speeding up gentrification in once-affordable neighborhoods.

Assemblywoman Deborah Glick, a Manhattan Democrat who carries the bill in that chamber, said longtime residents “are finding it hard to stay.”

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“They made districts and parts of New York very livable and very attractive,” she said. “And they are driven out by people that don’t even want to live here.”

The bill’s sudden political momentum blindsided real estate executives, who fear the tax could irreparably damage the city’s high-end market, which is already experiencing a downturn.

Jonathan J. Miller, chief executive of the real estate appraisal firm Miller Samuel, said the market for high-end co-op and condo purchases has steadily declined since 2016, according to data provided by his firm. In 2016, 1,087 units sold for more than $5 million but less than $25 million. In 2017, the number dropped slightly to 1,075 units and decreased further to 849 units in 2018.

John H. Banks, president of the Real Estate Board of New York, the powerful trade group, said that “nobody has done any analytics as to the impact on the broader economy” as well as the local real-estate market.

“We are very concerned it’s going to have a huge chilling effect on high-end co-ops and condos,” Mr. Banks said in an interview on Tuesday, adding that he’d been taking calls from concerned members all week.

“Five million dollars sounds like a lot; you can buy the biggest house in Montana,” said Dolly Lenz, chief executive of Dolly Lenz Real Estate and former vice chairwoman of Douglas Elliman Real Estate. “In New York, $5 million buys a two bedroom in Hudson Yards.”

Ms. Lenz said she now spends more time in Florida looking at developments since many of her high-end clients are planning to move.

“So many people have told me they are planning to transition to Naples, Miami or Palm Beach,” she said. “It may not be today, but soon.”

Others, including Governor Cuomo, disagree that the tax would scare away potential homeowners.

“If they have money to buy a $5 million apartment, which is not their prime residence, and it’s their little Manhattan getaway, they can afford the tax,” Mr. Cuomo said in a radio interview on Tuesday. “We need to fund the M.T.A.”

Indeed, with the state facing a shortfall in income-tax receipts, the pied-à-terre tax has become an attractive option, especially as other possibilities — marijuana legalization and congestion pricing — may stall.

The real issue is that New York City needs to fix its property tax system, said Martha E. Stark, a professor at New York University’s Robert F. Wagner Graduate School of Public Service, and the city’s former finance commissioner.

Under the city’s antiquated property tax system, co-ops and condos are not taxed at their true market value, but on the income generated by similar rental buildings.

The $238 million apartment, purchased by the Chicago-based hedge fund billionaire Kenneth C. Griffin, is currently valued at $9.4 million, according to the Department of Finance. That comes out to less than 4 percent of the sales price. A property valued at that amount would pay approximately $516,000 in taxes per year, Ms. Stark said.

If the property were taxed at the same rate as some single-family homes in Queens or Staten Island, the penthouse would produce around $2.4 million in property taxes.

A plan to revise the city’s property tax system is being studied by a tax reform commission.

For early-adopters of such taxes, the increasing interest and new legislative traction has been satisfying. “It’s like a fine wine,” said Ron Deutsch, executive director of Fiscal Policy Institute, the left-leaning think tank which offered a white paper on the idea in 2014. “Sometimes it takes a little time.”

**Why billionaire Ken Griffin can snag property tax bargain**
Ken Griffin won’t have to worry about the tax man — at least when it comes to New York City real estate.

Last month, the billionaire investor behind the Citadel hedge fund snagged a 23,000-square-foot condo on Central Park South for a record-breaking $238 million.

But when it comes time to pay his tax bill, the Citadel boss will only be paying on a property value of $9.4 million — less than 4 percent of the real sticker price, The Wall Street Journal reported Wednesday.

Griffin isn’t the only one in the building who will benefit from the lower tax rate. Although the total listing value of the condos in the skyscraper under construction is $3.4 billion, city tax assessors valued it at a tiny fraction of that — just $157.6 million, the Journal reported.

Accordingly, Griffin can expect a property tax bill of $516,500 in July, representing a 0.22 percent effective tax rate.

Meanwhile, the effective tax rate is much higher for Griffin’s neighbors in Staten Island. Joseph Siciliano, a former city garbage collector, pays an effective rate of 1.2 percent on his 2,600-square-foot Staten Island colonial, which is valued at just under $870,000.

The reason for the staggering discrepancy is New York City’s property tax system, which assesses co-ops and condos based on rental income in nearby buildings.

The tax code benefits high-end property owners throughout Manhattan and trendier parts of Brooklyn, the Journal found.

In fact, Mayor Bill de Blasio and Griffin have at least one thing in common: their 0.22 percent effective tax rate on their New York City real estate.

Hizzoner is expected to foot a bill of $4,197 on his $1.94 million Park Slope townhouse — less than half the $10,450 that Siciliano in Staten Island expects to pay, the Journal reported.

Reps for the mayor didn’t immediately respond to requests for comment. Citadel declined to comment.

**$238 Million Penthouse Buyer Will Pay A Property Tax Rate Lower Than Many NYC Homeowners**

New York City’s luxury real estate market has a crazy list of loopholes for the wealthy: a tax abatement for affordable housing that somehow managed to benefit those living on Billionaires’ Row; buyers who are permitted to mask their identities and potentially nefarious deeds behind anonymous LLCs; builders who have supersized skyscrapers through devious and bizarre designs, and as pointed out by a story in the Wall Street Journal on Thursday, owners who manage to pay relatively minuscule amounts of property tax.

A Central Park South penthouse that was recently purchased by billionaire hedge funder Ken Griffin for $238 million is worth only $9.4 million in the eyes of city tax assessors.

The report underscores the city’s convoluted and inequitable property tax system, which, among other oddities, elects to assess co-ops and condos as if they were rental properties. That means assessors base their estimate of the value of the 23,000-square foot apartment at 220 Central Park South on rental income generated by nearby apartments.

As a result, Griffin will have an annual tax bill that works out roughly $516,500. That is based on an effective tax rate, which is considered the best measure of tax liability, of 0.22 percent. The rate is lower than that of most outer borough homeowners. For example, homeowners in Staten Island can pay an effective tax rate as high as 1.0 percent.

Griffin’s tax liability even bests that of an unidentified buyer who bought a full-floor penthouse for $50.9 million in 2015. That person paid an effective tax rate of 0.42 percent, according to The Real Deal.

To put it another way, Griffin will pay the same effective tax rate paid by Mayor Bill de Blasio for his two homes in Park Slope, both valued at under $2 million.

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According to a policy 2016 brief by the Citizens Budget Commission, co-ops and condos in New York City have an average effective tax rate of 0.86 percent.

“It is a crazy system,” Martha Stark, a former city finance commissioner who is now the policy director of Tax Equity Now, told the WSJ. “The true market value bears no relation to sales price, and nowhere is that truer than among high-value coops and condos.”

Tax Equity Now is suing the city over its property tax system, alleging that it unfairly works against renters and low-income and minority property owners.

The city is currently undergoing an effort to evaluate and come up with proposals to reform its property tax system. Last year, the de Blasio administration announced the creation of a Advisory Commission on Property Tax Reform which will set out a list of recommendations to be implemented at both the city and state level.

In the meantime, public furor over Griffin’s exorbitant purchase is being leveraged to enact an previously floated policy. On Monday, the City Council revived its calls for pied-à-terre tax.

Originally sponsored by State Senator Brad Hoylman in 2014, the state bill would levy annual fees on second homes worth $5 million and up. Under the proposed tax, Griffin could be asked to cough up $8,890,000 a year to the city.

NORTH CAROLINA

Solar Energy Equipment: North Carolina Appellate Court Addresses Scope of Property Tax

The North Carolina Court of Appeals (“Court”) interpreted the scope of a North Carolina property tax exemption related to solar energy equipment. See In Re Highwater Solar, 2018 WL 6053437.

The issue addressed was whether equipment purchased by taxpayers and used exclusively for the conversion of solar energy to electricity, but still under construction, was exempt from taxation under a North Carolina property tax exemption.

Highway Solar requested a 2016 tax exemption from the Wayne County Board of Commissioners (“Board”). Its request was based on Section 105-275 of North Carolina’s General Statutes. This provision designates solar energy electric systems as “special classes” of property and provided that eighty percent (80%) of the appraised value of a solar energy electric system could be exempted from taxation.

The exemption included the following definition:

For purposes of this subdivision, the term ‘solar energy electric system’ means all equipment used directly and exclusively for the conversion of solar energy to electricity.

The Board notified Highway Solar in 2017 that its exemption request was denied.

Highway Solar appealed this decision to the North Carolina Property Tax Commission (“Commission”). Nine total matters, from various solar companies, were presented to the Commission, as eight similar requests for 2016 tax exemptions had already been made, denied, and appealed by the Board before its denial of Highway Solar’s request.

The Commission granted the solar companies’ partial tax exempt status. It concluded that even partially constructed equipment satisfied the statutory definition for tax exemption established by the North Carolina statute.

Nine North Carolina counties appealed to the Court, arguing that the Commission erred in exempting equipment that was only partially constructed. The counties argued that the General Statutes’ language—specifically, “equipment used directly and exclusively for the conversion of solar energy to electricity”—prevented such exemption. They contended that partially constructed equipment is not being used at all.
The Court analogized the pending matter to Seminary, Inc. v. Wake City. The North Carolina Supreme Court addressed a similar question in that decision. It held that a partially constructed seminary was still exempt from taxation because it was being erected wholly for use encompassed by a North Carolina tax exemption. Similarly, in the pending case, because the partially constructed solar equipment was being erected wholly for the conversion of solar energy to electricity, it was deemed eligible for exemption under Section 105-275 of the General Statutes.

The Court therefore affirmed the Commission’s order, granting the solar companies’ tax exemption pursuant to Section 105-275.

**PENNSYLVANIA**

**City property tax system - still broken**

The city made two big commitments to gain support for a sweeping overhaul of its property tax system in 2013: the move to the so-called Actual Value Initiative would be revenue neutral and property assessments would be uniform.

But promises made have not been promises kept.

The revenue-neutral claim went out the window before the ink was dry on AVI. And an independent audit commissioned by City Council last year found numerous errors in the way properties are assessed.

Six years after a major revamp of property taxes that resulted in a tax hike for most residents, one truth remains: Philadelphia’s property tax system is still broken.

While there have been improvements, property tax bills remain uneven from one home to the next. Tens of thousands of homeowners pay more in property taxes than they are supposed to, while others pay less. There appears to be no rhyme or reason as to how properties are assessed.

The City Council audit and a recent report by the City Controller found numerous problems including:

- Assessments are not uniform and do not meet industry standards.
- Assessments are off by an average of 15 percent.
- The Office of Property Assessments lacks accurate data and does not document all of its procedures.
- Assessment methods are not made public, making it difficult for property owners to determine how their values were calculated.

An analysis last year by The Inquirer found more than 35 percent of homes in the city are overassessed, resulting in tax bills above what property owners should be paying.

Overall, 48 of the city’s 57 neighborhoods saw jumps in their assessments, including some homeowners whose property taxes increased more than 100 percent. The spike prompted thousands of angry property owners to file appeals — the largest number since 2014 when the city implemented AVI.

City Council passed an ordinance earlier this year that allows property owners who are appealing their assessments to pay taxes based on their previous assessments until their cases are resolved. The city also is looking to hire a new chief assessment officer.

But bolder steps are needed. The city should implement a moratorium on increases in new assessments until properties are uniform, transparent, and meet the industry standards.

The city should also cap or phase in future increases to avoid sharp spikes in tax bills. This is something Mayor Kenney called for in 2012 when he was a City Councilman: “There’s got to be some limit to what we’re gonna whack people with, because they
can move,” Kenney said then. “You can’t expect people to have their real estate taxes doubled and expect them to want to still be Philadelphia residents.”

Many states and some cities, including New York City, have limits on how much property taxes can increase in a given year. Philadelphia — which already has one of the largest tax burdens in the country — should do the same. As Kenney once said, jacking up property taxes is just one more reason why residents who can move to the suburbs.

PHILADELPHIA

Want to know how city property assessments work? Good luck.

A middle-school student trying to pad the page count of a homework assignment will change the page margins of the document or bump up the size of the type. This week, we learned that in the middle school that is city government, the Office of Property Assessment is that student. Unfortunately for us, the homework assignment is the law.

Property assessments in Philadelphia have been a mess for decades. In 2013, the entire assessments system in Philadelphia was overhauled, creating the Actual Value Initiative. AVI was intended to ensure that the city standardized the assessment and tax collection process so homeowners knew that what they owe was based on a fair process and that the city collected the proper amount of property taxes. The honeymoon phase of AVI was short-lived. Last spring, many homeowners were surprised to see their tax bills go up significantly, which led to public outrage and scrutiny.

Separate analyses by The Inquirer, by a firm hired by City Council, and by the Controller’s Office found that the assessments are wrong and some people are paying more than their fair share. City officials pushed back against each one of the analyses. They hired an auditor of their own, who also found problems with the assessment process. In response, OPA decided to temporarily change the way it does assessments.

According to the legislation that created OPA, each year the office needs to publicly release “underlying supporting data, documentation, methodology, and any other information used to certify each property.” To make things easy, the legislation directed OPA to use the reports of the District of Columbia as a model; D.C. provides exhaustive information to the public about how assessments are conducted.

OPA has never honored that transparency requirement.

Until recently, all OPA had on its website was a couple of short paragraphs of vague information. For example, the site “explained” that factors such as size and age of property, location, and whether it is used for residence or business are included in the assessment. (This type of opacity is not limited to OPA; it pervades many corners of city government, including City Council.)

In contrast, the D.C. website provides a list of documents by year. For 2019, you will find: a 16-page ratio study, 134-page appraiser’s reference material, a 15-page data book, and a 38-page market analysis. Similar documents are available going back 18 years. The site also has a Frequently Asked Questions page and a video about the assessment process. In a January City Council hearing, OPA promised to have information on its site by the end of February. February came and went.

This week, OPA added new information to its website. It consists of a five-page overview (plus cover sheet) on trending valuation that OPA is using while it tries to fix its actual methodology -- mass appraisal. It’s better than nothing, but it’s far from what the law requires.

OPA gets a failing grade for handing in its assignment late and incomplete. The problem is that Philadelphia taxpayers are the ones paying for this failure -- in some cases, a higher property tax bill.
Philly looks to replace embattled chief assessor amid outcry over property assessments

In the wake of a residential property reassessment that raised taxes on many homeowners, and an audit that found flaws in the city’s property valuations, Philadelphia is looking to replace the leader of its Office of Property Assessment.

The move represents a reversal for Mayor Jim Kenney’s administration, which had defended Chief Assessment Officer Michael Piper and his office amid growing criticism.

The search for a new chief assessor emerged Tuesday when the job was posted on the city’s job board. It comes in an election year for mayor and City Council — and weeks before the city is expected to finalize assessments that will take effect in 2020.

Kenney’s administration chose to launch a national search to replace Piper because Council members have not voted on Piper’s nomination to another term and would prefer a new leader for the office, Mike Dunn, a spokesperson for Kenney, said Tuesday.

“In light of that preference, it is prudent that we move forward quickly to nominate a new chief assessor, to lead OPA in its important tasks and to ensure public confidence in OPA’s work,” Dunn said.

Piper has held the role since 2014, leading OPA and setting market values for all 580,000 of the city’s parcels; those values are used to calculate property tax bills.

Council President Darrell L. Clarke called last month for a leadership shake-up at OPA, including a new chief assessor. In response, Kenney’s office said it would be unfair to turn assessment officials into political scapegoats.

Piper’s job has been in limbo since last June, when his four-year term expired. Under the city code, the mayor nominates a chief assessment officer and a majority of Council must approve the appointment. Kenney submitted a resolution to grant him another term, but no Council member introduced it for a vote.

“The findings of an independent audit City Council commissioned in 2018 made perfectly clear that a dramatic restructuring of the Office of Property Assessment is urgently needed,” Clarke said in a statement Tuesday in response to the job posting. “All efforts by the administration to reform OPA policies and procedures are welcome.”

OPA has faced mounting criticism in the last year from property owners and Council members after a reassessment of residential properties increased the median assessed value of a single-family home by 10.5 percent, with many property owners receiving even larger increases. The audit commissioned by Council and released last month found the city’s assessments do not meet industry standards.

Another report by City Controller Rebecca Rhynhart’s office, also released last month, found that OPA has improved in recent years, but reached conclusions similar to those of the independent audit. And an Inquirer analysis found that more than 165,000 residential properties, more than a third of those in the city, were overassessed and their owners are paying more than their fair share in taxes.

Wide Disparities in Property Assessments

An Inquirer analysis from last summer showed that more than 165,000 residential properties — 35 percent of the city’s total — are overassessed, paying more than they should in property taxes. Owners of lower-priced homes tend to be overassessed, while owners of higher-priced homes often pay too little in taxes.

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The Kenney administration has disputed findings in the audit, the controller’s report, and the Inquirer’s analysis, and defended its assessment practices as fair and within industry standards. In response to the Council-commissioned audit, OPA hired its own consultant to review its assessments and make recommendations. Last month OPA issued its own list of changes and improvements it planned to make.

While it works on those improvements, OPA said it would scale back plans for a project that would revalue all of the city’s properties this year. Instead, the city will use an analysis of market trends to update assessments; some properties could still receive market value increases or decreases when assessment changes are mailed to owners this spring.

Piper said in an email Tuesday that he did not have any comment on the job posting for his replacement. Kenney, however, praised his work.

“I have always known Mike Piper to be a dedicated public servant,” the mayor said in a statement. “Mike has been tirelessly devoted to the work of OPA, and to personally hearing and addressing the concerns of thousands of property owners. His door has always been open, and he has attended countless community meetings.”

Piper’s annual salary is $157,185, according to city payroll records. The new job posting did not include a salary estimate.

The posting stipulates that applicants have at least four years of experience as a director or deputy of a government assessment office that oversees at least 200,000 parcels. That requirement represents one year more than the level of experience Clarke said he’d like in a new chief assessor. Clarke has also asked that the city use “a nationally recognized executive search firm” to recruit a new chief assessor and at least three new deputy assessors.

“We need to make sure that every property — from the 60-year-old brownstone in Sharswood to the multimillion-dollar Rittenhouse mansion — is assessed accurately for the purposes of fair and efficient taxation,” Clarke said Tuesday.

TENNESSEE

Electrolux tax bill would soar under corrected assessment

When appliance maker Electrolux opened a Memphis factory in 2013, the Swedish firm’s PILOT tax cut sharply lowered its city and county property tax bill.

But an error in the property assessment by public officials led to lower property tax bills than Electrolux was obligated to pay, even with the tax breaks in place.

Now a recalculation by Melvin Burgess, the new Shelby County assessor, has more than doubled the company’s property value to $82.4 million from the original assessment of $38.7 million.

Last year, Electrolux made about $500,000 in tax payments to Memphis and Shelby County based on the $38.7 million assessment. Burgess said the new assessment will be used to figure out the company’s tax bill until it leaves the city late in 2020.

The company is closing the Memphis kitchen oven plant and consolidating production in Middle Tennessee at Springfield.

Electrolux’s decision to close, announced Jan. 31, led Burgess’ office to recheck the assessment figures made under the tenure of former assessor Cheyenne Johnson. Johnson is currently the Memphis City Council member representing Super District 8-2.

Officials in the assessor’s office attribute the lower assessment to serious under-staffing. At the time, the recession was still in full force, which triggered lower tax collections leading to 23 staff reductions. The error resulted when the assessment was applied only to the land and not the buildings and machinery that went onto the site.

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Burgess announced the error in the calculations several weeks ago and said the new assessment would be reported when it was figured out. That new figure is the $82.48 million assessment, which has not been previously disclosed. The new figure was included in a Burgess letter made available to The Commercial Appeal on Wednesday.

Burgess, in the letter to city and county officials dated Feb. 19, spelled out the higher value and said if Electrolux is found in default on its PILOT agreement, "my staff will proceed to back-assess Electrolux for the full amount of the tax obligation as if there had never been a PILOT agreement."

However, it appears the back assessment will not occur. Officials at the city-county EDGE board, which administers the PILOT tax incentive program, said Electrolux always was in compliance with the terms of the PILOT agreement. Despite large layoffs over the last two years, the company’s $321 million investment in the plant was sufficient to receive the tax breaks.

EDGE, formed in 2011, is the successor to the Industrial Development Board, a public agency that negotiated the PILOT agreement with Electrolux. The agreement contained no provisions to reclaim any incentives for any reason, even if the 1,240-employee plant closed down.

Electrolux was drawn to the city from Canada by state and local incentives surpassing $188.3 million. This stands as the largest economic development package ever assembled for a company in Memphis.

Electrolux’s PILOT — the letters stand for payment in lieu of taxes — lowered the company’s city property taxes by 90 percent and its county property taxes by 75 percent.

Burgess earlier said other PILOTs will be examined to see if the same error in assessing the value was repeated among the 250 other PILOT projects in the city and county.

TEXAS

Public expectations and the political realities of reducing property taxes

The conviction that Texans are demanding lower property taxes in the face of increasing property values and rising tax bills has been an article of faith among elected officials in Austin, especially Republicans and their aligned interest groups. While that seeming consensus among elected officials might make cynical political observers suspicious, the February 2019 University of Texas/Texas Tribune Poll found that many Texans are, in fact, ready to see their property taxes go down. However, a closer look at those attitudes suggests that legislators should be cautious about the public expectations that will greet whatever action they manage to take.

Overall, a majority of Texas voters (58 percent) say that Texans are currently paying too much in property taxes, compared to 23 percent who say that they’re paying the right amount and only 6 percent who say Texans pay too little.

The poll confirms both dissatisfaction with current levels of taxation, which is no surprise, but also finds inflated expectations of the centerpiece of the property tax reduction conversation, as well as skepticism about its potential consequences for local services.

The legislative strategy thus far is designed to limit local government entities’ ability to increase property tax revenue, year-over-year, without voter approval if that growth exceeds 2.5 percent — the currently discussed threshold which is already a major point of negotiation. On the whole, the outline of this approach is popular among Texas voters. Overall, 72 percent expressed support for requiring voter approval before property tax revenue increases above a set amount, including 84 percent of Republicans and, significantly, 62 percent of Democrats.

Voter perceptions of the likely outcomes of the proposed legislation are more complicated. The UT/TT poll measured expectations by asking follow-up questions about the likely consequences of requiring voter approval of property tax revenue increases. The results yielded some interesting soundings of the crosscurrents the Legislature and the state’s top executives are wading into with the approach they’ve chosen.
Dire warnings from cities, counties, and other local entities about decreased services (especially public safety) and the needs of fast-growing localities are failing to gain traction with the electorate. Only 23 percent of Texas voters think that this legislation would “prevent local governments from providing necessary services”, and only 21 percent think it would prevent them from “responding to population growth.” Even among Democrats expected to be amenable to these claims, the plurality appears skeptical.

But this doesn’t mean that the bill poses no further challenges for its mostly Republican backers. While a majority of voters believe that the bill would “slow the growth in the amount of property taxes Texans pay in the future” (69 percent) — the clear intent of the approach — a majority also (erroneously) believes that the bill would “reduce the property taxes that Texans currently pay” (52 percent). This includes a statistically indistinguishable 53 percent of Democrats and 51 percent of Republicans.

Efforts under way to more directly impact current property tax bills reflect a recognition of these attitudes among the voters, but run into the political difficulties of generating revenue to offset any reduction. Even a tax swap currently being considered — recently explained in a column by Ross Ramsey in the Texas Tribune — would directly impact current property taxes, but comes at the expense of an increase in the state’s sales tax. This, too, is somewhat fraught. When asked in the most recent UT/TT poll whether legislators should consider increasing the state sales tax to pay for education (among other potential revenue sources), the vast majority of Texas voters (74 percent) said no, including 68 percent of Democrats and 80 percent of Republicans.

These results point to the potential hazards if elected officials get too far ahead of themselves in offering self-congratulations about finally “fixing” property taxes.

This has happened before. UT/TT polling in June 2015 showed that Texans found the last homestead exemption increase, the best the Legislature could muster as property taxes became the cause celebé among Republicans, to be small beer. In that polling, conducted at the conclusion of that legislative session, a majority of Texans (56 percent), including 63 percent of Democrats and 53 percent of Republicans, said that the $125 expected average yearly savings in property taxes would not be enough to make a difference to most Texans.

Given that the primary property tax bill currently being considered by the Senate (Senate Bill 2) doesn’t address current property tax rates, and that the property tax swap currently under discussion in the House would save the owner of a $250,000 home approximately $600 per year, one has to wonder whether all these efforts, even should they produce some material progress, will disappoint voters yet again. The state’s leaders have made a public display of their willingness to clasp hands and jump together into the deep end, but it may not be enough if Texas voters have tired of watching them merely tread water.

Texas ranks seventh in highest property taxpayers

It’s a reality many Hays County residents already know too well – Texans are some of the highest paying property tax payers in the nation.

A recent study conducted by WalletHub ranked Texas as the 7th highest in the nation when it came to the amount of property taxes paid by its residents.

According to the study, Texans pay around $2,775 in property taxes per year, which is based on the median home value of $151,000.

Jill Gonzalez, analyst at WalletHub, said states that don’t have a dedicated income tax, such as Texas, must increase property taxes to fund necessary things such as salaries for government employees, public schools and infrastructure.

Although Texas’ property taxes are high, the median home value in Texas is lower than the national average of $193,500. But, in Hays County, as prices of homes continue to increase, so does the amount of property taxes.

Compared to states like Alabama and West Virginia, where citizens play around $550 in property taxes annually, Texans are paying more than their neighboring states.
Worries about rising property tax bills, however, is driving state legislators to find a way to fix the issue, much to the consternation of local leaders.

Property Tax reform heads to the state

Mayors didn’t shy away Feb. 25 from voicing dissent about a pair of controversial bills that could cap how much their cities can increase property tax rates.

The controversial set of bills, Senate Bill and House Bill 2, would require cities, counties and school districts to hold an election if they seek to raise ad valorem rates more than 2.5 percent from the previous year.

The proposal would not affect taxing units that do not collect more than $15 million in revenue, but that isn’t stopping smaller municipalities from weighing in on the discussion.

Buda Mayor George Haehn criticized the bill during a Ways and Means Committee hearing, saying it doesn’t alleviate rising property values nor does it allow cities to act with local control.

Haehn worried tax caps could give complete control to the state and not the cities.

State Rep. Dustin Burrows (R-Lubbock), chairperson of the committee, asked Haehn if he was against rollback rates. Burrows argued the cap would keep property tax rates from going through the roof.

Haehn said he was not against roll back taxes in its entirety but said the proposed cap was “not prudent.”

Haehn said the 2.5 percent cap would prevent a city from raising funds needed immediately because there would not be enough time to go before voters for the increase. This need for immediate funds could include local natural disasters or emergencies.

“I don’t like the concept of the state coming in and taking local control and giving it to you,” Haehn said. “What you’re trying to do is take local control away from those who are elected to make the tough decisions at the point in time where I have to make them.”

Current state law allows residents to petition for an election if cities seek to raise property tax rates that generates an eight percent revenue increase from the previous year.

But Haehn said those city leaders who have made it to that eight percent threshold are irresponsible and probably were voted out of office.

For now, rising property taxes is still at the forefront of concerns for most Texans and Americans. According to the National Tax Lien Association, more than $14 billion in property taxes go unpaid each year.

“As depending on the state you live in, these taxes can be either a small inconvenience or a major burden,” Gonzalez said. “And this affects everyone, as both owners and renters pay property taxes, directly or indirectly.”

As Texas Property Taxes Soar, Local Governments Spend Taxpayer Dollars To Stymie Reform

Texas is one of seven states that doesn’t levy a personal income tax. And while Texas’ overall state and local tax burden is considered relatively light, putting Texas 15th on the Tax Foundation’s 2019 State Business Tax Climate Index, the Lone Star State’s property tax ranking is 37th, meaning that 36 other states have a smaller relative property tax burden than does Texas.

Local property tax collections in Texas increased 70% from 2007 to 2017, to a total of $59.4 billion. By comparison, state revenue from all sources, except federal transfers, was up 38%, to $72.8 billion.

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During the same time, the state’s population grew by 18.8%, while there was inflation of 18% over the period. Shockingly, property tax collections grew about 89% faster than the yardstick of population and inflation, while state revenues were right in line with what would fund government at a constant level.

Homeowners see their property tax bills increase without regard to their ability to pay them. In Texas, property values aren’t determined by the specific sales price of a property, as they are in other states (most notably California). Instead, government officials assess property values, while elected officials in some 4,200 local government agencies determine property tax rates. This system has led to a growing frustration by the general public that property taxes are out of control.

This has led to several proposals before the Texas Legislature in its 2019 session to reform or place some limits on property tax increases.

One such measure is Senate Bill 2, by Sen. Paul Bettencourt (R-Harris County), which would make it easier for citizens to roll back rapidly increasing property taxes at the ballot box.

While the Bettencourt bill isn’t a property tax “cap” as it’s been characterized by some critics—it’s merely a trigger, allowing voters to have final approval on how high and how fast they’re willing to let their property taxes rise—you’d be hard-pressed to think it wasn’t the end of the world for local government. This, after 29 people testified against the bill at a recent hearing.

Interestingly, not one of the individuals who testified against giving the people more power over their taxes represented average homeowners—all 29 were lobbyists, local government bureaucrats or local elected officials.

Some claimed that public safety would be shortchanged if SB 2 passes. This argument doesn’t hold up under the facts. From 2007 to 2017, property taxes collected by cities and counties in Texas rose by about 55%, to $19.3 billion. At the same time, spending on local law enforcement, jails, and fire personnel was up 44%, far above what was needed to simply keep up with Texas’ growth and inflation. Local spending on things other than public safety payrolls was up by almost 62%. This means that public safety can be appropriately funded if local officials properly prioritize spending.

The nature of the crowd who traveled to Austin to testify against SB 2 raises an important concern. Ethics filings from the 2017 Texas legislative session indicated that about $41 million of taxpayer money was spent by local government to hire lobbyists. These lobbyists, virtually without exception, were hired with tax money to advocate against the interests of average taxpayers.

In other words, they used taxpayer dollars to lobby for higher taxes, bigger government, and more regulations. Furthermore, the $41 million reported doesn’t include government employees whose job it is to lobby state government. For instance, the city of Austin spends about $1 million of tax money annually to lobby, employing some 14 city staff and contract lobbyists to try to influence legislation.

The practice has drawn widespread condemnation, with Texas Gov. Greg Abbott in December notably calling out the city of Tyler for intending to spend $200,000 on lobbyists in 2019.

This practice has led lawmakers to file at least two bills to curtail taxpayer-funded lobbying (SB 82 by Sen. Bob Hall and HB 281 by Rep. Mayes Middleton) and three bills to make the practice more transparent (SB 702 and SB 703 by Sen. Paul Bettencourt and HB 433 by Rep. Matt Shaheen).

Critics of these measures say that they stifle local government’s ability to speak with the state legislature. But state lawmakers have every incentive to communicate with the local elected officials in their district—if nothing else, due to self-preservation, as electoral challenges most frequently arise from the ranks of local officials. In addition, the right to free speech, as set out in the First Amendment, is an individual right, not a governmental right. Only people have rights—governments have powers.

Lastly, the Texas Public Policy Foundation hired WPA, a well-known national polling firm, to survey 800 registered Texas voters in mid-December, asking them what they thought about the practice of taxpayer-funded lobbying. The results were overwhelming: 91 percent opposed the practice, including 80 percent who strongly opposed it. The people understand that it’s wrong to ask them to pay their tax dollars to lobbyists, who then work to increase taxes and the size of government.
WASHINGTON

Our property tax system rewards neglect and punishes investment in struggling neighborhoods

Right now in DC, many residents take new development as a given—and even a problem, as the cost of living continues to climb. But other old cities around the country have a different problem: they can’t get developers to build anything without incentives. A simple change to how we tax land could help revitalize these places. This article was first published by Strong Towns on March 7, 2019.

On day one of a grad-school class I took about real-estate development, the instructor asked us to play a word-association game. “Shout out the first thing that comes to mind when you hear ‘developer’.” Among the list of words that he began furiously scribbling on the white board as they were shouted were some unsurprising choices: Greedy. Arrogant. Corrupt. Profit. Money. Power. Gentrification.

We were all well acquainted with the cultural trope: developers are money-grubbers who make a profit at the expense of the community, and local governments should, if anything, seek to rein in that profit motive, or redirect it to the public good by making them give something back.

For countless older cities, though, especially mid-sized ones in the Rust Belt and Northeast, the problem they face isn’t how to get developers to do something beneficial for the public, but how to get developers to do anything at all. The conversation I described took place in a city with a strong economy and a growing population. In places still suffering the hangover of decline, population loss, and widespread neglect and abandonment of properties, the reality is very different.

Here’s a startling fact I’ve learned about new development in many struggling older cities. I had to be told this several times, by several credible sources, before I really believed it, because it just didn’t seem possible: There are whole cities where every single private development project receives some sort of tax abatement or incentive.

All of them. Nothing is viable without it.

And these places aren’t desolate slums. They’re often cities that have made a notable resurgence from a period of past decline. They’re often cities renowned for great “bones,” walkable downtowns, gorgeous historic architecture. They’re places that really could make a dazzling comeback. But the rents that people can afford to pay aren’t enough to make building new homes a profitable endeavor, when you consider the expense of doing so—and a big part of that expense is property taxes.

And so developers negotiate for tax breaks to induce them to skip the suburbs and give the city a chance. Is this corporate welfare run amok? Not really. To no small extent, it’s an object lesson in how something surprising—the property tax system—contributes to locking places into decline.

The catch-22 of low demand and high taxes

Many older cities have been through the same vicious cycle. Suburbanization leads to population loss. At the same time, the city’s infrastructure is aging and requires more maintenance than it once did. Hit with the double whammy of falling revenues and rising expenses, the city does the only thing it can: raise property taxes.

The higher taxes act as a disincentive for people to live in the city or open business there, resulting in a further population drain. Joshua Vincent’s piece on land taxation in Pennsylvania examines relative tax rates in Erie County, Pennsylvania, finding that property owners in the city of Erie proper pay close to double the taxes that those in many of Erie’s suburbs pay.

There’s Bridgeport, Connecticut, the poorest city in one of the richest states, where in 2016 a reassessment caused total property value to fall by 14%, and the property tax rate to rise abruptly by a jarring 29%, as the New York Times describes.

There’s York, Pennsylvania. I spoke with a York resident who said the same is true there: taxes are through the roof, and even committed urbanists may now find it a bad investment to settle in York proper. Homeowners won’t make incremental improvements to their property, because the tax burden and market conditions mean they will never recoup that investment.

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New development requires a slew of tax abatements and subsidies. Nothing that is built in the city pencils out based on market rate rents alone.

There's Akron, Ohio, whose planning director, Jason Segedy, wrote this eye-opening piece about what it actually costs to maintain an older house. In many, many cases, the return on investment for doing so is negative.

And this is exacerbated by the way we tax property in most cities: as a single rate applied to both the land and the buildings on it. Fix up your house dramatically? Taxes go up. Put off maintenance and just deal with drafty windows and that one leaky pipe? At least your taxes stay low. You’re rewarded for neglecting your property, and punished for improving it.

And for owners or would-be builders of rental property, the taxes in one of these high-tax older cities can very, very easily be the thing that tips a project from the viable into the non-viable category.

From flippers to “milkers”

In a hot market you get one type of speculator: the flipper. This is someone who seeks to buy property low and sell it higher, riding a wave of rising values created by all the productive things their neighbors are doing.

In a market mired in decline you get a different type: the milker. The milker buys a property cheap and doesn’t do basic maintenance. They rent it out for whatever they can get—a little more than the maintenance is costing them, and a little more than low taxes that are charged on a building in poor conditions that the tax assessor doesn’t deem worth very much. The milker, then, can sit on their property and run it into the ground. Eventually, they’ll sell or, worst case, abandon it.

Don’t get us wrong: this shouldn’t be caricatured as deeply villainous behavior. While there are some truly egregious examples of this kind of “milking” out there, there’s also a much larger gray area of people who aren’t actively trying to exploit a neighborhood’s struggles, but who are simply being economically rational. It doesn’t make sense to put money into improving a property if you will never recoup that investment. Or if increased taxes will swallow your investment while you’re waiting for the market to turn around.

How switching to a land tax can help

Under a Land Value Tax (LVT), on the other hand, the underlying land in our neighborhoods would be taxed at a higher rate, while the buildings on it would be taxed at a low rate or not at all. (If there is a low but nonzero rate for buildings, that’s called a split-rate tax or partial land value tax.)

Seth Zeren is a small-scale developer in Providence, Rhode Island, another of those high-tax legacy cities increasingly appreciated for its historic assets, but that still has large areas of poverty and blight. Zeren says:

“Land Value Tax [LVT] is a huge deal for the small developer crowd. If you want to make incremental improvements to a property, it makes that more viable. In regimes like the one I’m in, where we don’t have a system like that, most projects of any substantial scale pursue property tax abatement or stabilization. It creates a sort of gap where projects have to be so large to develop the political will. They have to be able to push through the bureaucracy to get the special treatment.”

Removing much of the tax on building improvements would mean that you’re no longer punished for investing in your neighborhood, but rather incentivized to do so, or at least to sell your property to someone who will. It would be a game changer for places on the cusp of a comeback.

Not a panacea, but key to a healthier economic ecosystem

Let’s be clear: a land tax isn’t Miracle Gro. But it will make the soil a bit more fertile.

If a place like Providence or Bridgeport or Erie or Niagara Falls (where, as of this writing, mayoral candidate Seth Piccirillo is a strong LVT advocate and makes the case for it in this video) instituted a split-rate tax tomorrow, they would still have the larger problems of vacant and blighted property, a lot of infrastructure to maintain, and a too-small tax base with which to do it.

But by shifting the tax code to incentivize property improvement rather than deter it, they would lay a crucial piece of the groundwork for revitalization of neighborhoods, and ultimately for these cities’ populations to grow again. That would make it possible to lower the overall tax burden on residents as the place’s financial health improves.

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And, importantly, LVT would weaken the ability of slumlords and “milkers” to profit from a neighborhood’s decline. The tax burden would fall more heavily on those who sit on vacant or dilapidated properties and don’t do anything to improve them. Those who are working hard to make their neighborhood a better place would get a badly-needed break.

**Progressive Groups Decry D.C. Bill They Say Would Give ‘Tax Cuts For Mansions’**

A bill being considered by the D.C. Council would give all homeowners a break on their property taxes.

A bill that would give all D.C. homeowners an across-the-board break on their property taxes is drawing opposition from progressive groups that say it would cost the city tens of millions in lost revenue.

The bill, which the Council is expected to debate on Tuesday, would increase what’s known as the homestead deduction, the amount that homeowners can deduct annually from the value of their primary home before they calculate how much they own in property taxes. The deduction is currently set at $74,850; the bill would increase it to $125,000.

That means a D.C. resident whose home is assessed at $500,000 would only pay property taxes on $375,000 worth of value, instead of the current $425,150. That would result in a property tax bill of $3,187.50, as opposed to the current $3,613.77.

“The District is experiencing great growth, and as a result property taxes are rising,” said Council member Brandon Todd (D-Ward 4) when he first introduced the bill last summer. “Increasing the homestead deduction will save District homeowners a considerable amount of money each year. For District families, senior citizens and first-time homebuyers, those savings can prove very beneficial.”

The estimated savings would boil down to roughly $426 a year for most homeowners, though some seniors and disabled residents who already get a 50-percent reduction in their property taxes would see slightly less in savings.

But progressive groups like the D.C. Fiscal Policy Institute have been advocating against the proposal, saying the estimated $38 million annual price tag would mean less money would be available for other things.

“When you say tax cut in a city like D.C. that has to have a balanced budget, tax cut also means less money that’s available for services. Less money to invest in schools, many of which learned in recent weeks that they don’t have enough resources to maintain the staff they have, or less money for addressing the city’s serious affordable housing and homelessness challenges,” said Ed Lazere, the group’s executive director.

Lazere also opposes the bill because the tax cut would apply to all homeowners in the city, and “include some of the wealthiest D.C. residents in the nicest homes.”

Council member Elissa Silverman (I-At Large), who cast the only dissenting vote on the bill when it was considered by the Council’s finance committee last month, says she wants her colleagues to more broadly consider equity when debating the bill. White residents have higher rates of home ownership than their black neighbors, and many residents who are renters would not be helped by a larger homestead deduction.

“We are a high-cost city, and certainly people feel like they need a break. And I hear that, and I feel that as a homeowner myself,” she said. “If we’re going to be using our taxpayer dollars, we want to use them in a way that is going to help those who need the help the most.”

Silverman says she would like to see the higher homestead deduction targeted to specific households, and for the city to also help renters by increasing a existing tax credit known as Schedule H.

Todd’s bill may also face additional concerns from his colleagues because of the upcoming debate and vote on the city’s budget. Last week, D.C. Chief Financial Officer Jeffrey DeWitt told the Council that the federal government shutdown had cost the city $47.4 million, leading Mayor Muriel Bowser to say in a statement that city leaders would have to be “strong stewards of taxpayer resources” moving forward.

Asked about her position on Todd’s bill on Monday, Bowser echoed that statement.
“I would absolutely support relief for homeowners across the District,” she said. “However, it has to be weighed against all the priorities that are important for the District as we look at the budget coming up.”

For his part, Council Chairman Phil Mendelson said he expects a lively discussion around Todd’s bill ahead of a first vote.

**WISCONSIN**

**Wisconsin cities rely heavily on property taxes**

Cities and villages in Wisconsin rely more heavily on property taxes than any other state in the Midwest, and to a greater degree than most states nationally, according to a new report by the Wisconsin Policy Forum, a nonpartisan, independent research organization.

In 2015, Wisconsin municipalities received 42.2 percent of their revenue from the property tax, but only 1.6 percent from sales and income taxes combined, the Forum noted.

Nationally, on average, municipalities got 23.3 percent of their revenues from property taxes with an additional 21.3 percent from sales and income taxes.

The increased dependence on the property tax is the result, in part, of state aid failing to keep pace with inflation, according to the report. From 1975 to 1997, state aid provided a larger share of municipal revenue in Wisconsin than property taxes. Since then, the situation has reversed, with property taxes in 2015 accounting for more than twice as much of local revenue as state aids.

At the same time, the state has imposed limits on how much municipalities may raise property taxes annually to support their operations; those limits have allowed no increases except for property value increases due to new construction. In the decade before these limits took effect, municipal property taxes rose an average of 5.7 percent annually, but in the following decade the average increase fell to 3.4 percent annually.

The report notes Wisconsin’s property tax limits appear to be the most restrictive among states that also depend heavily on this tax.

Four of the 10 most property tax-dependent states have no limits on increases, while the other five allow for increases that would typically be greater than those permitted here.

The report, “Dollars and Sense: Is it time for a new municipal financing framework in Wisconsin?” examines trends in municipal finance, compares Wisconsin’s municipal funding structures to other Midwest states and the nation, and provides insights on alternative financing options.

Other states tend to rely on a broader combination of revenues, including local sales taxes, local income or license taxes, charges for services and federal aids. In Wisconsin, state law allows only the state to levy an income tax and reserves the sales tax for the state, counties and a limited number of municipalities that qualify as "premier resort areas."

Among the 12 Midwest states — Wisconsin, Illinois, Iowa, Indiana, Minnesota, Michigan, Kansas, Nebraska, North Dakota, South Dakota, Missouri and Ohio — the report notes that:

- Only Illinois and North Dakota rely more heavily on state aid and less on charges to fund municipalities;
- Wisconsin is the only state in which municipalities generally are authorized to levy only the property tax. In all other states in the region, some municipalities can levy at least one other broad tax;
- Wisconsin is the only state in the region in which property taxes represent the largest share of municipal revenue. In seven states, charges for services are the primary revenue source.

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IPTI Xtracts- The items included in IPTI Xtracts have been extracted from published information. IPTI accepts no responsibility for the accuracy of the information or any opinions expressed in the articles.
• Wisconsin has the lowest combined state and local sales tax rate in the region, with an average of 5.44 percent. The combined rate in Michigan, the next-lowest state, is 6 percent, while the rate is still higher in Kansas at 8.68 percent.

The report does not recommend any specific course of action, but lays out several options for policymakers and weighs the advantages and disadvantages of each.

The research was commissioned by the League of Wisconsin Municipalities, Wisconsin Association of Realtors and the Greater Milwaukee Committee.