International Property Tax Institute

PRESIDENT'S MESSAGE

February 2020

An article recently came my way which contained some interesting views which I thought might be worth sharing. It was written by a lawyer who is a member of the American Property Tax Counsel which is the national affiliation of property tax attorneys in the USA.

It had a title of "Why Assessor Estimates Create Ambiguity" and stated that a fundamental problem, according to the author, plaguing the property tax system is its reliance on the government's opinion of a property's taxable value. Taxes on income or retail sales reflect hard numbers; real estate assessment produces the only tax in which the government guesses at a fair amount for the taxpayer to pay.

The author went on to say that, in his view, assessors' estimates of taxable property value create ambiguity and public scrutiny not found in other taxes, and incorrect assessments can lead to fiscal shortfalls that viciously pit taxing authorities against taxpayers seeking to correct those valuations. Worse yet, he said, the longer a tax appeal takes to reach its conclusion, the worse the outcome for both the taxpayer and government. Paradoxically, swift correction of assessment roll protects the tax authority as well as the taxpayer.

He quoted a recent example from Utah where, due to a clerical error, a particular county's tax rolls recorded a market value of $987 million for a 1,570-square-foot home built in 1978. The value should have been $302,000. The county assessor said the error caused a countywide overvaluation and created a deficit in five county taxing jurisdictions. He went on to explain that in many, if not most jurisdictions, the tax rate is determined, in part, by the overall assessment in the district as well as the budget and levies passed. Typically, he said, there is a somewhat complex formula that turns on the various taxing districts, safeguards and anti-windfall provisions.

In his view, most state tax systems are flawed and provide inadequate safeguards for taxpayers. He went on to state that, although residential tax assessment typically is the largest pool of overall assessment, taxing authorities know that commercial properties individually can have the greatest impact on a system when they are improperly assessed, to the detriment of schools and taxpayers. That makes it important to act as quickly as possible in the event of an improper assessment. And, he said, resolutions that minimize impacts to the government can maximize the benefit to the taxpayer. Of course, many will disagree with his comments about property tax systems being flawed, etc., but his views are interesting.

He went on to state that a lack of clear statutory definitions, political tax shifting, or a simple error, can cause a breakdown in the tax system. He referred to a county in Kansas where, he stated, the assessor raised the assessments on all big box retail stores, in some cases by over 100 percent. According to his article, the Kansas State Board of Tax Appeals recently found those assessments to be excessive. The Board reduced taxable values in several of the lead cases back to original levels, and the excessive assessment caused a revenue shortfall.

He went on to ask how can taxpayers and assessors ensure a fair system? He responded to his own question by stating that uniform standards and measurements are the answer.

He stated that the property tax code is criticized for being confusing and overly wordy. To achieve greater equity and predictability, clarity is key. Defined measures of assessed value and standards to ensure uniform assessment results will help create transparency and ensure fundamental fairness between neighbours and competitors, so that no one has an advantage nor a disadvantage.

In my view not unreasonably, he said that all taxpayers must be subject to the same measurement. For instance, a government cannot apply an income tax as a tax on gross income for one taxpayer and on net income for another. Likewise, one taxpayer should not be taxed on the value of a property that is available for sale or lease, and another owner taxed based on the value of its property with a tenant in place. Because tax law under most state constitutions must be applied uniformly, one set of rules must be established for all, and what is being taxed should be clearly defined.

He went on to say that property tax laws often include phrases like “true cash value” and “fair value.” To be clear, he said, the only measure of taxable value common to all property types is the fee simple, unencumbered market value. The value of a property that is measured notwithstanding the current occupant or tenant is not necessarily the price that was paid for the property; it could be higher or lower.

And because, in his view, this concept is difficult for many taxpayers and assessors to understand, there needs to be a second check on the system; that safeguard is taxpayers’ right to challenge their assessment based on their neighbours’ and competitors’ assessments.

He then went on to make a “sales pitch” to readers of his article by stating that, in order to protect themselves on complex matters, it is often helpful for taxpayers to hire counsel that is intimately familiar with the law, real estate valuation and the local individuals with whom the taxpayer will be negotiating. However, he did add that, to reduce the need for counsel, commercial property taxpayers should get involved with trade groups and state chambers of commerce, which can aid in correcting the tax system.

He concluded by stating that uniform measurements of assessment, the ability to challenge the uniformity of results, and swift resolutions combine to create fairness and stability which, in turn, enhance the fiscal health of both taxpayers and tax districts. Although there are several parts of the article with which I disagree, and his self-interest is clear, his conclusions are not unreasonable and it is always useful to at least consider views that you may not agree with, if only to “test” your own opinions.

Moving on and looking ahead, IPTI has a significant number of events coming up. As there are so many, rather than highlight any event in particular, I thought I would provide a brief list of them below.

4 February	Webinar	Assessment Valuation of Entertainment Properties
6 February	Webinar	Mass Appraisal Concepts – Valuation Parameters (Part 1)
5 March	Webinar	Assessment Valuation of Airports, Ports, Railyards, etc.
19 March	Webinar	Mass Appraisal Concepts – Valuation Parameters (Part 2)
26 March	Webinar	Assessment Valuation of Wasting Asset Properties (Mines, etc.)
6 April	Webinar	Corporate Advisory Committee event (Property Taxes in UK)
21 April	Workshop	Corporate Advisory Committee event (Property Tax Management)
23 April	Webinar	Application of the Development Approach
30 April	Webinar	Mass Appraisal Concepts – Ensuring Quality
7 May	Workshop	Mass Appraisal Concepts in Practice (SPSS)
14 May	Webinar	Corporate Advisory Committee event (Legislative Policies and Case Law)
21 May	Workshop	Property Assessment and Taxation in Canada
27 May	Webinar	Mass Appraisal Concepts – Future of Mass Appraisal
3-4 June	Conference	Annual Mass Appraisal Valuation Symposium (Calgary, Canada)
11 June	Webinar	Corporate Advisory Committee event (Assessor's Perspectives)
11 June	Workshop	Mass Appraisal Concepts in Practice (R)
15 Sept	Workshop	Mass Appraisal – Income Modelling
24 Sept	Webinar	Corporate Advisory Committee event
22 Oct	Workshop	Mass Appraisal – Cost Modelling
4 Nov	Conference	Property Tax Policy & Valuations (Singapore)
11-12 Nov	Conference	Annual Caribbean Conference (Trinidad & Tobago)

Full details of all these events are, as usual, available on the website: www.ipti.org

Now, it's time for a quick look at what is making headlines concerning property taxes in selected jurisdictions and countries around the world.

In the USA, an Idaho lawmaker has introduced a bill to repeal property tax statewide. It is reported that the bill would nearly double the state sales tax by over 5% in order to make up the lost revenue. He said: "I think property tax is kind of an evil tax. To me, it dates back to the dark ages or the middle ages when the lords of the manor had to pay taxes to the Kings and the Queens otherwise they didn't get to keep their land and frankly that's what we still have that system today." His personal bill would repeal property taxes, and in return, the state sales tax would nearly double from the current 6% to 11%. This means it would take nearly doubling the state sales tax to make up the lost revenue that would be gone if the state eliminated property tax. Because this bill is proposing to upheave the state's entire tax system though, he doesn't expect it to become law this year. "Big change requires time," he said. "I call it a thought grenade; we threw it out there and wanted to see how it went and how it works and what the problems are." The report states that one of the main reasons he wants to start the conversation around repealing the property tax is because of the stories of people being priced out of their homes due to them. "Especially for those who are on fixed incomes, this is a huge deal for them," he said. "They can stay in their houses and never have to worry about getting kicked out of their houses because property taxes continue to escalate." The state legislature is introducing a lot of possible solutions to the property tax issue during this session. During the interim, a committee met to come up with some possible solutions that would be introduced this year. The lawmaker said he doesn't want his idea to overshadow some of the short-term solutions that are being thought of this year, and that his bill is a long-term solution. If his bill were to become law one day, it includes a constitutional amendment that Idahoans would get to vote on that would prohibit property taxes from being collected again.

In Pakistan, Punjab's tax authorities are unhappy with the outcome of a property valuation exercise that has been five years in the making. According to senior Punjab Excise and Taxation officials, the department's field staff carrying out a survey of residential and commercial buildings in the province has been unable to collect adequate information to prepare a valuation table for new property tax rates. Subsequently, a departmental committee overseeing the exercise rejected the sample survey data as insufficient, they said. The department has been surveying residential and commercial buildings across Punjab to track how rent amounts have changed from five years ago in order to update property tax rates. The exercise, under way since the beginning of January, also seeks to identify which property units should fall under the tax net. Recently, officials appointed for carrying out the task submitted sample survey results for their respective divisions to a director-level committee. Upon reviewing the sample data, the committee found it to be 'inadequate and non-standard'. "The samples presented to us in the meeting were not in line with the criteria prescribed for the survey," said the committee head. "According to the sample, rents had risen in some areas and gone down in some – overall, it depicted a between 30% and 35% increase in rent – but no evidence to back up the data was presented with any sample," he said. After rejecting the samples, the committee members prepared a pro forma to be used by all officers carrying out the survey. Staff tasked with conducting the survey were also directed to collect rent data from at least 10 buildings in each locality area, along with copies of receipts or documents validating the rent amount being charged. There are, at present, more than 50,000 locality areas across Punjab. During the meeting, the committee was told that some locality areas are too small for obtaining 10 samples. An even more difficult task, the committee was informed, was obtaining proof of rent as many tenants and landlords do not keep records of rent transactions.

In Canada, a recent report states that Toronto is now paying the price for a decade of low property taxes. More specifically, it says that a decade of austerity budgets at city hall has cost Toronto greatly when it comes to transit, housing and childcare. The report, from advocacy group Social Planning Toronto, makes the case for the council to raise new revenues through three measures: increasing the municipal land transfer tax on luxury homes, introducing a vacant home tax, and reintroducing the vehicle registration tax. “For the past decade, Toronto city council has made the political choice to keep property taxes low and to reject other options to raise revenues. That choice has come at a cost to our city,” the report says. “It has starved our city of the necessary resources to create affordable housing, to end homelessness, to improve the public transit system, to increase access to high quality and affordable childcare, to address pedestrian and cyclist safety, and to pay for the critical public services our communities rely upon.” Although the report applauds the Mayor of Toronto’s recent move to increase property taxes by 8 per cent over the next six years to fund transit and housing projects, Social Planning says it’s only a start. The newly approved tax increase would allow the city to support $6.6 billion in recoverable debt to invest in transit and housing projects now. The report also notes that the amount of money the city spends in operating dollars per resident, when adjusted for inflation and population growth, has declined over the last decade. According to city data, spending per capita on things like emergency services and libraries and road repairs was $4,393 in 2019 compared to $4,598 in 2010. As mentioned, one of the measures proposed by Social Planning is a vacant home tax, which the province granted the city authority to enact in 2017. It would charge homeowners for residential properties deemed vacant. That type of tax is being used by Vancouver, the report notes. Data from Vancouver shows the 1 per cent tax on a home’s assessed taxable value has had two positive effects the report says - decreasing the number of vacant units eligible to be taxed by 22 per cent between 2017 and 2018 and raising $39.4 million in 2018. The Toronto Mayor supports the ongoing study of the vacant home tax. He noted staff were already asked to look at increasing the municipal land transfer tax for luxury homes, but have not recommended any changes.

In India, scholars have consistently pointed out that urban local bodies (ULBs) have one of the weakest tax bases in the world. Despite this, they say, there are very few instances where states have taken steps to shore up their ULBs’ finances. On the other hand, there are many examples of state governments playing around with municipal taxes to suit their political calculations. These get compounded by the ULBs’ own political masters that attempt to endear themselves to the local voters by building huge subsidies into the services that cities render. An extreme step reported is that a Maharashtra ULB took upon itself to pass a resolution that property tax in its city would continue to be pegged at the current level for the next twenty years! None of these steps have assisted ULBs to deliver services with any quality. The results are evident in widespread municipal infrastructural atrophy and the weak management witnessed in most Indian cities. It is reported that the same “malady” seems to have hit the Municipal Corporation of Greater Mumbai (MCGM), the city reputed to have the largest municipal budget in the country and for long believed to be running a comparatively efficient urban system. A decision by the state government to waive property taxes in Mumbai for all residential properties that measure less than 500 square feet has dealt a huge blow to this ULB. A majority of residences in the city are below 500 square feet which means that almost two-thirds of properties of Mumbai would escape the property tax net. Newspaper reports suggest that there has been a 34 percent drop in property tax collection by MCGM this year. This is largely on account of the confusion created by the cited waiver, leading to the non-issue of residential bills.

Virtually throughout the world, including India, the most important fiscal instrument for ULBs is the property tax. The dependence of Indian cities on property tax has risen sharply since the implementation of the goods and services tax (GST). The onset of GST has weakened the fiscal position of ULBs since many of its taxes and levies have been subsumed in GST. At one stroke, MCGM lost its largest revenue earner with octroi being subsumed by GST. Post its abolition, MCGM earns about 22 percent of its municipal revenue from property tax, 21 percent from premiums, 8 percent from interest on deposits, 6 percent from water and sewerage charges and 10 percent from all other levies. State transfers and grants-in-aid total 1 percent. Given the pivotal significance of Mumbai, the state government has provided, in lieu of octroi, a compensation package equaling 32 percent of the municipal revenue. However, this assistance can be expected to be dependent on the health of state finances that does not appear rosy. When property tax is such a vital source of nourishment for the MCGM, playing around with it so that its application and buoyancy get severely restricted shows severe lack of pragmatism. What the ULB and the state should concentrate on is how to reform property tax so that it yields the optimum revenue possible. These steps would include property mapping through the use of geographic information system (GIS) that would help identify properties that have escaped the property tax net, a robust tax collection mechanism that keeps arrears to the minimum, and minimising litigation that shuts the revenue tap for years.

In the United Kingdom, there have been a number of announcements made recently in connection with the non-residential property tax (business rates). They include increasing the "retail discount" from one-third to 50 per cent, extending that discount to cinemas and music venues, extending the duration of the local newspapers' office space discount, and introducing an additional discount for pubs. The increase in the level of the retail discount from one-third to 50 per cent will apply in 2020/21 for eligible retail businesses occupying a property with a rateable value less than £51,000. The extension of the retail discount is to those eligible music venues and cinemas with a rateable value of less than £51,000. The extension of the £1,500 business rates discount for office space occupied by local newspapers will apply for an additional 5 years until 31 March 2025. The pubs discount will provide a £1,000 discount to eligible pubs with a rateable value of less than £100,000 in 2020/21. This is in addition to the retail discount and will apply after the retail discount. In addition, the government has announced that there is going to be a "fundamental review" of the business rates system, but cynics say they have heard this before!

And finally, a man embroiled in a property tax dispute with his ex-wife has asked an Iowa judge to let him engage in a sword fight with both her and her attorney so that he can "rend their souls" from their bodies. The man argued that the judge had the power to let the parties "resolve our disputes on the field of battle, legally," adding that trial by combat "has never been explicitly banned or restricted as a right in the United States." He also asked the judge for time to secure appropriate Japanese samurai swords to be used for this purpose. The respondent's lawyer argued that, because a duel could end in death, "such ramifications likely outweigh" the issues in dispute and asked the judge to reject the request for trial by combat. The judge apparently said that he won't be issuing a decision anytime soon, citing "irregularities" with both sides' motions and responses. Sounds absurd, but "You couldn't make it up", as they say!

Paul Sanderson

President, International Property Tax Institute