IPTI Xtracts

Property Tax and Assessment News from Around the World

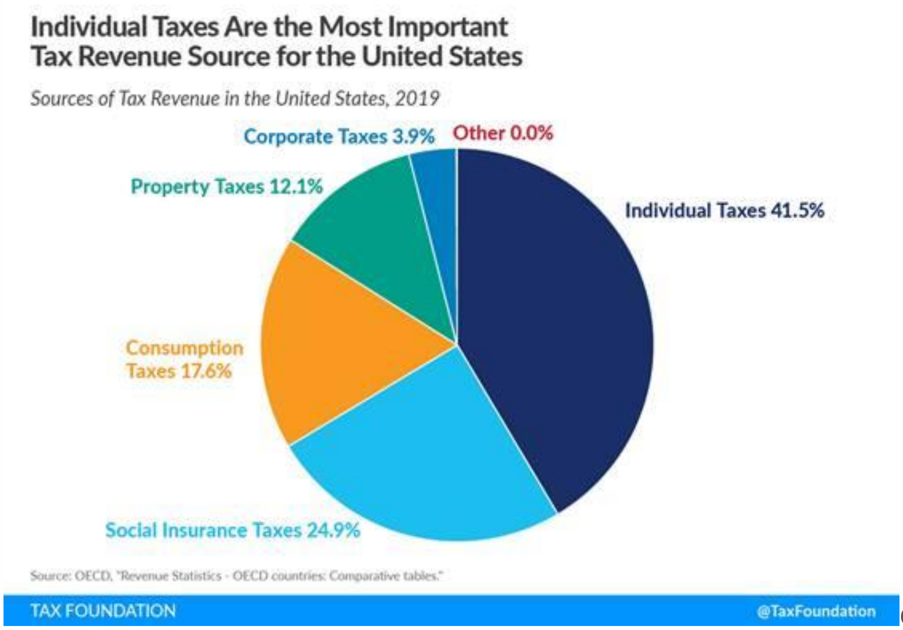
UNITED STATES – February 2021

CONTENTS

Sources of Tax Revenue: U.S. vs. OECD

A recent report on tax revenue sources shows the extent to which the United States and other OECD countries rely on different taxes for government revenues. Policy and economic differences among OECD countries have created variances in how they raise tax revenue, with the United States deviating substantially from the OECD average on some sources of revenue.

In the United States, individual income taxes (federal, state, and local) were the primary source of tax revenue in 2019, at 41.5 percent of total tax revenue. Social insurance taxes made up the second-largest share, at 24.9 percent, followed by consumption taxes, at 17.6 percent, and property taxes, at 12.1 percent. Corporate income taxes accounted for 3.9 percent of total tax revenue in 2019, the second year after passage of the Tax Cuts and Jobs Act, and 1.9 percentage points less than in 2017.



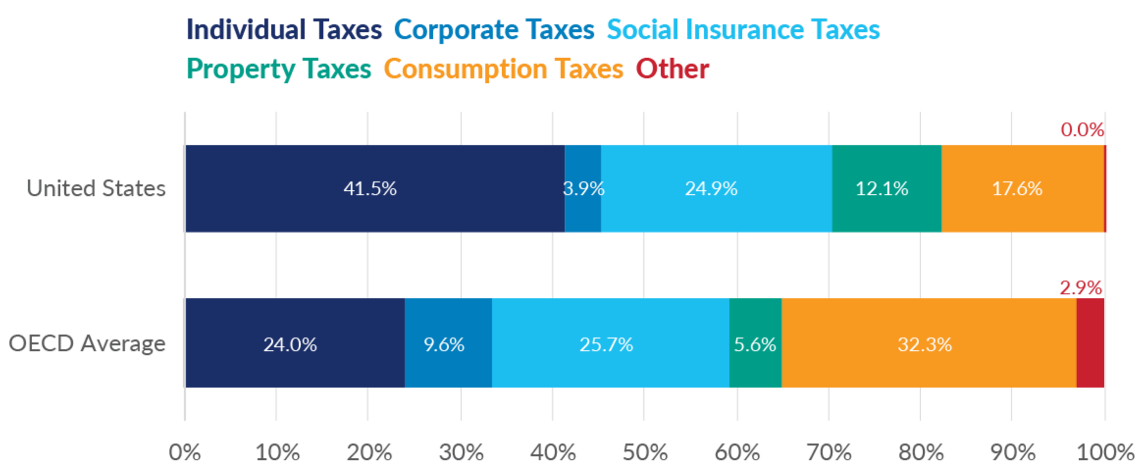
GRAPH 1

Compared to the OECD average, the United States relies significantly more on individual income taxes and property taxes. While OECD countries on average raised 24 percent of total tax revenue from individual income taxes, the share in the United States was 41.5 percent, a difference of 17.5 percentage points. This is partially because more than half of business income in the United States is reported on individual tax returns. OECD countries on average raised 5.6 percent of total tax revenue from property taxes, compared to 12.1 percent in the United States.

The United States relies much less on consumption taxes than other OECD countries. Taxes on goods and services accounted for only 17.6 percent of total tax revenue in the United States, compared to 32.3 percent in the OECD. This is because all OECD countries, except the United States, levy value-added taxes (VAT) at relatively high rates. State and local sales tax rates in the United States are relatively low by comparison.

The United States Relies More on Individual and Property Taxes Compared to the OECD Average

Sources of Tax Revenue in the United States Compared to the OECD Average, 2019

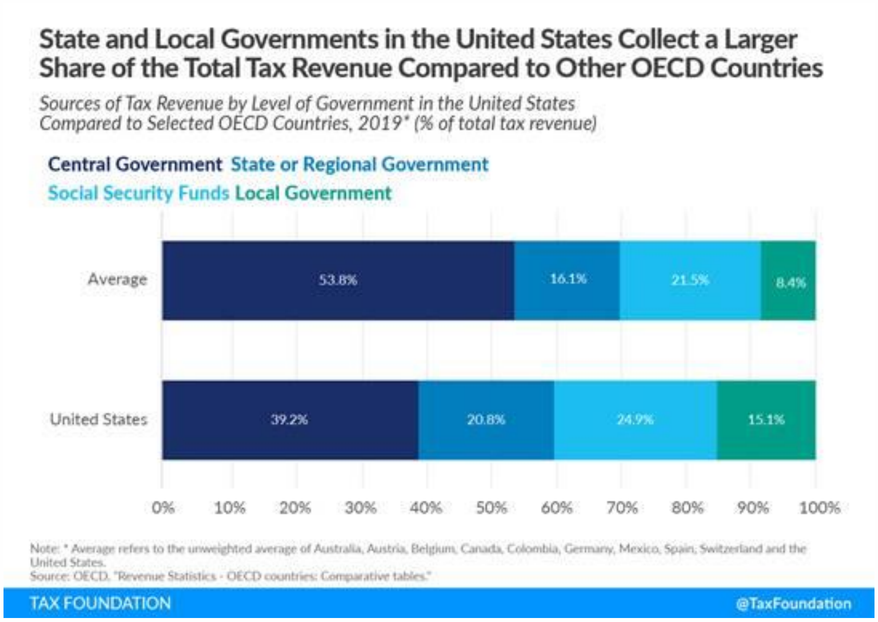


Source: OECD, "Revenue Statistics - OECD countries: Comparative tables."

TAX FOUNDATION @TaxFoundation

When looking at the sources of tax revenue by level of government, in 2019, the federal government of the United States collected the largest share of tax revenue, at 39.2 percent of total tax revenue. Social Security funds collected the second-highest share of revenue at 24.9 percent. State government collected 20.8 percent and local government accounted for 15.1 percent of the total revenue.

Compared to nine other federal countries and countries with a highly decentralized political structure, state and local governments in the United States collected a larger share of revenues. The state or regional governments of the OECD countries analyzed collected, on average, 16 percent of total tax revenue, while the state governments in the United States collected 20.8 percent. On the other hand, the local governments of the other fiscally decentralized OECD countries collected, on average, 8.4 percent of the total tax revenue, compared to 15.1 percent in the United States. The United States also collected more through the Social Security funds than the selected OECD countries. On average, the central governments of the fiscally decentralized OECD countries collected 53.8 percent of the total tax revenue, 14.6 percentage points more than the federal government of the United States.



Every country's mix of taxes is different, depending on factors such as its economic situation and policy goals. However, each type of tax impacts the economy in a different way, with some taxes being more adverse than others. Generally, consumption-based taxes are a more efficient source of revenue because they create less economic damage and distortionary effects than taxes on income. Countries also have different levels of governments at which taxes are collected. The United States along with nine other OECD countries has a decentralized political structure where state or regional governments play an important role in the tax collection. Nearly half of tax revenues in the United States is raised at the state and local level.

This is the most overvalued housing market in America. Spoiler: It's not in California.

Home prices skyrocketed over the past year, but the economy has yet to catch up

The breakneck pace of home-price growth nationwide has caused more markets nationwide to become overvalued, according to a new report from Fitch Ratings.

Fitch analysts estimate that home prices are 5.5% overvalued nationally as of the fourth quarter of 2020. Through November, home prices were up some 8.9% nationally since the start of the year, driving the overvaluation in the marketplace, they argued.

"Even though home-price growth accelerated in 2020 due to low mortgage rates and demand/supply imbalance, the economy has not caught up," the analysts wrote. As MarketWatch has reported, the demand among home buyers has far exceeded the inventory of homes for sale.

To some extent, this is a reflection of the fact that many homeowners are reluctant to list their homes for sale amid the pandemic. The imbalance between supply and demand is also the result of homebuilding activity remaining muted following the Great Recession and the preceding housing bubble.

Some housing markets are far more overvalued than others, the report noted. Fitch estimates that around 25% of metropolitan statistical areas (meaning major cities) around the U.S. are more than 10% overvalued.

Among the 20 largest metro areas nationwide, Las Vegas was the most overvalued, with Fitch estimating that home prices were overvalued by approximately 28%. Dallas–Fort Worth was next, with Fitch projecting that prices were overinflated between 20% and 24%.

Fitch also examined which states had the most overvalued housing markets. Idaho led this list, with Fitch projecting that home prices there were elevated between 30% and 34%. Nevada was next.

Idaho has become a popular destination for transplants from California, particularly from San Francisco and Silicon Valley. The rise of remote working amid the pandemic has helped boost demand for homes in Boise, such that home prices there have risen upwards of 10% in recent years.

Other states whose housing markets were found to be overvalued in excess of 10% included Arizona, Texas, Kansas, North Dakota and Washington, among others.

Only 17 states were found to have housing markets where homes were sustainably priced, according to Fitch's analysis. And four states were rated as having undervalued housing markets: Connecticut, Illinois, Michigan and New Jersey.

CONNECTICUT

Rethinking the Property Tax? Local Leaders Hope for Revenue Support From the State

Almost every year the state gives less money to cities and towns for property they are unable to tax. But municipal officials are hopeful a bipartisan proposal may bring relief.

"For New Haven roughly 60% of our property is non-taxable. And so that means that New Haven residents and business owners who own 40% of the property in the city have to pay 100% of the taxes," New Haven Mayor Justin Elicker said.

Elicker, a Democrat, said his city is running a $66 million deficit because of the state's system of taxation and how state funding is currently redistributed.

"In Connecticut nearly 90% of municipal revenues come from the local property tax and so that puts an incredible burden on New Haven residents and many of our counterparts across the state," Elicker said.

Most of this non-taxable property like private colleges and hospitals is located in cities like New Haven, Hartford, and Bridgeport.

Senate President Martin Looney wants the state to dedicate $114 million in state funds to increase payments to cities and towns for this non-taxable property.

The proposal has Republican support but that support is contingent on how the state decides to pay for it.

“Raising taxes is a very difficult conversation as you well know and certainly for any municipality the greater the property tax burden, no matter what the reason, makes that community less affordable,” Darien First Selectwoman Jayme Stevenson said.

Stevenson, a Republican, said she’s encouraged that this increase can be done without increasing any taxes.

Republicans oppose a "mansion tax" in order to pay for an increase in funding for non-taxable property.

“I do support the concept and I want to be a team player understanding the challenges in our urban centers, but we can’t ignore the fact we have to find the right revenue source,“ Stevenson said.

North Haven First Selectman Mike Freda said Looney has been great in identifying multiple revenue streams, none of which are directly linked to this concept.

“In the end I’m sure we’ll see what the revenue stream will be but for the purposes of today we support the concept that’s been laid out,” Freda said.

Elicker said if the state does nothing: “I have to raise taxes. So I think we have to think about the entire picture of what the burden on Connecticut residents is and not just the fact that the state may or may not raise taxes, but municipalities because of the system that exists that’s incredibly inequitable will be required to raise taxes.”

GEORGIA

COVID-19 Takes Heavy Toll on Commercial Property Values

Few commercial properties emerged with unscathed values from the harsh economic climate of 2020. Yet Georgia and many jurisdictions like it valued commercial real estate for property taxation that year with a valuation date of Jan. 1, 2020 — nearly three months before COVID-19 thrust the U.S. economy into turmoil.

This means governments taxed commercial properties for all of 2020 on values that ignored the severe economic consequences those properties endured for more than 75 percent of the calendar year. When property owners begin to receive notices of 2021 assessments, which Georgia assessors typically mail out in April through June each year, property owners can at last seek to lighten their tax burden by arguing for reduced assessments.

The pandemic hurt some real estate types more than others, however, and with both short-term effects and some that may continue to depress asset values for years. For taxpayers contesting their assessments, the challenge will be to show the combination of COVID-19 consequences affecting their property, and the extent of resulting value losses.

The experiences of 2020 can serve as a roadmap for valuations in the current year and, in certain settings, in future years.

A three-pronged attack

COVID-19 can inflict a three-pronged assault on a commercial property's value, and taxpayers should explore each of these areas for evidence of loss as they build a case for a lower assessment.

Widespread losses: The first prong of the trident may be a drop in value stemming from an overall decline in the market. Like the Great Recession of 2008, the pandemic has reduced many property values by impeding economic performance in general.

Reduced income and cash flow, for example, can indicate reduced property value. Valuing the property with a market and income analysis approach can reveal this type of loss.

Reduced functionality: Is the property's layout or format less functional than models that occupiers came to prefer during the pandemic? In Georgia, functional impairments may have curable and incurable components beyond normal obsolescence. In other words, when changing occupier demand has rendered a property obsolete, there may be some features the owner can address to restore utility and increase value.

Adverse economic trends: Economic factors occurring outside the property can suppress property value. Georgia tax law recognizes that economic trends can reshape market demand and render some property models obsolete. This economic obsolescence can be short term while the economy is down or a permanent change.

Subsector considerations

Retail: Big-box stores, malls and inline shopping centers had already experienced a functional decline and an economic downturn, both of which accelerated as shopping habits changed during the pandemic. Big box properties were already becoming functionally obsolete as retailers reduced instore inventory requirements and shrank showrooms, which left little demand for the large-format buildings.

Moreover, outside economic factors such as declining in-store sales, competition with e-commerce retailers, and high carrying costs have also undercut the value of these properties. The pandemic accelerated this decline, and it is unlikely there will be much, if any, recovery.

Hospitality: The pandemic has severely diminished travel and vacations, and hotel vacancies have skyrocketed. The income yield per room is declining. Operating costs have increased per visitor as amenities have been shut, curtailed or reconfigured. Many hotels have eliminated in-house dining and offer only room service.

The cost to maintain kitchen services is disproportionate to the number served. This decline is solely a product of COVID-19 and, over time, will revert to near normal. Some increased costs may remain elevated, such as extra cleaning supplies and labor to disinfect the property.

Office: COVID-19's effect on office buildings, especially high-rises, may be long-lasting. Fully leased buildings have seen less of a direct effect, but properties with significant unleased space are already hurting. Demand will diminish as more employees work remotely and companies consolidate with shared workspaces, motivated to reduce occupancy cost. This trend will produce both functional and economic effects on the value of office buildings.

Industrial: To a lesser extent, some manufacturing plants can suffer industry-specific economic consequences of COVID-19. Reduced travel has compelled airlines to reduce flights and sideline aircraft, reducing the demand for new and replacement aircraft. Less aircraft being built reduces the value of aircraft manufacturing plants, including the buildings that house them. Likewise, oil production, storage and consumption is down, due to reductions in leisure and business travel and commuting as more people work remotely. Excess capacity for drilling, storage and processing petroleum makes those facilities temporarily obsolete.

Multifamily residential: COVID-19 may have had little negative effect on multifamily complexes. During the pandemic, the supply of available housing on the market has contracted, driving up rents. As a result, apartments remain in high demand from renters and investors, although some areas may be overbuilt.

Despite high occupancy rates, properties may have non-paying or late-paying tenants. It would seem that yields per square foot may be higher, which would suggest increased property values for apartment complexes now. This is not always the case, however, and multifamily values must be considered individually.

Expect resistance

COVID-19 has also affected the mindset of taxing authorities, whose operating costs have remained the same or increased during the crisis. Taxing authorities will be reluctant to decrease tax revenue and will push back against property owners' arguments for reducing taxable values.

Just as individuals have taken personal health precautions against COVID-19, property owners must take precautions to protect the financial health of their properties from the virus' detrimental effects. All commercial property owners in Georgia should carefully examine assessment notices. Wise owners should strongly consider consulting with property tax experts to determine whether to file an appeal.

IDAHO

Legislators missing the property tax bus

The Idaho Legislature, including representatives from this area, claim they are working on bills to fix the issue of rapidly rising residential property taxes. Either they misunderstand the way property taxes actually function or they are seeking to limit the ability of local entities to make decisions and are using the very real issue of rising taxes as a strawman.

Currently, Sen. Souza and Rep. Addis are working on a bill which would cap cities' ability to collect taxes related to new growth and annexation around 2-3%, depending on inflation. This retains only about one-third to one-half of the funds recently available from these activities.

These growth dollars have been the primary reason the city of Post Falls has not been taking property tax increases. These dollars assist with paying for the increased cost of services. Capping taxes may sound good on the surface but, as it often does, a deeper look reveals a different story.

The city of Post Falls has not taken a tax increase for more than 12 years except for transferring the streetlight fee to property tax six years ago. However, you may note, residential taxes have increased. How is that possible?

Currently, taxes to homeowners are rising as home values are increasing faster than commercial property values. Because each property pays a share based on its value, this means homeowners are now carrying part of the tax burden previously carried by commercial properties.

Collecting taxes related to new growth and annexation allows new members of the community to pay their fair share. Basically, those new members bring their checkbook with them. If this is restricted, cities will be forced to decide between decreasing services, like public safety, street repairs, and parks maintenance for all community members or denying annexations beyond a small number per year.

We've all heard about the current housing market, even with many approved annexations across the prairie. If we artificially limit the housing market due to a cap imposed by state legislators, our housing prices will likely increase even more dramatically. If there is no fix to prevent a further shift, those rising values will again mean higher taxes for homeowners.

As a city, it is our goal to lessen the real estate property tax burden on our citizens. There are ways to address the core driver of rising residential taxes, the imbalance in residential taxable values increasing at a faster pace than commercial taxable values.

These fixes include indexing the homeowner's exemption, improving the circuit breaker program, and capping increases in assessed values to name a few, and these have been shared with legislators. Unfortunately, they seem to have already made up their minds.

Ron Jacobson is mayor of Post Falls.

ILLINOIS

New Cook County property assessments continue to shift tax burden from homeowners to businesses in south suburbs

Cook County Assessor Fritz Kaegi's attempts to fix a property tax assessment system widely viewed as unfair continue to shift the tax burden away from homeowners and toward businesses.

Late last year, the first-term politician completed his second round of reassessments, this time setting the value of individual properties for taxing purposes in the south and southwest suburbs.

The median home assessment rose about 4%, while business and industrial properties saw a median increase of about 44%. Apartment buildings with seven or more units, which analysts say are significantly undervalued in Cook County, went up by a median of about 80%.

The practical effect of that? Many homeowners could see a break when property tax bills arrive later this year — and businesses could end up paying more. Many south suburban officials say that could thwart decades long efforts to promote economic development in a region plagued by disinvestment.

"Our concern is we're going to have more stagnation in investment and potentially further divestment if businesses find it too onerous to come back within our communities, and that's a downward spiral," said Kristi DeLaurentiis, executive director of the South Suburban Mayors and Managers Association.

Kaegi said he understands "the incredibly high stakes" involved in reassessing the south suburbs, given the struggles that started decades ago when industries moved out of the region and worsened during the Great Recession. He said his job is not to pick winners and losers, but to assess properties as close to their actual fair market value as possible.

"My principle is don't inject my politics or preferences," Kaegi said. "Be a mirror to the market, because that's how we're accountable."

Kaegi contended that his predecessors did not always follow that objective principle and instead manipulated the system to achieve their desired outcomes, whether it was favoring certain property owners or shifting the burden from one type of property to another.

"The way I can do my job faithfully is to use market values to assess everyone, and that may be new, but that's how it was always supposed to be done," he said.

Further complicating this year's assessments was Kaegi's decision to revise assessments as the COVID-19 pandemic swept the country. He made those adjustments based on economic conditions in April 2020, when data showed declining housing prices. But that changed as the pandemic wore on.

As a result, homeowners received assessment reductions ranging from about 8% to 12%, even though home sales later in the year showed prices rising significantly.

Many, but not all, businesses also received COVID adjustments. They varied from region to region, but in general, businesses hit hard by the pandemic — like hotels, offices, stores and entertainment venues — received even bigger reductions than homeowners.

The reassessment

Assessments matter because they determine how much in taxes property owners pay. In general, the higher the assessment, the bigger the tax bill.

Kaegi's south and southwest suburban assessments mean that homeowners saw their total share of all assessed value drop by nearly 7.5% — an amount that businesses, including larger apartment buildings, would end up shouldering if the reassessments hold.

That, however, doesn't mean businesses will end up picking up the entire 7.5% of the burden when tax bills based on those assessments are sent out this year.

Many business owners are appealing Kaegi's reassessments. If his 2019 assessments of north and northwest suburban properties are any indication, that could reduce the shift in property tax burden, with homeowners not getting as much of a break.

The north suburban shift was 10% after assessments came out. But the Board of Review, an elected property tax assessment appeals panel, scaled back Kaegi's work significantly. When it was done, the shift from residential to commercial was around 2.3%, according to an analysis by Kaegi's office.

The 2020 reassessments varied depending on which part of the south and southwest suburbs a property was located. The shift was 10% in Rich Township, which includes Olympia Fields, and in Stickney Township, which includes Burbank. In Berwyn Township, the shift was only 1%.

The disparity in Rich Township concerns Jon Felix, the owner of Sell It Again, Sam, a used furniture business in Richton Park. The initial assessment went up by nearly 49%, putting a market value of nearly $652,000 on a building he bought for $406,000 in 2012, according to public records.

Felix appealed and won a reduction from the appeals board, which set the building's market value at a little less than $556,000, still a 27.5% increase that portends a likely tax increase this year. Last year, Felix paid about $23,000 in property taxes on his building, already a steep hit for his small business.

And a local tax incentive he was granted by the village and county to open his store is set to expire in a couple of years, meaning it's possible his tax tab could more than double — an increase he's not sure his store could survive. He's already moved to a home in Indiana, where property taxes are much lower, and has contemplated the same for his business, but isn't even sure he could sell it given the tax burden.

"This used to be a thriving community," said Felix, who grew up in the area. "They ran everybody out of here with the taxes."

COVID-19 adjustments

Kaegi started reassessing south and southwest suburban properties last February. That was before the pandemic arrived and government restrictions went into effect, leading to rising unemployment, significant downturns in retail and restaurant sales, and near-abandonment of many offices.

Saying state and county emergency declarations gave him the authority to start over, Kaegi did just that in the south and southwest suburbs. He also gave adjustments to all homeowners and many businesses in the city and north and northwest suburbs, areas that were not slated for reassessment last year.

So, instead of reassessing property based on its value as of Jan. 1, 2020 — as directed under state law — he based his decisions on economic conditions as of April, the latest he could pull the trigger without delaying tax collections this year.

Homeowners and businesses in the north and northwest suburbs, as well as the city, received notices if their assessments were revised as a result. Property owners in the south and southwest suburbs were reassessed from scratch, with the COVID-19 adjustments baked into their new values.

For businesses, the changes were based on what are called capitalization rates, which are a way to measure earnings. That also makes it tougher for businesses to discern how the COVID-19 reductions affected the final reassessment.

To get a sense of a homeowner's or apartment building owner's precise COVID-19 reduction, one can look at data generated by Kaegi's office. Kaegi also released the underlying computer code used to calculate business reductions, but critics say it's tough to decipher, even for computer geeks.

"It's not transparent," argued DeLaurentiis, who said businesses are having a tough time determining whether they got a COVID-19 reduction or not.

DeLaurentiis and others also questioned Kaegi's judgment on lowering home assessments by 8% to 12% across the county, noting real estate trends in the opposite direction. That, they say, inappropriately transferred a portion of the overall tax burden to businesses.

Pushback

Kaegi was elected in 2018, defeating incumbent Joe Berrios in the Democratic primary on a pledge to reform a system that "The Tax Divide," a series published by the Tribune and ProPublica Illinois, found to be riddled with errors. The system tended to shift the tax burden from wealthier homeowners and large building owners to less-affluent homeowners and smaller commercial properties, the series found.

Studies by the Civic Consulting Alliance and the International Association of Assessing Officers backed up those conclusions, although a recent study commissioned by the Taxpayers' Federation of Illinois suggested the problem lies mainly with undervalued apartment complexes, not other businesses.

In the south suburbs, mayors and village presidents say steps to adjust assessments and other aspects of the tax system have only once again compounded their financial woes.

In 2017, the state expanded exemptions for all homeowners and sweetened the tax breaks given to senior citizens. Thousands of south suburban homes fell completely off the tax rolls because the values of their homes were less than their exemptions. That shifted their tax burden to both businesses and owners of more expensive homes.

Now leaders are concerned that Kaegi's recent adjustments will cause more homes to fall off the tax rolls and drive more businesses away, hiking taxes for everyone else who stays put.

"The biggest impediment to economic development in the Southland is the property tax burden " Richton Park Village President Rick Reinbold said. "We have a workforce. We have transportation — the highway systems, the rail. We check all of the other boxes, except that property tax."

But the severest criticism is coming from groups representing businesses, including the Building Owners and Managers Organization, or BOMA, and the Chicagoland Chamber of Commerce. Both are concerned not just with Kaegi's first rounds of reassessments in the suburbs, but also what the shifts will mean for the city of Chicago, which will be reassessed for the first time by Kaegi this year.

"What we're concerned about is our investors are starting to look at Cook County and say, 'Why should we do it there when we can go to DuPage County or Will County, where they don't have those kinds of concerns? ... Or Indiana,' " said Michael Mulcrone, executive director of BOMA Suburban Chicago.

"We want reform, and we want better government, but is his system the best way? I don't think so," Mulcrone added. "I think there's a big question about it."

Perhaps the strongest criticism comes from Farzin Parang, executive director of BOMA Chicago, which is concerned about what will happen with assessments in downtown Chicago this year.

"We're concerned about this us-versus-them rhetoric that we constantly see from him, that he's trying to pit residential taxpayers against commercial," Parang said. "He kind of likes to invoke this fantasy that office buildings downtown are cheating everybody else and taking these huge piles of cash out the back door. ... The politics of it work out great for him, and the policy is just bad for everybody."

Kaegi maintains that his critics want him to use his authority to right the wrongs of the county's complex and hard-to-understand property tax system. That, he added, is not his role under the state constitution, which requires him to value property at "fair market value."

One aspect of the system Kaegi does not control is Cook County's dual system of taxation. Business and industry is assessed for tax purposes at 25% of fair market value, while homes and apartment complexes are assessed at 10%.

So, if all properties are properly assessed, a business that has the exact same market value as a home would pay two-and-a-half times as much in property taxes. And, if the homeowners are receiving exemptions — which most do — the disparity is even greater.

"It distorts economic development, job creation — and you only have to look at the Cook south suburbs to see what's happening," said Jack Lavin, president and CEO of the Chicagoland Chamber. "And it's only been exacerbated worse by the shift to the commercial and then with COVID."

Illinois Department of Revenue Releases Tentative 2020 Cook County Equalization Factor

The Illinois Department of Revenue recently released the tentative 2020 Cook County equalization factor, also known as the multiplier. The preliminary factor is **3.0861**. The ten-year history of preliminary and final equalization factors is summarized below.

Tax Year	Tentative Multiplier	Final Multiplier
2011	2.8983	2.9706
2012	2.7432	2.8056
2013	2.6039	2.6621
2014	2.6922	2.7253
2015	2.6059	2.6685
2016	2.7455	2.8032
2017	2.9084	2.9627
2018	2.8366	2.9109
2019	2.7523	2.9160
2020	3.0861	

The Illinois Department of Revenue is required by the Property Tax Code to equalize the property tax assessments among the State's 102 counties so that the aggregate assessed value of a county represent 33 1/3 % of the fair cash value of all the locally assessed property (with a few unique exceptions such as certain farmland). The Department generates the equalization factor primarily by comparing actual sale prices to the assessments of those properties.

Tax bills are calculated by applying the equalization factor to the assessment of an individual property to establish the equalized assessed value (EAV) of a property. Any exemptions (such as a homeowner's exemption) are then subtracted to determine the taxable value of a property. The tax rate is then applied to generate the amount of taxes due. The aggregate EAV of a taxing body is therefore often referred to as the tax base.

It is important to note two things about the equalization factor. First, the equalization factor does not cause individual tax bills to go up. Tax bills are determined by local taxing bodies when they request the dollars needed to provide services to citizens. The assessment process simply determines how the bill will be divided among taxpayers. Second, a matter of general math, the greater the equalization factor the more disparity there is between assessments and the evidence of fair cash value used by the Illinois Department of Revenue to determine the equalization factor.

The Perfect Storm: 2021 Property Taxes and Chicago Community Associations

Due to the impact of the COVID-19 pandemic, there have been massive declines in state sales tax and local income tax revenues. In order to restore operating budgets, states are looking to property taxes to close the gaps. Illinois is no exception.

Illinois property owners already pay the second highest property taxes in the United States. In 2021, property taxpayers in Chicago will bear an additional almost $100 million burden. The increase, approved by the Chicago City's Council in late 2019, will be in addition to the new Chicago property valuations.

This article will explain the Chicago property tax assessment schedule and the tax appeal process for condominium, homeowner, and townhome community associations.

How does Cook County handle property taxes?

All properties in Cook County are reassessed on a triennial schedule. Every three years, the new valuations – along with appeals, exemptions, local tax levies, and assessments of nearby properties – determine the amount of future property tax bills.

For the purposes of reassessment scheduling, the 30 townships within Cook County are divided into three groups: north/northwest suburbs, south/southwest suburbs, and the City of Chicago.

Let's focus on the City of Chicago

The townships of Hyde Park, Jefferson, Lake, Lakeview, North Chicago, Rogers Park, West Chicago, and South Chicago all fall into the City of Chicago grouping.

They were reassessed in 2015 and 2018. They will be reassessed again in 2021. For reference, here are some neighborhoods that are located within the nine City of Chicago Townships:

- Hyde Park Township – includes Hyde Park, Kenwood, Woodlawn, Avalon Park, Burnside, Pullman, South Shore, South Chicago, East Side, Hegewisch, Calumet Heights, South Deering, and Riverdale neighborhoods
- Jefferson Township – includes Jefferson Park, North Park, Albany Park, Irving Park, Avondale, Hermosa, Belmont-Cragin, Montclare, Portage Park, and parts of Logan Square. Sections of the Norridge, Norwood Park, and Harwood Heights suburbs are also located in Jefferson Township.
- Lake Township – includes Englewood
- Lakeview Township – includes Uptown, Lincoln Square, North Center, Wrigleyville, and Lincoln Park
- North Chicago Township – includes Old Town, Gold Coast, Cabrini-Green, Magnificent Mile, and River North neighborhoods
- Rogers Park Township – includes Rogers Park and West Ridge
- West Chicago Township – includes West Town, West Loop, Pilsen, East Garfield Park, West Garfield Park, Little Italy, Heart of Chicago, Lawndale, and Greektown
- South Chicago Township – includes Chinatown, Grant Park, Prairie Shores, and Motor Row District

Determining Chicago property values

The property tax assessment represents what the County Assessor thinks your property is worth, based on a designated assessment level. In Cook County, residences are assessed at 10% of fair market value. This means that a condominium unit or any residence within an association worth $300,000 should have a property tax assessment at $30,000.

If you believe that the County Assessor's value opinion is wrong, as reflected in the property tax assessment, you can absolutely challenge it by means of an appeal.

How do property tax appeals work for Chicago community associations?

A group appeal is where all (or many) of an association's units file a single property tax appeal. Illinois law allows a condominium association's board members to file a single appeal on behalf all the Association's unit owners. To file as a group in a townhome or homeowners association, individual owners must formally opt in, granting the Board the authority to include their units in one association group appeal.

Associations should appeal as a group for several reasons.

- First and foremost, County Assessors prefer one appeal, over dozens, or even hundreds, of owners filing separately. It's administratively easier to process and the favored method.
- Second, the County Assessors place a single value on the entire building or development and reviewing that value is facilitated by an appeal including all units.
- Third, the County Assessor has a duty to uniformly assess all units within an association. The group appeal enables the County Assessor to meet this obligation.

Does the community association have to hire an attorney?

To file a group appeal, yes. Associations are not considered "persons" under Illinois law and thus need a licensed attorney to represent them in any legal proceeding. This includes property tax assessment appeals. Further, the Board of Review, PTAB and Court require Associations to be represented by licensed attorneys in an assessment appeal before their offices.

Unfortunately, hiring a "tax consultant" or having one of the board members file an appeal on behalf of the entire association would result in the appeal being voided and might cost the association the ability to re-file with legal counsel if the appeal deadline has expired.

Condominium, homeowner, and townhome community associations need skilled legal counsel to steer them through the property tax appeal process. Not only do association assessment appeals require careful analysis and preparation, but there are several agencies and levels in which to appeal. Each one comes with its own caveats and pitfalls.

LOUISIANNA

Amazon developer seeks $35.4 million property tax abatement from Baton Rouge

The real estate firm developing a massive distribution center for Amazon on the site of the former Cortana Mall is seeking a 10-year property tax abatement on the project worth $35.4 million.

Under the proposed arrangement, which will go before the Metro Council for approval Wednesday, the Capital Area Finance Authority will take title to the property once Seefried Industrial Properties, the Amazon developer, has acquired the various parcels from the respective owners. CAFA, which is a public trust and therefore does not have to pay taxes, will then enter into a long-term lease agreement with Seefried that includes the 10-year property tax exemption.

In return, Seefried's contract with CAFA will require the company to create 1,000 local jobs. Seefried also will agree to pay 100% of school taxes over 10 years, even while it is exempt from other local property taxes like those that support police, fire, libraries and parks.

The vehicle under which the deal is being structured is known as a payment in lieu of taxation, or PILOT.

"Seefried wants to pay 100 percent of the school taxes that will be due over the next 10 years to abate some of the other taxes," CAFA President and CEO Mark Drennan says. "In return, they will hire 1,000 employees and create a whole new atmosphere at the abandoned Cortana Mall site. We are doing this to facilitate an economic development project for Baton Rouge."

Drennan says the investment Seefried is making and the economic development potential of the project, which has been in the works for more than two years, more than makes up for the tax incentive the company is seeking.

CAFA's board has already approved the deal and Mayor Sharon Weston Broom's administration is sponsoring the measure that will go before the council for approval.

The company was not eligible to seek an abatement under the state's Industrial Tax Exemption Program, or ITEP, because the proposed 2.9 million-square-foot distribution and fulfillment center will not be a manufacturing facility.

The item that goes before the Metro Council tomorrow is the first of several measures the council will need to approve in the coming weeks. Later this month, it will consider Seefried's rezoning request for the site, which was approved Monday night by the Metro Council, and also its site plan for the project.

MINNESOTA

Saving Money During Tough Times — Appealing Your Property Tax Assessment

A penny saved is a penny earned. This adage takes on new significance when a pandemic ravages the economy. One source of savings that business owners should consider is the possibility of reducing their property taxes.

Minnesota's Three Approaches to Valuation

Real property is assessed at its market value, which is the price that could be obtained at a private sale or arm's-length transaction. To determine market value, Minnesota courts generally recognize three basic approaches — the sales comparison approach, the cost approach and the income capitalization approach. Each approach is intended to reflect the behavior of market participants.

The Sales-Comparison Approach

Under the sales-comparison approach, the assessor compares the subject property to similar properties that have recently sold. To account for any differences, one of the adjustments an assessor makes is for market conditions. For example, if assessors use a sale from before the pandemic to value a property as of a date during the pandemic, they must make a market-conditions adjustment to reflect the worsening economy.

The Cost Approach

The cost approach operates under the principle that a rational, informed purchaser will pay no more for a property than the cost of acquiring or constructing an acceptable substitute with similar utility. Part of the cost approach considers entrepreneurial profit, which is the realized or expected profit of the project. But when a downturn in the economy erases any such opportunity, the value under the cost approach decreases.

The Income Capitalization Approach

Finally, the income capitalization approach assumes that the property is used as an investment, so the value is based on the property's future earning power. To measure a property's earning power, assessors use a capitalization rate, or "cap rate." The cap rate converts the capacity to generate future benefits into a present value. At its most basic, a cap rate signifies risk. So greater risk leads to higher cap rates, and higher cap rates lower property values.

The cap rate reflects changes in the economy in at least two ways. First, the cap rate uses data from the sales and cost methods, so the declining economy's impacts on the previous two approaches also affect the cap rate. Second, the pandemic has created significant uncertainty in the economy, thus raising risk and lowering property values.

Impacts of the Pandemic

We all feel the economic impact that the pandemic has caused. The three approaches to real property valuation validate and quantify those feelings. Additionally, Minnesota has a projected $1.3 billion budget shortfall for 2021. Government assessors are therefore in a difficult position of needing to increase revenue despite falling property values. Therefore, when property valuation notices come out in March and April, taxpayers should carefully consider whether their property is overvalued. If so, a property tax appeal is one way that a business owner could reduce fixed expenses when every penny counts.

MONTANA

Lawmakers Consider Repealing Property Tax Exemption For Tribes

Montana lawmakers are again considering a bill that would repeal an exemption on some property taxes for tribes in Montana. The policy failed last session.

Gale Decker, a commissioner for Lake County, says a 2011 law is giving tribes in Montana an unnecessary tax break.

"It is providing a tax vacation for numerous properties that are in fee."

State law provides for a property tax exemption for tribes when they apply for federal trust designation on fee land they buy. This is land that once belonged to tribes as outlined in various treaties with the U.S. government, but was later sold to non-Native American settlers.

Decker says some land that has received this property tax exemption didn't end up receiving the federal trust designation. He's supporting Senate Bill 138, which would repeal that exemption.

Shelly Fyant, chairwoman of the Confederated Salish and Kootenai Tribes, spoke in opposition, saying tribes shouldn't pay taxes on land that was given away in violation of treaties. She said she doesn't know of any situation in which one government taxes another.

"It is frustrating that we need to keep discussing what has already been decided as good for Montana and its tribal nations time and time again."

Opponents of the bill like the ACLU of Montana and Western Native Voice raised concern that the bill is an unconstitutional infringement on tribal sovereignty.

The Senate Taxation Committee has yet to take a vote on the legislation.

NEW JERSEY

NEW JERSEY

N.J.'s average property tax bill tops $9K for the first time. Here's how much it went up last year.
Average property taxes in six counties surpass $10,000, according to the new data.

The average property tax bill in New Jersey has cracked $9,000 for the first time, rising $159 to $9,112 in 2020, according to new data from the state Department of Community Affairs.

The one-year increase of less than 2% is low by historical standards but represents another new high for a state with the unwelcome distinction of the highest property taxes in the nation.

Three counties — Bergen, Essex and Union — topped $12,000 for average homeowner property taxes and four others — Hunterdon, Morris, Passaic and Somerset — had average bills above $10,000.

At the other end, the average 2020 property tax bill in Cumberland County was less than $5,000.

The statewide figure, compiled based on property tax data from 565 municipalities, is double the average property tax bill homeowners paid two decades ago. It comes as Democrats in Congress make a push to remove the $10,000 cap on how much you can deduct in state and local taxes as part of a third stimulus bill.

Since Gov. Phil Murphy took office in 2018, average tax bills have risen about 4% from $8,767 to $9,112. From 2017 to 2018 the average property tax bill increased by less than 1%, while the increase from 2018 to 2019 was 2.1%. The 2020 increase clocked in at about 1.7%.

Murphy said last year the comparatively small year-over-year changes were proof his administration is "delivering on our promise to provide property tax stability while restoring New Jersey's fiscal standing and growing our economy."

His administration has boasted of stabilizing property taxes by pumping hundreds of millions of dollars more into public schools, which he argued would take the pressure off of school districts to raise money locally.

"Every new dollar in school funding is a new dollar of property tax relief," Murphy said last year. "Every new dollar we provide is a dollar that doesn't have to come out of the pockets of property taxpayers."

Murphy, however, scrapped a planned $335 million increase in school funding for the current fiscal year because his administration projected the state would face significant revenue declines amid the pandemic. As a result, the state is spending as much this school year as it did in the previous school year.

The new figures come as debate rages in Washington over how much you should be able to deduct in state and local taxes on your federal income taxes.

The $10,000 cap set by former President Donald Trump and a Republican Congress hit homeowners in high-tax states like New Jersey especially hard. All 21 counties in New Jersey had reduced home values as a result of the tax change, a Moody's Analytics study found.

The U.S. Senate voted 51-49 on Friday to defeat an amendment blocking a repeal of the cap from being added to the third stimulus bill. It was not included in President Joe Biden's original stimulus proposal.

Murphy joined with New York Gov. Andrew Cuomo last week in calling for its elimination, saying the cap cost New Jersey and New York taxpayers billions more in taxes.

"It was done not for any practical purpose but completely based on politics," Murphy said.

In New Jersey, sweeping property tax reforms undertaken by former Gov. Chris Christie's administration that capped increases in local government and school district spending and police and firefighter arbitration awards at 2% helped stamp out big year-over-year tax hikes. Prior to those caps, property taxes were rising anywhere from 3% to 7% each year.

The Democratic-controlled Legislature in 2017 allowed the 2% cap on raises police and firefighters can win in arbitration to expire. County and municipal leaders have urged the cap be installed permanently, saying they would otherwise be forced to cut services or take advantage of loopholes in the 2% spending cap.

Murphy, who was not yet in office, did not signal support for renewing the cap.

Murphy also vetoed a bill pushed by the Senate President Stephen Sweeney that would have allowed 40 school districts that are losing state education aid as school funding is reconfigured to make up for their losses by raising local property taxes more than 2 percent without asking voters first.

In addition, Murphy raised the state gross income tax deduction for property taxes from $10,000 to $15,000 to counteract the federal cap on state and local property tax deductions.

Average NJ Property Tax Bill Now $9,111

Property taxes went up by $158 for the average New Jersey homeowner last year, according to figures compiled by New Jersey 101.5. The total jump in the tax levy was the most in 10 years.

The average residential property tax bill in 2020 was $9,111, an increase of 1.8%, according to the unofficial data. The state Department of Community Affairs hasn't released its annual report yet; last year, it was published in early March.

Though the bill is increasing, the yearly statewide change looks good, said Marc Pfeiffer, assistant director of Rutgers University's Bloustein Local Government Research Center. The increase is less than 2% and has been less than or equal to the increase in the state's assessed taxable value for the last four years.

Can taxes stay flat?

"An expectation for property taxes to remain flat from year-to-year, the only way that really happens is either the government agency either reduced their cost in some way or they have new construction that adds value and they're collecting added revenues from those parcels to cover the increase in cost," Pfeiffer said.

"There's always going to be increase in cost, if only due to labor costs," he said. "If you've got a police department, police contracts are always going to go up. If you have other employees, there's always going to be cost of living wages, things like that that have become part of the practice of how government agencies work, both at the county, school and municipal level."

The total tax levy was nearly $31.8 billion, including $16.3 billion for school districts, $9.1 billion for municipal government, $5.5 billion for county government and $340 million levied by special taxing entities for things such as fire, garbage collection and business improvement districts.

The total increase, including the $13.4 million more for special taxing districts that aren't generally included in the official tabulation, was $737 million – up from $665 million in 2019 and the most since property taxes went up $962 million in 2010, after state aid was cut during the Great Recession and just before the 2% levy cap was approved.

The tax levy rose by 2.4%, the third straight year when the increase was bigger than the year before. It has exceeded the 2% levy cap, which includes exceptions for things such as pensions, health benefits, debt, construction and emergencies and allowances for ratable growth, in five of the last seven years.

Increases in the tax base meant the state's overall general tax rate fell slightly, as it has in three of the last four years. Those increases included major property revaluations in Bayonne, Harrison, South River, Hawthorne, Fanwood and Garwood, as well as more modest changes in other places.

The assessed value of the average home increased by an average of 2.3%, reaching $330,578. The higher values and lower tax rate work out to a 1.8% average tax increase from last year's average of $8,953.

Pfeiffer said gradual increases in ratables are the best circumstances, so long as the new warehouse or housing complex doesn't increase the cost of delivering services.

"That's the best of all possible worlds. That gives local leaders the opportunity to talk to their labor unions about keeping costs in line," he said. "And then managing their cost: If there's an increase in expenses in one area, maybe we can look at how we can save money there. That leads to the discussion of potential shared services with a neighboring municipality, another school district or their county government. That's always important."

$10,000 tax bill

The average residential property tax bill now tops $10,000 in 191 of 565 municipalities in New Jersey, 17 more than a year ago. Taxes rose more than 5% on the average home in 32 municipalities. The average bill shrank in nearly one in 10 municipalities, including seven where it fell more than 3%.

"New Jersey is full of paradoxes. So, for example, yes, a lot of people complain about property taxes being the highest in the country, and, yes, they certainly are," Pfeiffer saids. "On the other hand, when you look at Monmouth University polling's annual survey of quality of life in New Jersey, people are very satisfied with their local government in the 60, 70% range. They're just as satisfied with their schools, for the most part. So, where you do have high taxes, you're also getting a high level of satisfaction."

How the bill is split

School taxes accounted for more than half of the increase in the tax levy, as has been the case for seven consecutive years now – up $377 million, or 2.4%.

Municipal taxes increased at their highest rate since 2011 – $258 million, or 2.9%, not counting an additional 4.1% increase for the special taxing districts that provide some typically municipal services.

County taxes were up 1.6%, almost $89 million.

Pfeiffer said the increase in municipal taxes could be related to the elimination of the 2% cap on arbitration settlements of police and fire contracts.

NEW YORK

Three-year moratorium on tax appeals and the law of unintended consequences

Unintended consequences surface in the wake of most laws. A growing cobra population in India led lawmakers to put a bounty on the head of the venomous snakes. The bounty was generous, leading to a rise in cobra hunters, which resulted in a decrease in the cobra population. Problem solved? Hardly. Entrepreneurs began breeding cobras that could be turned into cash rewards, so the authorities canceled the bounty, leading the breeders to set their worthless snakes free. In the end, there were more cobras in the streets of New Delhi than before the program began.

For commercial owners with property outside of New York City, one (among many) of the most egregious acts of state lawmakers was the enactment of the so-called “three year freeze” on property tax assessments following the resolution of a tax certiorari proceeding. The law causes no end of consternation to owners who are unfairly over-taxed, and ultimately decimates the commercial sector of many suburban communities, resulting in deteriorated properties and a higher tax burden on the very voters (local homeowners) the law was intended to protect. Over time, the wide-ranging damaging effects of the law have only worsened.

The law says that where a tax certiorari proceeding is resolved - by settlement or trial - the final assessment must remain unchanged for the next three years. The law applies in New York State municipalities that fail to conduct a regular municipal-wide revaluation or update of the values of all parcels (one might ask why the property owner is the one punished for the jurisdiction’s poor assessment practices). In effect, this accounts for roughly two-thirds of New York State and impacts many thousands of commercial properties.

The intent of the law was to improve communities by stabilizing the tax base and reducing the volume of tax appeals. But, in practice, it has been applied to drive up the cost of property ownership and cause real estate investment to flee to other states, all of which results in decimation of the local tax base. The law also fails to recognize dire changes in property circumstances and is, in the view of many, unconstitutional regardless of its continued existence.

The devil in the law lies in many of its exceptions, as well as what is omitted from the statute, and those are the areas where this author focuses here.

For example, one exception only permits a challenge to the assessment within the freeze period where “there has been a change in the occupancy rate” of 25% or more. The statute does not define “occupancy” but raises a challenging question where an owner’s rent collections have dropped precipitously (as many have experienced during the COVID-19 market crash of 2020) but tenants remain in place. Occupancy without collections equates to a massive reduction in property value by any measure, but owners who resolved their tax appeal before collections fell might remain stuck with an over-inflated tax bill and no remedy.

Another exception allows the tax assessor to increase the assessment despite the moratorium where an owner has commenced construction upon existing improvements. Whether the construction has actually added value is often irrelevant and leaves owners in the position of litigating the very thing the freeze statute was intended to put to rest. Somehow, while owners are largely prohibited from showing that the property's value dropped, assessors have a free hand to determine that the property's value has increased.

In some instances, owners are placed in the unenviable position of sacrificing viable tax certiorari proceedings out of fear that even if they achieve the tax reduction they are due, they will forfeit the opportunity for a greater reduction in the coming year to which they are also entitled. In one recent example, a major shopping mall came to trial showing sizeable tax reductions were warranted through 2019. Yet, knowing that the value had already plummeted even further due to COVID-19 as of 2020, the mall owner sought to preserve a right to challenge the 2020 assessment and those beyond. Due to the three-year moratorium and the arbitrariness of a court calendar, the owner finds itself in a situation in which the practical result of attempting to achieve a fair tax for pending appeal years means possibly accepting an unfairly high tax in the future despite a dramatically worse retail market.

Most astoundingly, the law has been warped by court decisions to serve as a bar to owners who never agreed to the settlement values in the first place. For example, assume a buyer acquires a property knowing that tax appeals are awaiting resolution in the courts at the time of acquisition. Knowing the property is over-assessed, the buyer continues to appeal the tax assessments, but later learns that the seller settled its tax appeals with the municipality without consulting the buyer at a value far higher than the sale price (a buyer and seller may have differing interests in resolving a tax appeal). The three-year freeze has been applied to dismiss the buyer's tax appeals and any opportunity to obtain a fair tax.

The moratorium statute does make reference to a "catastrophe", but lawmakers could clarify the statute to specifically address dramatic impacts on value commonly referred to as "Acts of God," which may include the market effects of the coronavirus pandemic. The freeze statute also seems to patently contradict New York State's Constitution, which states: "Assessments shall in no case exceed full value." Though the issue has been moderately litigated, upholding the freeze, the underlying reasoning is unsatisfactory and often leaves owners with assessments that do exceed full value with no legal remedy.

Ultimately, a statute that targets and unfairly preserves tax assessments on commercial properties that are excessive punishes owners and disincentivizes capital improvements, tax relief for the local businesses to whom excessive taxes are passed to, and fails to account for the realities of real estate economics, results in a dysfunctional commercial sector that diminishes the value of surrounding homeownership and communities. Where the law of unintended consequences prevails, corrective action is required.

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De Blasio to revive property tax reform

Blaming delay on pandemic, mayor commits to finishing plan

Mayor Bill de Blasio said Thursday he will revive his stalled property tax reform effort before leaving City Hall.

At a state Senate hearing, de Blasio committed to restarting hearings on fixing the oft-derided system and producing recommendations before the end of his term, Gotham Gazette reported.

Only two days earlier de Blasio had repeated an excuse that the pandemic “derailed” property tax reform, which he has been identifying as a priority throughout his seven years in office.

“We’ve talked about it internally, we’ve got to restart this engine. We’re absolutely committed to a final report soon,” de Blasio said in response to a senator’s question at the hearing.

Whatever the city comes up with would have to be passed by the state legislature.

Martha Stark, policy director of Tax Equity Now New York, which sued the city in 2013 to force the city to make reforms, criticized the mayor ahead of his announcement at the budget hearing.

“Blaming his inaction on the pandemic shows the mayor’s lack of leadership, courage, and commitment to doing what he could to make NYC’s property tax less of a tale of two cities,” Stark told the paper. “He had six years to make the property tax system fairer for those who were also hardest hit by the pandemic: Black and brown people, the working class, small businesses, and renters.”

The state’s highest court dismissed the industry-backed group’s latest appeal in September 2020.

Since the 1990s the city has periodically moved to overhaul the property tax system, which TENNY and other groups argue favors single-family homes in well-off neighborhoods as well as co-ops and condos at the expense of homes in less-affluent areas and rentals.

In January 2020 the city released a preliminary report with recommendations. The report was widely criticized by the real estate industry for its tameness.

One reason it is so difficult to reform the property tax code is that any plan will raise someone’s property taxes, a prospect that few politicians relish. The system is also infamously opaque and complex, and the stakes are high: Property taxes provide a third of all the city’s revenue.

The city raised $30.7 billion in revenue this fiscal year from property taxes, although next year, with the pandemic lowering property values, that number is expected to dwindle to $29.4 billion.

What’s the Latest on New York’s Proposed Pied-a-Terre Tax?

The tax would apply to homes that are not a principal residence and are valued at more than $5 million

A pied-à-terre tax is currently under consideration by the New York State Legislature that would affect real estate in cities with more than 1 million people.

The tax would apply to one-, two- and three-bedroom properties that are not the principal residence of the owner and which are valued at more than $5 million, according to the bill. A rate of between 0.5% and 4% would be applied on the market value above $5 million.

In addition, condos or co-ops with an assessed value of $300,000 or higher would be taxed at a rate between 10% and 13.5% on the assessed value above $300,000. There would be no tax on the amount under $300,000.

The tax would not apply to homes that are rented out full time or are inhabited by a child or parent of the owner, according to Peter Zinkovetsky, an attorney with New York City-based Zinkovetsky Law Firm.

The proposal, which would have the greatest impact on New York City, was first floated in 2014 by state Sen. Brad Hoylman, a Democrat. Versions of the pied-a-terre tax have been introduced during five legislative sessions, and is now under consideration for 2021-22.

“It’s been brought back to life, mostly because there’s a big hole in the budget,” Mr. Zinkovetsky said.

Indeed, the Covid-19 pandemic has caused budget shortfalls across the city and state, and the pied-à-terre tax could help fill the gap without sacrificing services, according to Mr. Hoylman.

“New York is facing the worst economic crisis in a generation,” the senator said in an email. “I’m concerned budget deficits are going to have a tremendously destructive impact on our social safety net, public schools, the health care system and mass transit. New York needs to keep every progressive revenue raising option on the table, including the pied-a-terre tax.”

The New York City Independent Budget Office estimates the proposal to tax luxury second and third homes would raise at least $232 million annually, according to Mr. Hoylman.

The bill is currently in committee, and no timeline for its advancement has been announced. Gov. Andrew Cuomo has not supported the bill in the past, but has said he may support the initiative in the future because of the state’s budget issues.

What Is the Land Preservation Tax in New York’s Hamptons?

The charge on home sales in five Long Island towns goes to “preserve open space”

Q. I'm looking to buy a home in the Hamptons and the broker has told me that there's a land preservation tax. Can you explain what that is?

A. The Community Preservation Fund Transfer Tax is a charge on the purchase of real estate in five towns in Eastern Long Island: Southampton, East Hampton, Shelter Island, Southold and Riverhead.

Also known as the Peconic Bay Region Community Preservation Fund Tax, the charge was implemented in 1998. The revenue from the tax is put into a “dedicated fund for preserving open space,” according to East Hampton-based real estate attorney Roy Greenberg.

“If you transfer property, there's a 2% tax on the transfer, which is paid by the purchaser,” he said. “If the property is improved, there is a $250,000 deduction off the purchase price. And if it's unimproved, the deduction is $100,000.”

That means that for a $1 million house in East Hampton, Southampton and Shelter Island, the purchaser would pay the 2% tax on $750,000. For a $1 million piece of land, the taxable value would be $900,000.

In Riverhead and Southold, the deductions are slightly less: $100,000 for an improved property and $75,000 for just land, or an unimproved property.

“When this thing passed originally, the thought was that a modest house would cost $250,000, so people buying a modest house wouldn't have to pay the tax,” Mr. Greenberg explained. “Shows you how long ago it was.”

The tax was intended to be a short-term tax, but has been extended by voters several times and now is in effect until 2050. The fund has since been expanded to allow for water protection as well as land preservation, Mr. Greenberg noted.

Now area politicians are looking to underwrite affordable housing with those tax dollars, which are considerable given the increase in home prices in the Hamptons since 1998 and the spike in both transactions and sales driven by the Covid-19 pandemic.

State Assemblyman Fred W. Thiele Jr., a Democrat, put forth legislation last month that would establish Town Community Housing Funds in the five municipalities. The measure would add another 0.5% to the existing 2% real estate transfer tax that funds the Community Preservation Fund, according to a news release from Mr. Thiele’s office.

In addition, the legislation would increase the exemption on the transfer tax for improved property to $400,000 in the towns of East Hampton, Southampton and Shelter Island. The exemption would increase to $200,000 in Southold and Riverhead, and would only apply to transfers of $2 million or less, according to the statement.

The proposal passed in both houses of the New York State Legislature in 2019, but was vetoed by Gov. Andrew Cuomo. The re-introduced proposal is currently under consideration by the Assembly Local Governments Committee, of which Mr. Thiele is the chairman.

NYS Property Taxes: Changes to the STAR Program That May Affect You

If you live in New York State and own real property, you may have heard of the popular School Tax Relief program, better known as the “STAR Program.” When first enacted into law, the STAR Program provided homeowners with an immediate upfront reduction in their annual tax bill as long as their annual household income fell below $500,000. However, as of January 1, 2020, eligibility for the STAR Program has changed.

The biggest change to the STAR Program provides that, for all homeowners with an annual household income between $250,000 and $500,000, your STAR credit will now come in the form of a rebate check versus an immediate and upfront reduction on your property tax bill. Homeowners who fall into this category and pay their property taxes through escrow will now have to adjust to paying their full tax bill in advance and then wait for a rebate check from the State tax department. This can be devastating to families that depend on the maximum amount of disposable income to meet their monthly expenses

The changes to the STAR program do not affect homeowners who purchased their homes after August 1, 2015, given that they were already receiving the STAR benefit in the form of a rebate check.

Homeowners who purchased their home prior to August 1, 2015 and whose annual household income falls below $250,000 will continue to receive the STAR benefit as an upfront exemption. However, the exemption will remain the same on an annual basis, despite any increases to your property taxes. For those “grandfathered” homeowners who wish to receive a 2% increase in their STAR benefit, you will have to switch to the STAR refund check method.

The changes to the STAR Program also affect homeowners who receive the Enhanced STAR benefit. The Enhanced STAR benefit provides a higher property tax reduction to qualifying senior citizens ages 65 or older. These homeowners will now have to re-apply each year for the Enhanced STAR benefit and must also go through an income verification process administered by the State. Seniors that do not want to go through the yearly re-application process for Enhanced STAR may authorize New York State’s Department of Taxation and Finance to annually verify their income by using their Social Security numbers. This will allow verification to be sent to the assessor each year without filling out a new application. Given that Enhanced STAR provides a substantial relief for qualifying senior citizens, most of whom are on a fixed income, it is imperative that you find out the exact requirements for your municipality.

For most counties, the deadline to enroll for Basic STAR or Enhanced STAR is March 1st; however, it highly recommended that you contact your local real estate assessor’s office to confirm :1) the filing deadline imposed for your municipality, and 2) whether the recent changes to the STAR program apply to you. For more information on the STAR Program and to apply, visit the following website: www.tax.ny.gov/star, or contact your local real estate assessor’s office.

How Amendments to the NYS Real Property Tax Law and General Municipal Law Will Affect Taxation of Solar and Wind Farms

Among the legislative amendments included in the 2022 NYS Executive Budget Bill are amendments to the New York Real Property Tax Law (RPTL) and General Municipal Law (GML) that will affect how solar and wind farms will be assessed and their eligibility for financial assistance from industrial development agencies (IDAs).

Real Property Tax Law

Currently, there is no guidance for assessors in the real property tax law related to how solar and wind energy projects should be assessed. However, the Budget Bill creates a new RPTL Section 575-b, which provides that the assessed value for solar and wind energy facilities equal to or greater than 1 MW shall be determined by an income capitalization or discounted cash flow approach that considers an appraisal model. The New York State Department of Tax and Finance (NYSDTF), in consultation with the New York State Energy Research and Development Authority (NYSERDA), is tasked with generating and publishing this model within 180 days of the effective date of Section 575-b. The NYSDTF is also directed to annually publish a discount rate for solar and wind energy systems. In order to facilitate the development and maintenance of the appraisal model and discount rate, owners and operators of wind and solar energy systems may be and likely will be called upon to file annual reports.

The Budget Bill also proposes to amend RPTL Section 487 to modify renewable energy developers’ notice requirements to local taxing jurisdictions concerning the developers’ intent to negotiate payment in lieu of tax (PILOT) agreements with each local taxing jurisdiction. Written notification of intent to enter into a PILOT agreement is now defined as a hard copy letter addressed to the highest ranking official, and must include the specific reference to RPTL Section 487(9), as well as a clear statement that the taxing jurisdiction has 60 days to respond. However, the taxing jurisdiction may, either by local law or resolution, announce its ongoing intent to enter into PILOT agreements for renewable energy projects, rather than individually respond to each owner/developer directly. The exemption under RPTL 487 is also extended to 2030, as opposed to 2025 under the current law.

General Municipal Law

Proposed amendments to Article 18 of the GML expressly include a definition of "renewable energy project" and incorporate such defined term within the broader definition of "project." Under section 854 of the GML, "renewable energy project" would be added and "shall mean any project and associated real property on which the project is situated, that utilizes any system or equipment as set forth in section four hundred eighty-seven of the real property tax law or as defined pursuant to paragraph b of subdivision one of section sixty-six-p of the public service law." By expressly including "renewable energy project" in the definition of "project," this would unequivocally qualify renewable energy projects for financial assistance from an IDA. Further, the proposed amendment to Section 859-a(7)(b) of the GML includes consideration of "the project to the state's renewable energy goals and emission reduction targets" under the Climate Leadership and Community Protection Act (CLCPA), among the criteria for granting financial assistance.

NORTH CAROLINA

Lease Dispute Series: Real Estate Taxes

OVID-19 took many, many things, changed many other things, and brought a lot of new things. One of the new things COVID-19 brought was a whole host of lease disputes. Lease disputes – usually, but not always, tenants looking for a way out of a lease – are always a part of the legal landscape, but the frequency and creativity of lease disputes have been accelerating as of late. As such, we'll spend a little time in our next few posts on lease matters. Today, we'll look at a common area for lease disputes: real property taxes.

Real Estate Taxes In Leases

It's a common feature of commercial leases – and is a necessary ingredient of a "triple net" lease – for the tenant to pay all real estate taxes associated with the leased premises. In *RME Management, LLC v. Chapel H.O.M. Assocs.*, 251 N.C. App. 562 (2017), a commercial lease required – again, as is common – as follows with regard to tenant's payment of real estate taxes: "The Lessee expressly agrees to pay all installments of taxes and assessments required to be paid by it hereunder when due, subject to the right of said Lessee to contest such tax or assessment, in good faith, provided the title of the Lessors shall not be placed in jeopardy by forfeiture, foreclosure, sale under tax warrant, or otherwise."

Real estate taxes in Orange County, the situs of the property at issue in *RME Management, LLC v. Chapel H.O.M. Assocs.*, 251 N.C. App. 562 (2017), are billed in July and, under State law, are "due and payable on September 1 of the fiscal year for which the taxes are levied". To this end, stopping there, it appears that the lease requires payment of the real estate taxes "on September 1", as required by State law. But the State law doesn't stop there. It continues that real estate taxes are "payable at par or face amount if paid before January 6 following the due date" and only "[t]axes paid on or after January 6 following the due date are subject to interest charges".

Over time, in prior years, tenant paid the real estate taxes after September 1.

The Arguments

When tenant did not pay the real estate taxes on September 1, landlord sent a September 21 letter to the tenant, defaulting the tenant "for failure to pay all taxes as required pursuant to the lease". Tenant responded, citing to State law and arguing: "Pursuant to N.C.G.S. § 105–360, 2015 real property taxes are payable without interest through January 5, 2016. Real property taxes are not delinquent, and interest does not begin to accrue until January 6, 2016. As such, there exists no delinquency in the payment of real property taxes and no default under the terms of the Lease."

The Disposition

Landlord filed an action in summary ejectment, which the small claims court dismissed. On landlord's appeal, the district court granted summary judgment for the tenant (yes, you can move for summary judgment on an appeal from a small claims matter, such as an appeal of a summary ejectment decision), with reasoning based on the State law and on the course of dealing between the landlord and tenant: "Here, the course of dealing clearly shows that the parties historically did not construe the lease to require that the taxes be paid by midnight on September 1 each year; they understood the terms "pay" and "pay when due" to have been used in their ordinary sense, rather than within the technical, literal definitional requirements of [N.C.G.S. 105-360].

The Appellate Decision

The Court of Appeals affirmed the trial court's grant of summary judgment, ruling that tenant did not default under the lease in failing to pay the real estate taxes on September 1. The Court essentially reasoned that (1) "[a]n additional principle of contract construction is that 'parties are generally presumed to take into account all existing laws when entering into a contract'", meaning that the language of N.C.G.S. 105-360 that taxes are "payable at par or face amount if paid before January 6 following the due date" is infused into and part of the lease terms, and (2) to agree with landlord's position and require payment on September 1, would mean tenant "could only meet their obligation by paying the property taxes on, and only on, September 1st", which "is a nonsensical, hyper-technical construction of the lease and North Carolina property tax law".

The Court did not address the course of dealing between landlord and tenant, in terms of its impact on lease construction.

The Takeaway

It seems to us that this dispute was not about property taxes, but rather about an effort on the part of the landlord to end the lease term on whatever basis it could reasonably find. And that's not unusual, provided there is an actual default. Turns out, here, the payment of real estate taxes wasn't such a default.

OHIO

Time to File Real Property Tax Complaints in Ohio for Tax Year 2020

This cycle is not evenly distributed amongst Ohio's 88 counties. For tax year 2020, 13 of Ohio's counties were required to conduct a full reappraisal and another 28 counties performed an update of values. The tax year 2020 values have an assessment date of January 1, 2020 and serve as the basis for property tax bills paid in 2021. Many counties in the Columbus, Cincinnati, Dayton, and Akron areas conducted full reappraisals or updates of real property tax values for tax year 2020.

It can be difficult for the counties to fully understand specific challenges facing a particular property or property type. While the counties may generally understand market trends, often times the mass appraisal process overlooks key factors in valuing a market segment or a single property. It is essential that property owners be proactive and review any change in value and determine how the potential changes affect property tax expenses.

Property taxes are frequently the largest non-productive expense incurred by property owners, and proactive management of this expense may result in increased profitability. Now is the time to review your tax assessments to make sure that each property is valued appropriately and that you are paying your fair share, and only your fair share, of the property tax burden. All complaints must be filed on or before March 31, 2021 to contest the tax valuations of property for tax year 2020.

While real property tax values can be challenged in any county for tax year 2020, the following counties are those required to reappraise or update the tax values as of January 1, 2020:

Reappraisal Counties		Update Counties	
Ashland	Knox	Auglaize	Mahoning
Ashtabula	Madison	Clinton	Mercer
Athens	Montgomery	Darke	Morrow
Butler	Noble	Defiance	Perry
Clermont	Summit	Delaware	Pickaway
Fulton	Wayne	Franklin	Pike
Greene		Gallia	Preble
		Geauga	Putnam
		Hamilton	Richland
		Hardin	Seneca
		Harrison	Shelby
		Henry	Trumbull
		Jackson	Van Wert
		Licking	Wood

PENNSYLVANIA

Allegheny County Property Tax Appeal Season Recommences: COVID May Have an Economic Impact on Your

In Allegheny County, tax appeal season has begun for 2021. Every year, County property owners have the opportunity to file an assessment appeal, and as always, an appeal may provide an opportunity for a reduction in your taxes. In particular, those whose properties have been impacted by COVID-19, particularly through closures or lost property rentals may wish to consider an appeal this year.

Initially, owners should determine if their property has actually decreased in value. Home sales were strong in 2020 and non-retail business properties, especially in the suburbs showed some stability. But consideration should be made of general value trends outside of COVID, whether over the past several years or suddenly in the last several months. Even without the pandemic, buildings may need renovation. Your home or business property may be in areas that are not "hot spots" relative to the rest of the County. For commercial parcels, increased vacancies or rent reductions caused by market conditions can lessen a parcel's value. Of course, if your business properties have been hurt because of the pandemic, justification for an assessment decrease may exist if the property produces less income.

Also keep in mind that in Allegheny County, as in every other county in Pennsylvania, assessments are subject to the "common level ratio." Very roughly speaking, this ratio is like a deflation factor so that owners do not face assessment increases merely because the cost of living has risen.

For 2021 the ratio in Allegheny County is 87.5%. That means that if you have a property that has a fair market value of $100,000, for assessment purposes, the property should be taxed at $87,500. As a result, even if a property has remained the same in value or has undergone marginal value increases over the past few years, taxpayers still may be eligible to achieve an assessment reduction.

Assessment reductions are usually proven through recent sales of comparable properties, or if the parcel produces income, through the property's income and expense statements. Owners should use common business sense in considering whether to file an appeal. If properties in your area are selling for $1.5 million and your assessment is $1 million, careful consideration should be made before filing an assessment appeal.

The officials hearing your tax appeal at the Board of Property Assessment (the first stage of the assessment process in Allegheny County), or at the Board of Viewers (the second stage) are very knowledgeable about local real estate. But if sound reasons exist, opportunities should be pursued and retention of legal counsel knowledgeable about Allegheny County tax appeal law and practice should be considered. The appeal deadline is March 31, 2021.

TEXAS

2021 property tax relief? Only time will tell

As we enter into 2021 with the hope of what a new year can bring, many are left wondering when the effects of the narrative shifting from "these uncertain times" to "economic impact relief" will be felt. Within the last eight months, we have seen emergent relief efforts addressing individuals, families, small businesses, state and local governments, as well as industries as a whole through the CARES Act, but what is sustainable or allows for the varying degrees of resiliency across multiple populations?

2021 relief

While Texans prepare to pay their property tax bills by the end of this month, they are not feeling any tax-related relief, and in some cases, they may be feeling more of a burden. In the words of "Gone with the Wind" author Margaret Mitchell, "Death, taxes, and childbirth! There's never any convenient time for any of them." This is such a true statement, especially given the year we just experienced.

So, why didn't we see more relief reflected in our property tax bills this year? Appraisal districts use Jan. 1 for value assessment purposes each year; therefore, they were unable to take into account the effects of the pandemic for 2020 because Gov. Greg Abbot didn't declare a disaster declaration for Texas counties until March 13. In addition, there was debate over perceived economic property damage versus physical damage that results from a natural disaster.

As Texans dealt with these disappointing and confusing facts, they were left asking "what can be done or how can I get some relief in the future?" While time was not on our side in 2020 in terms of property tax relief, we may find ourselves in a much better position in 2021 as we enter the 87th Texas legislative session.

87th legislative session

Jan. 12 marked day one of this year's biennial legislative session and the start of what could be considered a very active 140-day stretch for lawmakers with over 100 more bills pre-filed in November 2020 than November 2018. Among those were three relating to property taxes.

HB 35 relates to SB 2 and HB 3 passed in the 2019 legislative session by adding a turnout requirement on the voter approval needed to raise a property tax rate above 3.5%. It would require more than 25% of registered voters to cast ballots in order to pass. One of the most widely discussed property owner tax burdens are independent school districts (ISDs). HB 59 seeks to eliminate the maintenance and operations (M&O) rate which is most often the largest line item factored in an ISD's tax rate. The third pre-filed bill concerning property taxes is HB 529, which would reduce the 10% limit on homestead appraisal increases to 2.5%.

While we can't predict if these bills or any others relating to property taxes will pass, what we can be sure of is if they are passed none of them will go into effect until Aug. 1, 2021.

Only time will tell what future relief — if any — could look like, therefore, it's important now more than ever to review your property portfolio with an expert. Like many of the emergent relief efforts over the past year, it's not about what help is out there, but what qualifications are needed to get it.