IPTI Xtracts

Property Tax and Assessment News from Around the World

UNITED STATES – May 2022

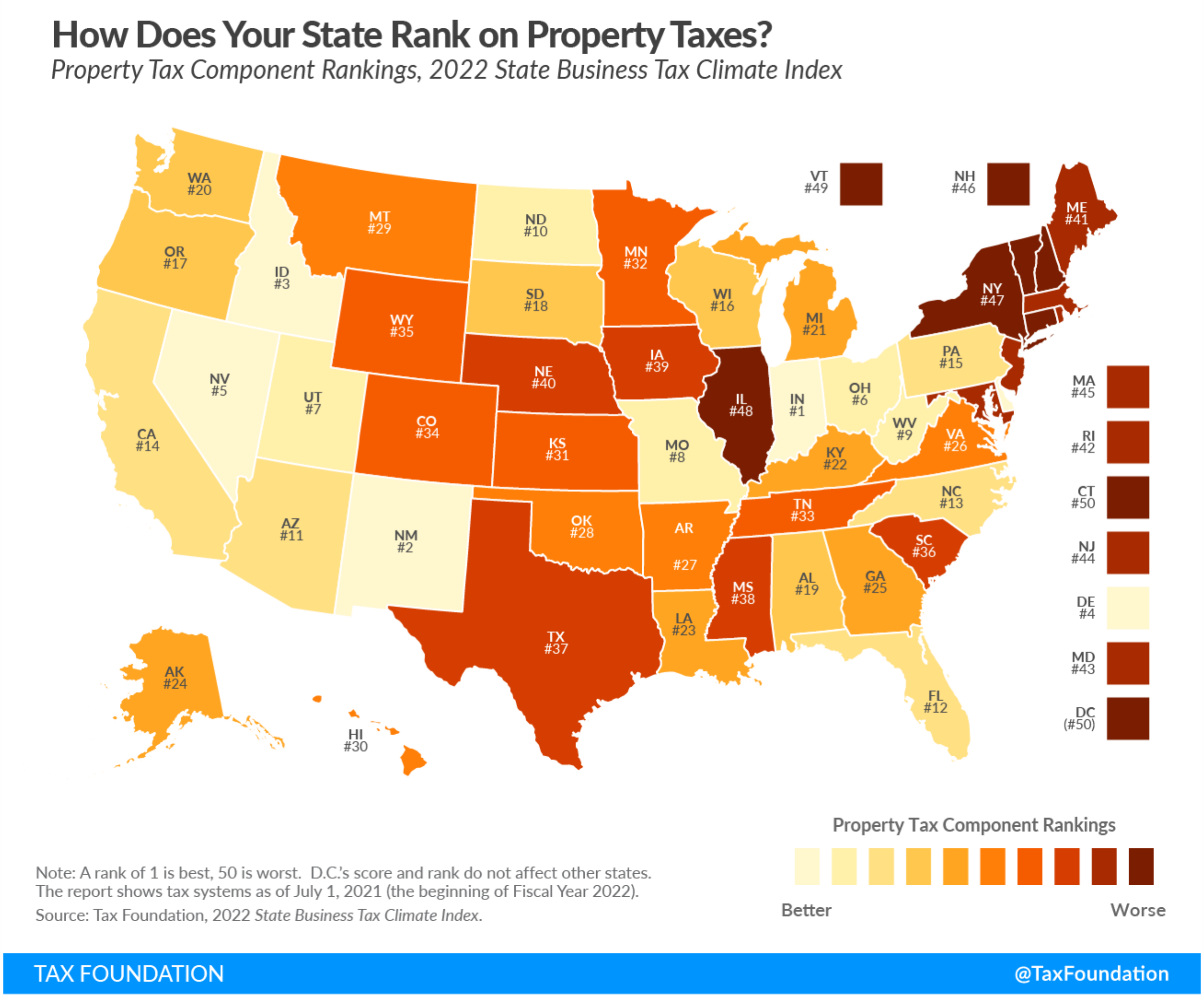
Contents

Ranking Property Taxes on the 2022 State Business Tax Climate Index

Today's map shows states' rankings on the property tax component of our *2022 State Business Tax Climate Index*. The *Index*'s property tax component evaluates state and local taxes on real and personal property, net worth, and asset transfers. The property tax component accounts for 14.4 percent of each state's overall *Index* score.

Property taxes matter to businesses for several reasons. First, businesses own a significant amount of real property, and tax rates on commercial property are often higher than the rates on comparable residential property. Many states and localities also levy taxes not only on the land and buildings a business owns but also on tangible property, such as machinery, equipment, and office furniture, as well as intangible property like patents and trademarks. Across the nation, property taxes impose one of the most substantial state and local tax burdens most businesses face. In fiscal year 2020, taxes on real, personal, and utility property accounted for almost 38 percent of all taxes paid by businesses to state and local governments, according to the Council on State Taxation.

Although taxes on real property tend to be unpopular with the public, a well-structured real property tax generally conforms to the benefit principle (the idea in public finance that taxes paid should relate to benefits received) and is more transparent than most other taxes.
Taxes on intangible property, wealth, and asset transfers, on the other hand, are harmful and distortive. States that levy such taxes—including capital stock taxes, inventory and intangible property taxes, and estate, inheritance, gift, and real estate transfer taxes—are less economically attractive, as they create disincentives for investment and encourage businesses to make choices based on the tax code that they would not make otherwise. Businesses with valuable trademarks may seek to avoid headquartering in states with intangible property taxes, and shipping and distribution networks might be shaped by the presence or absence of inventory taxes.
States are in a better position to attract business investment when they maintain competitive real property tax rates and avoid harmful taxes on tangible personal property, intangible property, wealth, and asset transfers. This year, the states with the best scores on the property tax component are Indiana, New Mexico, Idaho, Delaware, Nevada, and Ohio. States with the worst scores on this component are Connecticut, Vermont, Illinois, New York, New Hampshire, Massachusetts, New Jersey, plus the District of Columbia.



To gauge whether your state's property tax structure has become more or less competitive in recent years, see the following table. (Methodological changes are backcast to prior years to facilitate comparability.)

Property Tax Component of the *State Business Tax Climate Index* (2019–2022)

State	2019 Rank
Alabama	19
Alaska	22
Arizona	11
Arkansas	26
California	13
Colorado	33
Connecticut	50
Delaware	4
Florida	12
Georgia	29
Hawaii	21
Idaho	3
Illinois	48
Indiana	2
Iowa	38
Kansas	31
Kentucky	23
Louisiana	27
Maine	40
Maryland	41
Massachusetts	45
Michigan	25
Minnesota	32
Mississippi	37
Missouri	9
Montana	30
Nebraska	39
Nevada	5
New Hampshire	46
New Jersey	44
New Mexico	1
New York	47
North Carolina	14

Property Tax Component of the *State Business Tax Climate Index* (2019–2022)

State	2019 Rank
North Dakota	6
Ohio	7
Oklahoma	28
Oregon	16
Pennsylvania	17
Rhode Island	42
South Carolina	36
South Dakota	15
Tennessee	35
Texas	34
Utah	8
Vermont	49
Virginia	24
Washington	18
West Virginia	10
Wisconsin	20
Wyoming	43
District of Columbia	49

Note: A rank of 1 is best, 50 is worst. All scores are for fiscal years. DC's score and rank do not affect other states.
Source: Tax Foundation.

Abraham Lincoln supported a wealth tax. Here's why.

The principles behind the American Revolution justified such a tax

In opposition to the Biden administration's proposed "Billionaire Minimum Income Tax," Sen. Joe Manchin III (D-W.Va.) argues, "You can't tax something that's not earned. Earned income is what we're based on." Supporters of a wealth tax frequently cite its successful implementation in Europe's social democracies — which only reinforces the sense that a wealth tax would be an un-American resort to European socialism.

But this wasn't always the case in America. In President Abraham Lincoln's generation, wealth taxes were the principal way to forestall the return of aristocracy. In other words, wealth taxes were hardly a foreign import — they were the very fulfillment of the American Revolution.

Issues surrounding taxation were central to the grass-roots revolt that precipitated the American Revolution. During the Stamp Act crisis, for instance, artisan and working-class revolutionaries targeted the trappings of wealth, such as chariots and fancy houses. These working people resented the British-imposed aristocracy that used regressive taxation to lord their wealth and status over the working people of America.

While elite revolutionaries sometimes sought to contain the egalitarian tendencies of the revolution, they, too, sought to forestall the return of aristocracy by making taxes progressive. Alexander Hamilton argued that the federal government should seek "to lay the principal burdens on the wealthy." These were, he said, "easy and equal principles." "Equality," for Hamilton, meant a progressive tax, not a flat one. His political rival Thomas Jefferson agreed.

But enslaved people were assets, so as historian Robin Einhorn shows, Jefferson and other enslavers preferred a tariff on imports instead of a wealth tax. South of the Ohio, Southern enslavers refused to pay taxes to fund public schools or railroads that would benefit anyone other than the ruling enslaver elite. Even before the Civil War in Jefferson's Virginia, the state's western counties itched to secede from the state — in part to break from what they viewed as a regressive, aristocratic, un-American, enslaver tax regime. A senator like Manchin from West Virginia should have this history in his bones. West Virginia did not have public schools until it achieved statehood in 1863, when its first Constitution mandated a wealth tax.

Before the Civil War, wealth taxes were imposed at the state level and only in the North, where schools, roads, canals and even railroads were funded by borrowing backed by the public power to tax. Beginning as part of the Northwest Territory, Illinois had always had a wealth tax, and, over the decades, various efforts were made to reach intangible assets like stocks or bonds.

The Illinois Revenue Act of 1839 that Lincoln as House minority leader helped shepherd through the state legislature, for example, required residents to list the true value of their stock and pay a tax on it. Lincoln thought the act was "right" because it did not increase the tax on "the many poor" but on "the wealthy few." The personal-property types taxed by the Revenue Act included items that only the wealthy were likely to own: "slaves, and servants of color, clocks, watches, carriages, wagons, carts, money actually loaned, stock in trade and all other description of personal property, of the stock of incorporated companies." (Yes, there were "indentured servants" in Illinois held over from slavery before 1818 who had been effectively grandfathered into slavery, and this property would now be taxed.)

Directly counter to Manchin's contention that Americans do not have a history of taxing "unearned income," Lincoln's Revenue Act prevented the wealthy from hiding their assets by purchasing a bond or otherwise loaning money. Since these assets were "invisible" to the assessor who knocked on the door, he could require an oath from the wealthy taxpayers stating that they had faithfully declared all their taxable assets, including any "unrealized" capital gains.

In other words, assessors were not required to list all of the property of a given taxpayer. The assessor who knocked on the door was to list (and, ultimately, tax) only the kinds of property on a list that was skewed toward assets owned by the wealthy. He took down (and taxed) only an "estimate" of the value of all other personal property.

Land was by far the most valuable asset in the state, however, and the Revenue Act targeted the wealthy here, too. The new law abandoned an outmoded land classification scheme. Some wealthy land-holders faced a 24-fold increase in taxes — and some of Lincoln's friends were among the chief complainers. Land baron and future Lincoln campaign manager David Davis muttered that Illinois was becoming a "Sucker State," while Iowa was looking attractive.

But Lincoln was not finished taxing the wealthy. In 1841, he proposed a four-dollar-per-acre minimum land value on unimproved lands previously valued at only one dollar. He had to settle for three dollars. Speculators had bought up land cheaply because they had access to cash. Arbitrarily valuing these lands at three times the market value, Lincoln not only taxed unrealized capital gains, he further sought to forestall the gains entirely by forcing the land barons who kept land from actual settlers to sell it at depression prices. Shouldn't this have violated the constitutional mandate of a "proportional" property tax as required by the Illinois (and eventually the West Virginia) Constitution? No. Variations from strict proportionality were fine if they served a "republican," which is to say, an egalitarian, interest.

Why were these wealth taxes so important to Lincoln? He thought that Americans were supposed to be "self-made," and a republican government existed to provide opportunities to everyone, not just to children with wealthy parents who might buy them a farm. Lincoln reminded critics of his new tax law that only truly popular representation would prevent the rise of an aristocracy.

Lincoln's class politics, which were deeply rooted in the American Revolution, cannot be dismissed. The purpose of popular representation was to ensure the wealthy did not skip out on paying taxes and impose the burden instead on working people — as the British aristocracy around the world had done. As the popular refrain from the American Revolution put it: "Taxation without representation is tyranny."

It is not merely that progressive wealth taxation is not prohibited by the American republican tradition. More accurately, it would be a betrayal of America's founding principles not to tax wealth progressively, including "unrealized" capital gains. To suggest otherwise would be, well, un-American. Or as Lincoln said, it would be "wrong within itself."

Perspective by Stewart Winger

Stewart Winger is associate professor of history at Illinois State University and currently completing a book, "Revolutionary Republicanism: Lincoln, Internal Improvements, and the Democratization of American Capitalism."

Property taxes on U.S. homes rose to $328 billion in 2021, report finds

Unsurprisingly, the spike in home values meant that property tax collections increased in 2021, compared with 2020, according to information compiled and analyzed by Attom, a real estate data analysis firm.

Attom's researchers reviewed property tax data for nearly 87 million homes in the United States and found that $328 billion was levied, up 1.6 percent from the $323 billion in 2020. Despite the price increases on homes in 2021, this was the smallest rise in property tax bills over the past years and down from the 5.4 percent increase between 2019 and 2020.

The discrepancy between the home price increase of 16 percent in 2021 from 2020 and the much smaller increase in property tax bills is likely a reflection of the lag in tax assessments, according to Rick Sharga, executive vice president of market intelligence at Attom. In other words, homeowners may see their property taxes rise higher in 2022.

The average tax bill on single-family homes in the United States increased at the smallest rate in the past five years, up 1.8 percent from $3,719 in 2020 to $3,785 in 2021. The effective tax rate, which refers to the average annual property tax expressed as a percentage of the average estimated market value of homes, was 0.9 percent in 2021, down from 1.1 percent in 2020. Because home values rose much more quickly than tax rates, the effective tax rate declined.

In 74 percent of the 220 metro areas analyzed by Attom, the increase in the average property tax bill was higher than the national average of 1.8 percent.

Where property taxes are highest

In New Jersey, the average single-family home tax was $9,476 in 2021, the highest in the nation. Other states among the top five highest include Connecticut ($7,464), Massachusetts ($6,777), New Hampshire ($6,698) and New York ($6,617).

Where property taxes are lowest

The state with the smallest average tax bill was West Virginia at $901 in 2021. Other states among the five with the lowest property tax bills included Alabama ($905), Arkansas ($1,195), Mississippi ($1,243) and Louisiana at $1,248.

D.C.-area property taxes

In counties near Washington, D.C., the average property tax bill was $9,526 in Arlington, Va.; $8,942 in Fairfax County, Va.; $6,837 in Montgomery County, Md.; $6,243 in Washington, D.C. and $4,741 in Prince George's County, Md.

The effective tax rate in those areas range from a high of 1.01 percent in Prince George's County to 0.93 percent in Fairfax County, 0.85 percent in Arlington County, 0.79 percent in Montgomery County and 0.55 percent in D.C.

COLORADO

High-stakes property tax battle ends dramatically as sides agree to embrace $700M reduction

Legislature will move forward with Senate Bill 238, which would reduce projected property tax increases by $700 million over the next two years, as is

Colorado's property tax arms race ended Friday morning after conservative and liberal groups moved to withdraw the ballot measures they were pursuing for the November ballot that would have dramatically altered the tax code.

Democratic leaders in the Legislature, meanwhile, vowed not to pursue an opposing ballot initiative that would have prevented property tax changes from being made through the statewide ballot.

In exchange, the Legislature will move forward with Senate Bill 238 without changes, a measure that, if it is signed into law in the coming days as expected, will reduce projected property tax increases by $700 million over the next two years. The legislation was aimed at heading off an even bigger reduction being pushed by business interests.

The decision by all sides to back down ends a high-stakes game of chicken that threatened to grip the Capitol in the final days of the 2022 legislative session. In jeopardy were billions of dollars in funding for schools and local governments.

The agreement reached Friday was so tense and sensitive that those involved asked for photographs of notarized documents before they agreed to back down. The signed documents withdrawing the ballot measures have been gathered by a third party and will be submitted to the Colorado Secretary of State's Office once Senate Bill 238 is sent by the Legislature to Gov. Jared Polis to be signed into law.

Here are the details of what happened in exchange for Senate Bill 283 moving forward without significant changes:

- Scott Wasserman, who leads the liberal-leaning Bell Policy Center, and Javier Mabrey, a Democratic housing activist running to be a state lawmaker, signed documents withdrawing their proposed ballot measures that would have enacted a new property tax or fee on homes worth more than $2 million.
- State Rep. Colin Larson, R-Ken Caryl, signed documents withdrawing his initiatives that would have capped property valuation increases at roughly 3% for taxation purposes.
- Suzanne Taheri, who works with conservative fiscal policy activist Michael Fields, signed documents withdrawing his initiative that would have capped property tax increases at 2% annually "unless the property is substantially improved by adding more than 10% square footage to the existing building or structures or its use changed in which the property's actual value shall be reappraised."
- Democratic leaders in the Legislature promised to shelve their attempt to block property tax changes on the statewide ballot.

"My hand is off the button," said Sen. Chris Hansen, a Denver Democrat who is a prime sponsor of Senate Bill 238 and who was working on the ballot initiative to restrict how property tax changes can be made. "I'm so glad we would work out a common-sense legislative solution to this situation."

Larson said that "getting everyone to stand down was important."

"At the end of the day," he said, "the stakes were getting too high."

Wasserman and Mabrey, however, said in a joint statement that "this debate is far from over."

"We continue to have a very unfair tax code that can't tell the difference between a starter home and a mansion," the pair said. "Some of the wealthiest people and interests in our state are using the citizens initiative process to control the conversation and force changes that defund communities instead of making them stronger. We're glad a deal was reached that avoids permanent damage to our state and delivers some economic relief to those who need it. But we know there are better ways to solve our housing affordability crisis."

Senate Bill 238 was the result of weeks of behind-the-scenes negotiations between Democrat Polis, Democratic leadership in the Legislature and Colorado Concern, a nonprofit representing the state's business executives. It was unveiled Monday to prevent Colorado Concern, which was working with Larson, from moving forward with the ballot measures seeking to cap property valuations for taxation purposes at around 3%. The measures were expected to reduce property tax revenue for local governments and schools by $1.3 billion in their first year.

Colorado Concern agreed to stop pursuing its initiatives in exchange for a bill cutting property taxes by $700 million in the 2023 and 2024 tax years, with the state kicking in roughly $400 million to make up for the revenue loss for schools and local governments, which are primarily funded by property tax revenue.

However, opponents of the bill – including Larson and Fields – took issue with how Colorado would come up with some of that $400 million. Roughly half that sum is already set to be refunded to taxpayers next year under the Taxpayer's Bill of Rights, which caps how much revenue the state can collect.

Larson and Fields were threatening to move forward with their ballot initiatives seeking far deeper cuts if the provision about the use of TABOR refunds wasn't changed. They also wanted Wasserman and Mabrey to withdraw their proposed ballot measures.

On the other side were Hansen and Sen. Bob Rankin, R-Carbondale, the prime sponsors of Senate Bill 238, who were threatening to move forward with a ballot initiative that would have changed the state Constitution and prohibited property tax changes from being made through statewide ballot measures. The initiative would have come in the form of legislation and would have required the support of two thirds of the Legislature to make the November ballot.

In the end, all sides decided to back down.

Mabrey and Wasserman signed notarized documents withdrawing their measures in the basement of the Colorado Capitol on Friday morning under the watchful eye of a lobbyist for Colorado Concern, which helped broker the end of the standoff.

Photos were taken of the documents to prove to all sides, who remained nervous about the agreement, that they could move on.

Senate Bill 238 passed the House on Friday. The Senate then approved House amendments to the bill, sending it to Polis to be signed into law.

Colorado governor, lawmakers unveil plan to slash property taxes by $700M to head off business group's ballot measure

The relief would last two years. Gov. Jared Polis said his plan is to use that time to find a longer-term solution to Coloradans' rising property tax bills

Colorado property owners would get a $700 million break on their rising tax bills over the next two years under a plan unveiled Monday by Gov. Jared Polis and state lawmakers that's aimed at preventing a business group from pursuing an even larger reduction in November.

The legislature, in a deal reached in the final days of Colorado's 2022 legislative session, would also spend $400 million from the general fund to blunt the financial effect of the reduction in expected taxes on schools and local governments, which are primarily funded by property tax revenue.

"We know every part of the state is seeing higher home values and costs," said House Majority Leader Daneya Esgar, a Pueblo Democrat. "We're doing this legislation to make sure that our economy can continue to grow without significant increases in property taxes and we're making sure that we can continue to put more money in classrooms."

The agreement, which is set to be introduced in the form of a bill, is the culmination of months of discussions between the governor's office, Democratic leadership at the Colorado Capitol and Colorado Concern, a nonprofit representing the state's business executives that was pursuing a measure on the November ballot that would have capped property valuation increases at roughly 3% for taxation purposes.

The Colorado Concern initiative was forecast to reduce expected property tax revenue by $1.3 billion in its first year, a hit that opponents warned could be catastrophic for schools and local governments. Colorado Concern pitched the measure as necessary to blunt the economic effects of inflation and the general rising cost of living in Colorado.

Colorado Concern has agreed to stop pursuing its ballot initiative as long as the proposal unveiled Monday doesn't change and passes the legislature.

"Colorado Concern is focused on tax relief for property taxpayers and improving our current property tax system to make it simpler and more predictable for both residential and business owners," said Mike Kopp, who leads Colorado Concern. "The governor and many in the legislature are focused on similar objectives and, with a little luck, our objectives will overlap and we will not need to proceed with a ballot measure. "

Polis, in an interview with The Colorado Sun, said that "by providing this relief valve and immediate property tax relief for every Coloradan, we'll address some of the concerns from several entities that have filed property tax-related initiatives."

The governor said he intends to begin negotiating a longer-term property tax relief mechanism.

"We're confident that … we'll be able to work with the business community, with school districts (and) with many others to figure out what a long-term solution looks like," Polis said. "This is a two-year property relief, property tax cut package. The thought is that during those two years, we will work on what a more permanent solution looks like."

Here's how the relief, offered through Senate Bill 238, would work:

- For the 2023 tax year, the residential assessment rate used to calculate how much a residential homeowner owes in property taxes would be reduced to 6.765% from 7.15%. Additionally, the first $15,000 in taxable value of a residential property would be waived.
- For commercial properties, the assessment rate in 2023 would be reduced to 27.9% from 29%. Additionally, the first roughly $30,000 in taxable value of a commercial property would be waived.

Assessment rates are used to calculate how much someone owes in taxes by multiplying the rate by a home's assessed value, which is determined by a county assessor. What a property owner pays is then determined by the mill levy rate. A mill is a $1 payment on every $1,000 of assessed value.

The reduction would mean that a residential property owner who owns a home with an assessed value of $300,000 in an area with a mill levy rate 100 would pay $1,963 versus $2,145.

The median sale price of a single-family house in Colorado hit $575,000 in March, up nearly $100,000 over the year before.

Polis said the average residential property owner in Colorado would save about $260 a year on their property taxes under the change.

In 2024, the rates would go up slightly to match a reduction already approved for the 2021 and 2022 tax years thanks to a measure passed by the legislature in 2021. For single-family residential property owners, the assessment rate would be approximately 6.95%, down from 7.15%. For multifamily residential property, the rate would be 6.8%.

For those who own commercial property used for agriculture and to produce renewable energy, the assessment rate would be 26.4%, down from 29%.

Finally, the legislature is proposing to continue a change allowing senior citizens to defer all of the increases in their property taxes until they sell their homes while allowing everyone else to defer any increases over 4%.

Rep. Mike Weissman, an Aurora Democrat working on the bill, said the property tax changes in 2023 aim to help lower and middle income Coloradans through the section waiving some assessed value. Without that provision, he argues, well-to-do people would benefit more from the changes.

But Amie Baca-Oehlert, president of the Colorado Education Association, the state's largest teachers union, and Carmen Medrana, who leads United for a New Economy, a progressive group, blasted the proposal and complained that they were left out of its formation.

"We're disappointed Gov. Polis and legislators are working behind closed doors to cut a deal that would give some of the richest and most powerful special interests fiscally irresponsible, inequitable property tax cuts," the pair said in a written statement. "… While we're disappointed in the process so far, we look forward to working with legislators, the governor and other organizations representing working Coloradans as this bill moves forward — and as a permanent solution is debated and designed."

The bill making the changes is expected to be bipartisan thanks to the sponsorship of Sen. Bob Rankin, a Carbondale Republican.

"This represents a big step forward, I think, on the property tax debate," said Sen. Chris Hansen, D-Denver. "We think we've got something that is really balanced and will provide immediate relief but not cut into K-12 or the other important local services."

One hiccup in the deal could be how proponents of the proposal plan to spend $400 million to help schools and local governments weather the reduction in property tax revenue.

According to Hansen, half of that money will be spent by the legislature this year through the general fund. The second half will also come from the general fund but will count toward the $1.3 billion to $1.6 billion that is projected to be owed to Coloradans from next fiscal year because of the Taxpayer's Bill of Rights cap on government growth and spending.

In other words, the legislature plans to use $200 million that would have been refunded to taxpayers toward covering the cost of their property tax reduction bill.

State Rep. Colin Larson, a Ken Caryl Republican who was working on the Colorado Concern ballot measure, said that was a surprise that threatens the delicate deal, which was negotiated in good faith. Larson argues that by using TABOR refund money to blunt the effects of the property tax cut the tax relief plan really totals $500 million, not $700 million.

Polis said the legislation is part of his "saving-people-money agenda" this year that comes as Republicans are hammering him and other Democrats heading into the November election over the rising cost of living. Last week, Polis and Democrats in the legislature introduced a plan to advance refund checks owed to Coloradans under the Taxpayer's Bill of Rights, which limits government growth and spending. Instead of receiving the checks — which would be $400 for individuals and $800 for joint files — in April 2023, they are now slated to be sent out in late August or early September.

Asked, however, whether the property tax relief would have been brought without the threat of Colorado Concern's further-reaching ballot measure, the governor didn't directly answer.

"There's a lot of thought that's gone into a comprehensive agenda to save people money," he said.

CONNECTICUT

In Hartford, more than 1,500 properties don't pay local real estate taxes. Here's what they are.

The city of Hartford's push to pay for municipal services and its schools and, at the same time, whittle away at a tax rate that is the highest in the state comes up against a sobering reality: 1,500 properties that don't have to pay real estate taxes.

A 2021 statewide report from the state Office of Policy and Management showed that if taxed, Hartford's tax-exempt property would account for 51% of the city's grand list in 2019 bested only by New Haven, with 56% and Mansfield, at 58%. According to the report, most towns and cities in Connecticut were 30% or less, with the statewide average coming in at 14.2%.

A review by The Courant of real estate tax data provided by the city as of Oct. 1 showed that tax-exempt real estate would have generated $370.3 million in property taxes for the city, ranging from state-owned buildings and private colleges to hospitals and historical sites. The Courant's review focused on real estate and does not include business equipment, other personal property and eligible motor vehicles.

"For a city like Hartford, it's all the more exacerbated by the fact that the city's tax base is limited to begin with," said Matt Hart, executive director the Capital Region Council of Governments and former town manager of West Hartford. "It's a small geographic area, and Hartford's grand list is roughly half the size of West Hartford's, but the population is twice as large as West Hartford's."

"So, that serves to show the challenge the city is facing," Hart said.

The exempted properties bring many other benefits to the city: culture and arts that attract visitors; colleges and universities that introduce students — and potential future workers — to the city; and centers of medical care that are using cutting-edge technology.

In a state where towns and cities depend heavily on property taxes to pay for municipal services and schools, the loss of tax revenue still remains a critical issue for Hartford.

“One of the challenges for Hartford is that we are a geographically small city with very few undeveloped parcels of land that aren’t brownfields,” Hartford Mayor Luke Bronin said. “That means the opportunities for growth are limited by our size.”

Hartford encompasses about 18 square miles.

“If you take a geographically small city and then, take half of the property off the tax rolls, it leaves a much smaller taxable base,” Bronin said.

The state does reimburse Hartford — as it does other cities and towns — a portion of the lost tax revenue for state-owned buildings, private colleges and schools and hospitals, through an annual “payment in lieu of taxes,” known by its acronym “PILOT.”

According to the city’s tax data, the largest block of tax-exempt property is owned by the city. But state-owned property — as Hartford is Connecticut’s capital city — comes in a clear second.

The PILOT program has existed for decades. Traditionally, state law called for a 45% reimbursement of property taxes for state-owned buildings and 77% for private colleges and schools. But the actual funding also was subject to the financial ups and downs of the state budget.

According to the Connecticut Conference of Municipalities, PILOT reimbursements were actually 14% for state properties in 2021, and 22% for private schools and hospitals.

“They have been nowhere close to where they should be,” George Rafael, director of CCM’s Municipal Resource and Service Center, said. “They made some changes last year that boosted some of the reimbursements but not to the level required by statute.”

State lawmakers approved changes that include creating a three-tiered system that now provides for a new PILOT reimbursement for the poorest cities, which includes Hartford. The program now provides Hartford and other “tier-one” cities 50% of what would have been due under a combination of the existing percentage reimbursements for state-owned buildings and private schools and hospitals.

Under the change, Hartford saw its PILOT payment rise to $52 million in fiscal year 2022, up from $32 million, the previous year, according to CCM.

Bronin said the change certainly has helped, but with a far lower reimbursement for state-owned real estate, the city is still behind.

"Hartford is home to such a large concentration of state buildings that the less favorable funding formula makes a big difference," Bronin said.

Here is a look at a dozen categories of tax-exempt real estate in Hartford:

1. City of Hartford
No. of properties: 498

Annual exempted taxes: $100.5 million

The details: These properties include City Hall, schools and fire stations. But the properties also encompass parking lots, parcels slated for redevelopment and properties taken by the city in foreclosures.

2. State of Connecticut
No. of properties: 178

Annual exempted taxes: $85.8 million

The details: There is a heavy concentration of state-owned buildings in Hartford because the city is the state capital. The Capitol building is immediately recognizable, but there are dozens of other properties such state office buildings, the University of Connecticut's downtown campus, the Hartford Correctional Center and Hartford-Brainard Airport.

3. General hospitals & other health care
No. of properties: 64

Annual exempted taxes: $76.9 million

The details: Hartford's hospitals — including Hartford Hospital, St. Francis Hospital and Medical Center and Connecticut Children's Medical Center — maintain sprawling main campuses in the city.

4. Private schools & colleges
No. of properties: 73

Annual exempted taxes: $34.6 million

The details: These institutions include Trinity College, University of Hartford, Rensselaer and the Hartford International University for Religion and Peace, the former Hartford Seminary.

5. ‘Special Acts’
No. of properties: 24

Annual exempted taxes: $19 million

The details: The “Special Acts” category of tax-exempt property covers quasi-public agencies and other similar authorities such as the Materials Innovation and Recycling Authority and the Metropolitan District Commission.

5. Churches, other religious buildings
No. of properties: 253

Annual taxes: $17.7 million

The details: Dozens of houses of worship are found throughout the city, from the massive Cathedral of St. Joseph on Farmington Avenue to modest storefront churches. This category includes religious schools, convents and parsonages.

6. Charitable organizations
No. of properties: 176

Annual exempted taxes: $14 million

The details: Myriad organizations are identified as charitable, including both the YMCA and the YWCA as well as the South Park Inn shelter, The Salvation Army and the Boys and Girls Club of Hartford.

7. Federal government buildings
No. of properties: 6

Annual exempted taxes: $5.9 million

The details: The U.S. government also does not pay property taxes on buildings such as the Abraham A. Ribicoff Federal Building and Courthouse in downtown Hartford.

8. Housing Authority, city of Hartford
No. of properties: 135

Annual exempted taxes: $4.6 million

The details: The city’s housing authority oversees hundreds of housing units located throughout the city.

9. Educational buildings
No. of properties: 9

Annual exempted taxes: $3.7 million

The details: The tax-exempt “educational” designation includes the Connecticut Science Center, the Hispanic Health Center, the Capitol Region Education Council and the Watkinson School.

10. ‘Literary’ buildings
No. of properties: 7

Annual taxes: $3.4 million

The details: The Wadsworth Atheneum, TheaterWorks and the Bushnell Center for the Performing Arts are among the properties designated as “literary.”

11. Historical buildings
No. of properties: 10

Annual taxes: $1.2 million

The details: One of Hartford’s most popular attractions, the Mark Twain House, is tax-exempt under historical buildings as is the Charter Oak Temple, the first synagogue built in Connecticut and now a cultural center and the Amos Bull House on South Prospect Street.

12. Cemeteries
No. of properties: 47

Annual taxes: $830,202

The details: Cedar Hill Cemetery on Fairfield Avenue is the final resting place of actor Katharine Hepburn, industrialists Samuel and Elizabeth Colt and poet and businessman Wallace Stevens.

FLORIDA

Taxpayers take DeSantis to court, fearing Disney feud will raise property taxes, cost jobs

Four Central Florida residents have gone to federal court to block a new law that would revoke the Walt Disney Co.'s authority to self-govern its Central Florida entertainment empire.

SB 4 was widely viewed as an attempt by Gov. Ron DeSantis and the GOP-majority Legislature to punish Disney for its opposition to another law restricting classroom discussion of gender and sexual identity.

This latest lawsuit adds to a lengthy list of legal challenges to DeSantis' policy initiatives, ranging from congressional redistricting bill to the "Stop Woke Act."

Plaintiffs in the lawsuit filed Wednesday in Miami federal court allege the effort to silence Disney will result in significant injury to taxpayers, threatens the loss of thousands of jobs, and violates not only the Florida Taxpayers' Bill of Rights and contractual law, but also the U.S. Constitution's guarantees to free speech and due process.

Miami attorney William J. Sanchez filed the suit on behalf of Michael, Edward and Leslie Foronda of Osceola County and Vivian Gorsky of Orange County.

Disney dissolution puts taxpayers on the hook, complaint says

The court filing states DeSantis and certain Republican lawmakers "made it very clear" they sought to punish Disney's special status "because many Disney employees had expressed disagreement with the Don't Say Gay Bill" — the name critics gave to what is the "Parental Rights in Education Act."

The complaint said the move to dissolve the Reedy Creek Improvement District, which provides Disney authorization to govern its property as it sees fit, puts taxpayers on the hook for more than $1.7 billion of Disney's debt.

Sanchez, in the suit, raises questions about the proper application of tax laws under the taxpayers' Bill of Rights.

Lawmakers approved SB 4 after Disney's CEO said the company would work to repeal HB 1557, the Parental Rights in Education Act, which critics say is hostile to gay students and exposes schools to lawsuits.

SB 4 revokes Disney's authority to operate 38 miles of theme parks and resorts free of government regulations, However, SB 4 ignores provisions in the law creating the Reedy Creek Improvement District that forbids its dissolution until all bond obligations are met and debts discharged.

The complaint points out that while “the Governor and certain Republican lawmakers welcome a fight with Disney on this matter,” experts suggest the outcome “will probably lead to increased taxes for residents of the Orlando area, as well as those that live throughout the State of Florida.”

Orange County mayor: financial impact could be 'catastrophic'

Orange County Mayor Jerry Demings said the financial impact on his county could be "catastrophic" if Disney’s independent district is dissolved. Orange County Tax Collector Scott Randolph predicted a 20% to 25% increase in property taxes for county residents.

DeSantis’ office declined to comment on the specifics of a pending lawsuit but did stand by previous statements that Orange and Osceola counties will not be burdened with Disney’s debt.

“This opportunity can and should be utilized to generate more taxes from Disney, as the governor has said,” wrote spokeswoman Christina Pushaw in an email exchange with the Tallahassee Democrat.

Sanchez argues a lawsuit is the only way for taxpayers to discover how much the GOP Disney fight will cost in terms of increase property taxes and job losses — Disney employs 80,000 workers directly and economists connect hundreds of thousands of other jobs to its six theme parks and resorts.

Lawsuit challenging Disney bill was expected

A lawsuit challenging the Disney bill was expected after lawmakers passed it in April.

It is the third lawsuit to emerge this year tied to legislation DeSantis pushed by the Republican-dominated Legislature to approve.

In April, a high school teacher from Manatee County joined a University of Central Florida professor, and a Tallahassee educator, to file suit against HB 7, known as the “Stop Woke Act.”

The suit alleges a ban on what is called “critical race theory” violates the First and Fourteenth amendments.

The League of Women Voters followed the educators into the courthouse and filed suit to block the congressional redistricting plan DeSantis demanded.

Those suits come on the heels of lawsuits filed the previous two years over an anti-riot bill, limits on donations for ballot initiatives, a plan to regulate social media companies, a ban on sanctuary cities and new limits on third party voter registration groups.

DeSantis' Democratic opponents charge those initiatives have more to do with presidential ambitions than they do with Florida public policy.

During debate on the Disney bill, Sen. Jason Pizzo, D-Miami, cited a litany of bills that triggered lawsuits to tell the chamber he was tired of missing his sons' baseball games to "be spoon-fed bills" from DeSantis.

"Nothing is going to happen with immigration. Nothing is going to happen to critical race theory. None of my kids' teachers were teaching anything about sexual orientation K through three. It is not happening. And this is not going to happen," said Pizzo.

John Russo, a labor scholar at Georgetown University, reviewed the Disney bill and associated costs in terms of potential tax increases and job loss and saw "regulatory and economic blackmail in pursuit of political opportunism."

So far, Disney has been silent other than posting a statement to investors that it was exploring options and conducting business as usual.

The Foronda and Gorsky lawsuit seek permanent injunctive relief and have SB 4 declared unlawful. It also seeks an award to cover attorney fees, and any other relief the court thinks is warranted.

ILLINOIS

After years of not paying property taxes, Chinatown mall's owners face a new tax problem

A hoped-for county bailout failed. An appeal to Assessor Fritz Kaegi cut only a portion of the $2.4 million Chinatown Square owed. Now, its taxes have been auctioned off.

Every year for more than a decade, Cook County officials billed the Chinatown Square mall for property taxes on its common areas — the plaza, corridors and stairways that connect its restaurants and stores.

Every year for more than a decade, the tax bills went unpaid.

When the mall had amassed a total of more than $2.4 million in past-due property taxes, its owners thought they had the perfect solution: Get the county to bail them out.

And the Cook County Land Bank Authority was ready to do just that. At the mall owners' request, officials of that county agency were going to take ownership of the tax-delinquent property, wipe out most of the back taxes — and then give them back the 62,000-square-foot property minus the burden of needing to pay most of what they had owed.

There was a problem, though. A lawyer for the agency pointed out that such a deal would be an illegal end-run around the past-due taxes, as the Chicago Sun-Times reported last year.

Then, Chinatown Square's owners came up with another plan to try to ease the burden of its years of not paying their property taxes. They argued that the property had been overvalued by county officials for years and that, as a result, they'd been overbilled for years.

And, in a move that would bail them out of a chunk of those long-unpaid taxes, Cook County Assessor Fritz Kaegi agreed.

Records show Kaegi slashed the value last year that his office had placed on the mall's common areas for the previous six years — as far back as he could go — by 60%.

That made more than $500,000 in unpaid taxes vanish, along with $147,000 in interest.

But now the owners of the mall have a new problem: The taxes that had gone unpaid from 2010 to 2015 — totaling $1.5 million — were auctioned off in February to the highest bidder at Cook County's annual scavenger tax sale.

A used-car dealer in Burr Ridge paid $9,000 in cash — a little over half a cent for each dollar the mall owed — to settle those delinquent taxes and interest and give him the right to take ownership of the mall's plaza, corridors and stairways.

That's a turn of events that worries the mall's owners, according to Ald. Byron Sigcho-Lopez (25th).

"They're afraid also this can be another issue they have to overcome," Sigcho-Lopez says.

The car dealer, Ang Li, says he has no plans to interfere with their business — just to make a profit by getting them to pay a premium for his investment.

"We know that's an important piece of real estate for Chinatown," Li says. "We're not trying to interrupt any current operation. But we think, as investors, we want to make sure our interests are protected."

Li, who had never taken part in the scavenger sale before, says he has partners in the deal but won't identify them.

Nor will he say whether he plans to ask a Cook County judge to give him the deed to the mall property.

"I might end up selling the rights," he says. "I cannot disclose… It's in Chinatown, and I'm Chinese, and I might want to sell the rights."

Li says he isn't involved with the Chinatown Square Association, which owns and oversees the common areas of the mall at 2002 S. Wentworth Ave.

Scavenger sale rules bar property owners from bidding on their own outstanding taxes or making deals with tax buyers ahead of the sale to erase their debts.

If Li does get a judge to give him the deed for the mall property, he could then sell it to anyone he wants, including the mall association, according to Cook County officials.

Mall officials could block Li from taking ownership of the property by redeeming the taxes — paying the $1.5 million in taxes and interest that's owed for 2010 through 2015.

That's what the Chinatown Square owners plan to do, according to Paul K. Lee, their lawyer, who says, "I can confirm that the association is in the process of redeeming the taxes."

Cook County taxpayers would still come up short, though. Between the tax break Kaegi provided by lowering the assessment on the property and the money Li paid in the scavenger sale, taxpayers have now collected about a fifth of the amount the mall owed in back taxes and interest since 2010 — $493,000 of the $2.4 million in arrears.

The rest of the debt would be wiped out if a judge ends up granting Li a tax deed for the property.

Li has a financial interest in seeking the deed because, if he doesn't, he'd lose his $9,000 payment. Then, at the next tax sale, the outstanding taxes and interest would be offered once again to the high bidder.

Representatives of Chinatown Square previously have said they were unaware they had to pay taxes on the common space. They told county officials they never received any of the tax bills from the mall's opening in 2010 to 2017, when the property ended up in the scavenger sale for the first time.

Though the parcel wasn't vacant or in a blighted neighborhood, the Cook County Land Bank — which aims to get such properties rehabilitated and paying taxes — claimed it then. That kept anyone else from bidding on it.

After negotiating with the mall's owners for a year and a half, the land bank had contracts ready to take ownership, erase the long-overdue taxes and then sell the property back to the mall for just $3,500 — enough, they've said, to cover the costs of doing the deal.

That's when a lawyer for the agency canceled the sales contracts, saying the county didn't have the legal right to sell the property back to the same people who owed the taxes.

By the time the land bank released its claim on the property, it was too late to auction the unpaid taxes at the next scavenger sale, held in 2019.

Then, Chinatown Square's lawyer appealed to Kaegi to lower his office's initial estimation of the value of the property, which would reduce the taxes. He argued that the assessor's office under Kaegi and his predecessor, Joseph Berrios, had overestimated the value of the property for years. Berrios had said no.

But Kaegi ultimately agreed, cutting the assessment and the tax bills for the previous five years. He lowered his office's estimated value of the property from $3.7 million to just under $1.5 million last year — which resulted in that year's tax bill falling from $205,653 to $82,427.

Sarah Garza Resnick, Kaegi's chief of staff, says the value of the plaza and the mall's oddly shaped corridors is tied to the shops and restaurants, which get their own tax bills.

"Additionally, the value of the parcel is partially already accounted for within the assessed value of the adjoining properties," she says. "To say it plainly, the small businesses that reside within the mall cannot get into or out of their businesses without using this common area.

"The parcel in question is only land and therefore should not be priced according to the same price per square footage as the other parts of the mall that have both land and a building on them," Resnick says.

Land Bank officials still won't say why they moved to acquire the Chinatown property.

KANSAS

Drive-by property appraisals streamline data collection

A Kansas county is using vehicles outfitted with rooftop cameras and LiDAR units to quickly and inexpensively capture property images that are then integrated into its cloud-based appraisal system.

Historically, property appraisers in Johnson County, Kansas, drove up to each structure, took photos and then entered them into a system when they were back at their office computer. This year, however, the county has gone digital.

As a result, appraisers will get more and better imagery, do their jobs online and travel to only those locations requiring additional verification. The result will save about $2 million, said Beau Boisvert, county appraiser.

“Two people doing 1 mile of road – both sides of the road – that took us a little over 20 minutes to do both sides, stop and go,” Boisvert said of the previous practice. “One appraiser drove the car. The other sat in the car with the [SLR] camera, and when they got in front of each house, they stopped to take a picture. That’s 20 minutes for a mile.”

By contrast, between December 2021 and January, drivers took four CycloMedia Technology vehicles outfitted with five cameras and a LiDAR unit mounted on the roof and automatically captured imagery every 16 feet while driving the speed limit, said Alex Hepp, director of assessment at the company. All five cameras are triggered at once, capturing 100-megapixel, 360-degree images as well as static images. In total, the drivers covered more than 4,000 miles of road and collected more than 1.4 million recording points (those spots at 16-foot intervals) in addition to about 190,000 JPEGs.

CycloMedia hosts the images in a secure Microsoft Azure cloud-based server and can integrate with the county’s verification software, powered by Tyler Technologies. Using application programming interfaces, appraisers can move the data from CycloMedia into the Tyler mass appraisal system. There, the county’s seven appraisers – Johnson said there will be 20 by the end of June – can determine whether someone has made changes to the property that could affect its value. They also use the 360-degree views to look around the neighborhood to see if changes occurred that would affect the appraisal.

Now, every trip appraisers make to the field tends to be for updating the data, said Jake Wilson, director of Tyler Verify, Appraisal and Tax. “So rather than going out and measuring an entire street and finding out, ‘Hey, I really only had to make two or three changes,’ now you can take care of some of that more efficiently in the office.”

The county is required to appraise 17% of its 260,000 properties each year, covering all of them within a six-year period. “When we assign the work out, every appraiser gets their percentage of that 17% within their market areas and then they have to review them and then turn in the documentation after they make the changes or corrections in the systems,” Boisvert said. They also note when nothing’s changed on the property, he added.

Currently, the county is in the process of putting all of the JPEGs into the system, he said.

One of the key benefits is the ability to enhance the images in-house. “We can actually look at the pictures and a lot of times, if one’s a little bit dark or a little on the light side depending on the angle of the sun, we’re able to adjust that ourselves without sending it back to Cyclomedia and Tyler to shoot a new picture,” Boisvert said. “We’re able to correct [that] ourselves before we embed them into our system for the JPEGs. The previous systems that I worked with, you weren’t able to do that on your own.”

Additionally, the technology automatically blurs out faces and license plates to protect privacy. If appraisers catch an image that needs additional blurring, they can click a button indicating the problem, and CycloMedia remedies it, Hepp said.

The county also analyzes other images such as aerial and orthogonal views. It has worked with Tyler’s mass appraisal system for about 30 years to study the physical characteristics that make up the building and help calculate cost and the sales market to determine appraised value of the property.

But because CycloMedia captures more than just a resident’s property in its images, other departments and jurisdictions may take advantage of the data. For instance, in Coral Gables, Florida, officials used CycloMedia images to look at several city assets: storm drains, signs, sidewalks, curbs and gutters, wheelchair-accessible pedestrian ramps and pavement.

Other uses for imagery include natural disaster simulations. In Wake County, North Carolina, officials turned to analytics and machine learning to make more accurate assessments.

Currently, three Johnson County workers from other departments are being trained on the technology, Boisvert said. “I anticipate down the road we will have many more of our jurisdictions using it,” he said. “There’s a lot of value to it.”

MISSOURI

St. Louis wins property tax case, but state reduces Ikea's burden $13 million

The Missouri State Tax Commission sided with the City of St. Louis’ Board of Equalization in a ruling against Ikea’s request to lower its property taxes, but it still received a $13 million tax reduction.

The city found the true value in money of Ikea’s 20-acre site with its 376,538 square-foot building to be $75.7 million on Jan. 1, 2019. Ikea claimed the TVM was $23.4 million.

The Commission accepted the appraisal of Patrick White, an appraiser who testified the fair market value of the property was $62.5 million. He based his amount on the "highest and best use" of the property, which was for continued retail use. The Commission report stated an appraisal by Russell Rench concluded the market value was $20 million, the land value with demolition costs subtracted.

Government leaders in 2015 pointed to the new Ikea as proof of the city's resurgence. It also gave the Swedish furniture retailer $32 million in tax increment financing.

According to the Commission's report, Thomas McReynolds, an appraiser for IKEA, testified the public subsidy showed the project was "functionally obsolete the day the last coat of paint was put on and they opened for business." Ikea also claimed the building's large size and atypical configuration led to its obsolescence, and its best use was "for a large office building, or several smaller office buildings, in keeping with the other developments" in a neighboring business innovation district. Ikea claimed the best use of the land was "to demolish the existing improvements to make the site available for redevelopment… as if vacant."

During the proceedings, Ikea requested the city's appraisal be thrown out due to photographs taken from a non-public area.

The Commission ruled Ikea's case was "unpersuasive" due to a lack of substantial evidence.

White, the city's appraiser, testified retailers like Bass Pro or Cabela's could occupy the existing building, making it properly taxable as a retail entity.

"The market may be limited to relatively few purchasers, but a specialized market is still a market," the Commission report said. "There is no substantial and persuasive evidence indicating the lack of any market for the subject property as improved."

Commercial real property is assessed at 32% of its TVM on Jan. 1 of each odd-numbered year according to state statute. The Missouri Supreme Court has ruled TVM is the "fair market value of the property on the valuation date and is a function of its highest and best use, which is the use of the property which will produce the greatest return in the reasonably near future." The definition was the result of a case where a casino claimed its property should be taxed as a country club and not a gambling facility since that required one of 11 state gaming licenses.

NEW YORK

How Property Taxes Compare in New York City's Co-Op and Condo Buildings

Your tax bill may vary depending on the type and size of building you live in

Ownership structure works differently in co-ops versus condos, and therefore the structure and amount of your tax bill in either type of building will work differently, as well.

"In a co-op, the building is owned by a corporation and the people who live in the building get shares of stock in the corporation and proprietary lease [when they buy an apartment]," said Steve Wagner, an attorney with Adam Leitman Bailey, P.C. New York Real Estate Attorneys. "With regard to taxes, there is one bill that goes to the corporation."

For co-op shareholders, the cost of the building's total tax bill is baked into monthly maintenance charges, as opposed to a standalone individual tax bill.

"In a condo, the board doesn't own anything," Mr. Wagner said. "It's as if instead of one big building you've divided it into many separate tax lots. Each apartment is separate, so taxes are paid by the individuals who own the apartment rather than the corporation." In a condo, then, owners pay a separate tax bill in addition to their monthly common charges for building maintenance.

"That's one of the reasons condos are more expensive than co-ops," Mr. Wagner added. "The amount of monthly maintenance you have to pay is lower. But on the other hand, you have to pay your own taxes."

Residential properties in New York City are also divided into two categories: Class 1 properties with one to three units, which currently have a tax rate of 19.963%, and Class 2 properties with more than four units, which have a tax rate of 12.235%, according to the New York City Department of Finance.

Assessed value for Class 1 buildings is based on a percentage of the home's market value and can't be increased by more than 6% in one year or 20% in five years without a major addition or renovation.

In Class 2 buildings, value is assessed based on a formula taking into account the building's potential income and expenses, with an assessment percentage of 45%.

To lower the tax bill for individual homeowners in Class 2 buildings, the city offers a Cooperative and Condominium Tax Abatement if certain requirements are met, including that the unit being taxed is the owner's primary residence, and that the resident owns no more than three units within the same building, according to the city's Department of Finance.

Budget Bill Amends Assessment Challenges to Renewable Energy Projects Under Real Property Tax Law § 575-b

We recently alerted you of the temporary restraining order (the "TRO") halting the Real Property Tax Law ("RPTL") § 575-b assessment model (the "Model").[1] There is no mention in the TRO concerning the Legislature's recent amendment of RPTL § 575-b as part of the budget bill passed in April of 2022 (the "Amendment"). The Amendment limits the authority of assessors and boards of assessment review in resolving assessment challenges for wind or solar projects if the Assessor used the correct inputs under the Model.[2] In a (very) rare case of the State taking responsibility for its legislation, a challenge to the validity or accuracy of the Model itself or discount rates employed shall not be commenced against local municipalities. Instead, these challenges must be brought as a Civil Practice Law and Rules Article 78 proceeding against the Department of Taxation and Finance ("DOTF") Commissioner in the Appellate Division, Third Department.[3] Given the timing and (unclear) extent of the TRO, a number of assessors may have relied on the Model for the values published on the tentative rolls. Thus, the Amendment remains relevant notwithstanding the effect of the TRO.

The aim of the Amendment is to protect municipalities from potential challenges over the state-created Model and discount rates. Even in instances where an assessor used the Model, the only relief to municipalities is avoiding the legal expenses related to the litigation. Municipalities would still be at risk for issuing refunds.

The Amendment does not change the grievance process. Taxpayers must follow the same process for filing a grievance and exhausting administrative remedies. Boards of Assessment Review still have jurisdiction and authority under Article 5 of the RPTL. But their discretion is limited—so long as the Assessor used the correct inputs, the Model governs. The caveat, of course, is the impact of the TRO. If assessors strayed from the Model, whether or not based on the TRO, it would seem then that assessment challenges would be brought directly against the municipality in an RPTL Article 7 proceeding, and not against the DOTF in the Third Department.

Hodgson Russ Insights

There are a number of open questions with the Amendment itself, and additional questions based on the recent TRO. The Amendment does not address challenges to land values. It would seem that, based on the absence of contrary language in the Amendment and its focus on only the Model and discount rates, land-based challenges may still be commenced and maintained against local municipalities. Local assessors are still responsible for valuing land using "standard appraisal methodology." [4] The Model does not provide an explicit standalone land value, regardless of whether there is an annual ground lease or not. Under the same rationale, if there are issues with the placement or value of the RPTL § 487 exemption, taxpayers would also seem to be able to commence such a challenge directly against the municipality.

Potentially, multiple lawsuits may be required. It is not clear if there is a challenge to an improvement valued under the Model, as well to the land valued under the standard methodology, or application of any exemptions, or the value of non-wind or solar improvements on the same parcel, that the Third Department has jurisdiction over all questions. The Third Department may turn to judicial hearing officers to handle cases, but no implementing regulations yet exist. How those cases will play out—the Model is not an appraisal compliant with New York law—is an unknown at best.

The TRO certainly raises questions about project valuation for this year. What if an assessor did not use the Model, but the suit challenging the Model ultimately fails? Any challenges (grievances and lawsuits) where the Model would produce a lower assessment should preserve the challenge to the failure to apply the mandatory Model. And the TRO did not enjoin the Amendment. If assessors, because of the TRO or any other reason, valued a wind or solar project by another method other than the Model, it would seem that taxpayers could proceed with an RPTL Article 7 challenge against the municipality as they normally would.

Renewable project owners and developers with existing projects valued on the tentative assessment rolls this year have to review the rolls to determine the assessment of their projects. To understand how the Assessor set this year's tentative assessment, the value needs to be compared to last year's assessment value and also compared to the output value from the Model, which must be equalized using the current equalization rate. This will help determine whether there is a basis for a challenge and whether the challenge will proceed under the Amendment or not. If the Assessor used the Model, then the Amendment will apply. Timing is crucial because there is a strict deadline to challenge assessments: typically the fourth Tuesday of May in most jurisdictions outside of New York City where wind and solar projects are located. This deadline falls on May 24 this year. Failure to timely file a grievance waives the right to challenge this year's tentative assessment, including any issues with land or exemption values.

[1] *Temporary Restraining Order Halts Assessment Model for Wind and Solar Projects Under Real Property Tax Law § 575-b*, Hodgson Russ Renewable Energy and Municipal Alert, Apr. 29, 2022, *available from* https://www.hodgsonruss.com/newsroom-publications-13764.html.

[2] New York Senate Bill S08009/Assembly Bill A09009-C, Part AA, RPTL § 575-b(4)(d), *available from* https://www.assembly.state.ny.us/leg/?default_fld=%0D%0A&leg_video=&bn=S08009&term=0&Summary=Y&Actions=Y&Memo=Y&Text=Y.

[3] New York Senate Bill S08009/Assembly Bill A09009-C, Part AA, RPTL § 575-b(4)(e).

[4] Department of Taxation and Finance, Appraisal methodology for solar and wind energy projects, Questions and Answers, Land Value, Question and Answer L1, *available from* https://www.tax.ny.gov/research/property/renewable-qa.htm.

Solar farm tax battle lands in court

Towns sue New York state over a new system they say is shortchanging them.

Nearly a dozen towns in Schoharie County are suing New York state over new rules governing how solar farms are taxed.

They contend a standardized method the state has ordered them to use, which includes a large discount, will shortchange them millions of dollars worth of school and property tax revenue over the years.

Solar developers, on the other hand, say that reversing the tax system at this point could bring lots of projects to a standstill since they need to know what their tax burdens will be to get financing. They also say the new template for assessment was devised to accommodate the unique qualities of solar farms which are cropping up across rural areas upstate.

Either way, the case in the State Supreme Court in Albany County highlights one of the unanswered questions regarding the rapid growth of solar power in New York: What is the extent to which these large multi-million-dollar projects will benefit the towns where they are located?

State Supreme Court Justice Christina Ryba last week granted a temporary restraining order to halt use of the new assessment method. Lawyers for the towns and the state Department of Taxation and Finance will be back in court later in May to present their arguments.

"I'm furious about the entire thing," said Stella Gittle, an assessor in Montgomery County.

While not a party to the suit, she like other assessors has objected to the state's mandated assessment template for solar farms, which is different from the way other similar properties, such as power plants, factories or warehouses are assessed.

"Hopefully it can be resolved soon," said Anne Reynolds, executive director of the Alliance for Clean Energy, which represents numerous solar farm developers.

If not, she said, many projects could grind to a halt as they await word on what their local property and school tax bills will be going forward.

The plaintiffs include the Schoharie County towns of Blenheim, Carlisle, Cobleskill, Conesville, Esperance, Jefferson, Middleburgh, Sharon and Summit.

They contend that the state Department of Taxation and Finance wrongfully avoided going through the standard rulemaking process, including public hearings, when it devised the system, which involves a standardized spreadsheet, to value solar farms.

"The real crux of this lawsuit was that they didn't follow the State Administrative Procedures Act," said Dylan Harris, the lawyer representing the towns. He is with the Poughkeepsie-based Lewis & Greer law firm.

The new system uses a discounted cash flow methodology to assess solar farms. Basically, that means it projects the amount of money the solar farm will bring in going forward, with a discount, and sets taxes based on that amount.

Many local assessors wanted instead to use the traditional cost method that looks at the expense of building the facility, in this case, the solar farm, depreciated over time.

Many if not most solar farms work out payment in lieu of tax or PILOT agreements for their tax bills.

But the method for assessing what would be their regular tax bills plays a role in arriving at a PILOT agreement.

Questions about how to value and tax solar farms have been around for several years, noted Warren Wheeler, executive director of the state Assessors Association.

Some towns, he said, were good at negotiating PILOT agreements that helped their tax bases, and their taxpayers, while other towns were not.

Agreements for PILOT payments, for instance, ranged from $5 to $30 per kWh or kilowatt capacity of the solar farm.

Many planned and under-development solar farms upstate are large. The Montgomery County town of Glen, for instance, is looking at a total of 350 MW or megawatts, worth of solar development. A megawatt is 1,000 kilowatts.

Wheeler's organization had initially offered input on how to devise a tax schedule but that wasn't adopted in the final plan.

The result, he says, is that many towns could get less tax revenue than they were hoping for.

Montgomery County's Gittle agrees. A solar farm planned for Montgomery County, for instance, could yield $361,000 for the Fonda-Fultonville school district there – if it were taxed on the traditional cost basis. But under the new mandated method, it will generate just about $11,800, which is far less than some of the warehouse/distribution centers in town.

Those warehouses, along with solar farms, are among the few real large-scale growth industries coming to much of rural upstate.

"This has thrown a monkey wrench into values," Gittle said.

The Alliances for Clean Energy's Reynolds, however, said that school and property taxes that are too expensive would deter financing for many of the projects.

"If the taxes are too high then the projects don't get built," she said.

Temporary Restraining Order Halts Assessment Model for Wind and Solar Projects Under Real Property Tax Law § 575-b

In a prior alert, we advised of the new assessment model concerning wind and solar projects that went into effect for this tax year under Real Property Tax Law ("RPTL") § 575-b (the "Model").[1] On April 29, 2022, Albany County Supreme Court (Ryba, J.) granted a temporary restraining order enjoining the Department of Taxation and Finance ("DOTF") and its "agents, officers, contractors, employees, or affiliates, and all others acting on its behalf . . . from taking any actions, official or otherwise, to implement, or to direct or induce the implementation of the Model by [DOTF] or any assessor or assessing unit" (the "TRO").[2] The TRO will remain in effect until a preliminary injunction hearing is held on May 27, 2022, unless it is vacated earlier. The impact this ruling has on tentative tax assessment rolls that are about to be published is anything but clear.

Arguments Raised in the Lawsuit

The Model Violates the New York State Administrative Procedure Act

The lawsuit raises a number of arguments, including under the New York State Constitution, but focuses largely on the contention that DOTF failed to "substantially comply" with the New York State Administrative Procedure Act ("SAPA").[3] SAPA governs the rule-making process, requiring a number of steps before an agency rule is finalized and effective. SAPA generally applies to "any department, board, bureau, commission, division, office, council, committee or officer of the state" or to any "public benefit corporation or public authority" that has at least one member who is appointed by the governor and is authorized by law to make regulatory rules.[4] DOTF falls under this definition, and is a rule-making body.

A "rule," as defined by SAPA is, in relevant part, "the whole or part of each agency statement, regulation or code of general applicability that implements or applies law, or prescribes a fee charged by or paid to any agency or the procedure or practice requirements of any agency, including the amendment, suspension or repeal thereof."[5]

Under SAPA's multi-step process, an agency proposing a rule must publish notice of the rule,[6] allow for proposed revisions to the proposed rule,[7] and must include an analysis of the impact of the proposed rule, including a regulatory impact statement and regulatory flexibility analysis.[8] Upon completion of the process, the final rule must be filed with the Secretary of State, along with publication of a notice of adoption in the State Register in order to be effective.[9]

Petitioners-Plaintiffs ("Petitioners") argue that the Model is a "rule" under SAPA, and therefore DOTF was required to comply with SAPA.[10] In Petitioners' view, because the Model is an across-the-board "rigid numerical formula" concerning the taxation of real property, it falls under the definition of a "rule."[11] Accordingly, DOTF was to strictly follow SAPA in creating and implementing the Model. In a letter from DOTF prior to the lawsuit, DOTF took the position that the Model is not a "rule" because RPTL § 575-b "contains no reference whatsoever to rules, and [DOTF] has not, in fact, promulgated any rule in relation to the solar and wind valuation model."[12]

For purposes of the TRO, the Court found that Petitioners were likely to prevail on the argument that SAPA did indeed apply to the Model. The Court reasoned that the Model establishes a numerical policy uniformly "without regard to individualized circumstances or mitigating factors," and therefore it constituted a "rule" under SAPA. The Court went on to find there would be irreparable injury if the Model was allowed to go forward and the balancing of the equities favored granting the TRO.

Hodgson Russ Insights

The impact of the decision may not be long term. DOTF has already indicated that the next iteration of the Model will be issued through the SAPA process, curing the only defect raised. The validity of the other claims is yet to be tested.

Based on the language of the TRO, assessors again have discretion - for now - to set assessment values for wind and solar projects pending the outcome of this litigation. The language of the TRO is not clear whether assessors are completely prohibited from using the Model entirely or if the Model simply is no longer mandatory as the only option to value wind and solar projects.

For most municipalities hosting renewable energy projects, the tentative assessment rolls will be published by May 2 (since May 1 is a Sunday this year). The TRO does not provide for service upon assessing units and assessors, so there is a question of notice and applicability beyond the parties to this litigation. Given the timing of the TRO, assessors may not have proper notice of the TRO prior to publishing the tentative assessment rolls. Therefore, the tentative assessment rolls may reflect assessment values based on the Model. Nothing in the TRO requires assessors to change any values that may have been set on the tentative assessment rolls. If a property owner is dissatisfied with the assessment on the tentative assessment roll, they must file a grievance challenging the valuation by Grievance Day. This is typically the fourth Tuesday in May in most jurisdictions outside of New York City. This year, the deadline is May 24, 2022. Failure to file a grievance bars a taxpayer from commencing a lawsuit challenging the assessment.

The decision will undoubtedly increase uncertainty. Can an assessor change the assessment away from the Model based on the TRO even if the tentative roll has been set? The TRO is not necessarily retroactive, and assessors may have limited ability (or desire) to move away from the tentative assessment roll as it will likely encourage litigation.

We will continue to monitor the status of the Model given this litigation.

[1] *Understanding the Reach and Limits of RPTL § 575-b and the State-Mandated Solar and Wind Real Property Assessment Models*, Hodgson Russ Renewable Energy Alert, Sept. 8, 2021, a*vailable from* https://www.hodgsonruss.com/newsroom-publications-13472.html.

[2] Granted Order to Show Cause with Temporary Restraining Order, *Matter of Town of Blenheim, et al. v. Amanda Hiller, in her official capacity as Acting Tax Commissioner and General Counsel of the New York State Dep't of Taxation and Finance*, *et al.*, Index No. 903157-22, a*vailable from* https://iapps.courts.state.ny.us/nyscef/ViewDocument?docIndex=kzCTNhy5Ie4kuhGjVg5C1g== (brackets and ellipsis added).

[3] Verified Petition-Complaint ¶ 1, *Matter of Town of Blenheim, et al. v. Amanda Hiller, in her official capacity as Acting Tax Commissioner and General Counsel of the New*

York State Dep't of Taxation and Finance, *et al.*, Index No. 903157-22, *available from* https://iapps.courts.state.ny.us/nyscef/ViewDocument?docIndex=ljFFYeVLOeLooegINfis5Q==.

[4] SAPA § 102(1).

[5] *Id.* § 102(2)(a).

[6] *Id.* § 202(1)(a).

[7] *Id.* § 202(4-a)(a).

[8] *Id.* §§ 201-a, 202(1)(f)(vi, vii).

[9] *Id.* § 203(1).

[10] Verified Petition-Complaint ¶ 67.

[11] *Id.* ¶ 67.

[12] *Id.* ¶ 57 (brackets added).

KENTUCKY

Real Estate Tax Valuation Issues

Kentucky's ad valorem real property tax is perhaps the oldest tax on the books in the Commonwealth, being first adopted in 1792. Real property tax is rooted in the Kentucky Constitution which requires that all non-exempt property be assessed as of each January 1st, at its fair cash value, estimated at the price the property would bring at a fair voluntary sale. Ky. Const. § 172; KRS 132.191(1). Valuation is the heart of real property taxation.

WHAT IS FAIR CASH VALUE?

"Fair cash value" as used in the Kentucky Constitution means "the price which would be agreed upon by a party who desired to, but was not compelled to, buy the property and an owner who desired to, but was not compelled to sell it." Evans v. Allen, 205 S.W.2d 514, 515 (Ky. 1947). So, fair cash value is synonymous with fair market value. Dep't of Revenue v. Hobart Mfg. Co., 549 S.W.2d 297, 300 (Ky. 1977).

WHAT PROPERTY INTEREST IS VALUED AT FAIR CASH VALUE?

Kentucky's highest court has held that fair cash value to be assessed is the value of the property itself. Fayette Cty. Bd. of Sup'rs v. O'Rear, 275 S.W.2d 577 (Ky. 1954). This concept is straightforward for an owner occupied property. However, when a property is subject to a lease, particularly when there is a single tenant, arguments have arisen regarding whether the fair cash value should be determined by reference to the property itself or the property subject to a lease. O'Rear settled this by rejecting the argument that a property's fair cash value was the fair market value of the property subject to a lease and holding that the property's fair cash value was the fair market value of the property itself. So, when an owner sells a single-tenant property subject to a lease, the sale evidences the value of the lease, not the value of the property itself. Indeed, the methodology approved in O'Rear was to estimate the value of the land and the value of the improvements using the cost approach to derive the fair cash value of the property itself. As such, the maximum value of a property is the fair market value of the property without the leasehold. Hobart, 549 S.W.2d at 300.

WHAT ARE THE THREE APPROACHES TO VALUE?

Kentucky property tax cases and KRS 131.191 recognize three approaches used to determine the fair cash value of a property: the cost approach, the sales comparison approach, and the income approach. KRS 131.191. The "cost approach" is "a method of appraisal in which the estimated value of the land is combined with the current depreciated reproduction or replacement cost of improvements on the land… ." Id. The cost approach was used in O'Rear. The "sales comparison approach" is "a method of appraisal based on a comparison of the property with similar properties sold in the recent past… ." Id. The "income approach" is "a method of appraisal based on estimating the present value of future benefits arising from the ownership of the property." Id. The income approach must be supported by another approach. Helman v. Ky. Bd. of Tax Appeals, 554 S.W.2d 889, 890-91 (Ky. App. 1977).

WHAT ABOUT VALUING LEASED PROPERTIES?

Owner occupied properties, which are not subject to leases, may be valued using the cost, sales and income approaches. See, e.g., Kroger Limited Partnership I v. Jenkins, 2019-CA-001133-MR (Ky. App. July 17, 2020). Leased properties may also be valued using these three approaches to value. College Heights Corp. v. Oxendine, No. 2011-CA000546-MR (Ky. App. Feb. 22, 2013). Indeed, Kentucky case law requires a wholistic approach to valuing a property subject to a lease that considers the three approaches to value. As noted in Helman, 554 S.W.2d at 891, "A number of other elements (in addition to income form a property) necessarily enter into the value, such as original cost, location, cost and character of improvements, rental history, location as to future growth of the adjacent area, sales of adjacent property, sales of comparable property, type of building or property, etc."

CAN SALES OF VACANT PROPERTIES BE USED AS COMPARABLE SALES TO VALUE OCCUPIED PROPERTIES?

Owner-occupied commercial properties are almost always vacant when sold. So, it makes sense that sales of vacant properties should be able to be used in the sales comparison approach as comparable sales to value properties that are currently occupied. Well stated by the Kentucky Supreme Court, "[W] here the properties are reasonably similar, and a qualified expert states his opinion that they are sufficiently comparable for appraisal purposes, it is better to leave the dissimilarities to examination and cross-examination than to exclude the testimony altogether." Commonwealth, Dept. of Highways v. Oakland United Baptist Church, 372 S.W.2d 412, 413 (Ky. 1963). This is because sales of comparable property can sometimes be scarce. Id. So, rather than exclude such sales, they should be adjusted by an appraiser to account for any differences, just like an appraiser would adjust for location, size, etc.

SHOULD THE DEED VALUE ALWAYS BE THE ASSESSMENT VALUE?

"[W]here the property is sold at or near the assessment date and the sale is fair and voluntary the sale price is the best evidence of the property's fair cash value, estimated at the price it will bring at a fair voluntary sale." Evans v. Allen, 205 S.W.2d 514, 516 (1947) (quotation omitted). When a property is sold, a statement of full consideration sworn under oath is required to be provided on the deed transferring title with criminal penalties for false statements. KRS 382.135; KRS 382.990. The statement of full consideration provided on a deed is often used as the assessment value for the property. KRS 382.135; KRS 132.480. However, "[t]he sale price of property is not, under all circumstances, the sole criterion for the guidance of the assessing authority in fixing the value for taxation purposes… ." Evans v. Allen, 205 S.W.2d at 516. Accordingly, "the circumstances of the sale must be examined to determine the emphasis to be placed upon the sale price." Grant County Fiscal Court v. McGee, 582 S.W.2d 69, 71 (Ky. App. 1979). Thus, the statement of consideration generally, but not necessarily, reflects the true fair cash value of a property though that value may be rebutted with evidence of value.

Although the statement of consideration is equal to the fair cash value in a typical sale, there are instances when the statement of consideration is not the fair cash value. For example, the purchaser may have paid an inflated price. See, e.g., Dep't of Revenue v. Anaconda American Brass Co., 435 S.W.2d 65 (Ky. 1968). Or, the nominal statement of consideration on the deed may not equal the fair cash value because, for example, the statement of consideration was based on the book value. See, e.g., Commonwealth Indus. Inc. v. Hancock Property Valuation Administrator, No. 2001-CA-000291-MR (Ky. App. May 17, 2002). Sometimes, the statement of consideration on a deed does not equate to the real property's fair cash value for valid reasons; for example, in a sale of a business, the amount attributable to the real property may be unknown at the time the deed is recorded because the real property was sold with other assets or for some other valid reason.

Valuing real property is an art, not a science. There is no formula, but there are rules that the Kentucky courts have provided to ensure that real property is valued at its fair cash value in accordance with the Kentucky Constitution.

MARYLAND

Tax Assessment of Casino Is Limited to Value of the Land

In Anne Arundel County v. PPE Casino Resorts Maryland, LLC, No. 1248, Sept. Term 2019, 2021 WL 5071889 (Md. Ct. Spec. App. Nov. 2, 2021), the Court of Special Appeals (CSA) affirmed the decision of the Tax Court regarding the property tax valuation of the land on which the Maryland Live! Casino is located in Anne Arundel County. In its decision, the assessed value of the property was reduced by $55 million from the amount that the Anne Arundel County Supervisor of Assessments set.

Anne Arundel County asserted that the assessments should be based on the terms of a “ground lease,” under which the casino operators are required to pay a base ground rent of $2 million per year with annual increases of 1%, plus 1% of the gross retail sales and revenue of the casino, less an annual credit of $1.5 million.

The property owners appealed the assessments for the 2011-13 and 2014-16 assessment periods to the Maryland Tax Court, where they argued that the Supervisor’s approach included intangible value not properly a part of real property tax assessments. The taxpayers asserted that the assessment should be determined using a cost approach that focused on the value of the land. The Tax Court agreed with the taxpayers in PPE Casino Resorts Maryland LLC v. Supervisor of Assessments of Anne Arundel County, Case Nos. 14-RP-AA-0503 (1-2) and 14-RP-AA-1276 (Dec. 26, 2017). See Relating to Real Estate April 2018. The County appealed to the Circuit Court for Anne Arundel County, which affirmed the decision of the Tax Court. The County then appealed to the CSA and the CSA affirmed.

The Tax Court noted that two-thirds of the rent under the lease is from the business-oriented percentage rent. Therefore, according to the Tax Court, “the lease revenues value more than just the property — they include the value of the operating business, and don't reflect the amount a willing buyer would pay a willing seller for the property.”

The CSA supported the Tax Court’s approach of considering the rent under the ground lease, but not relying on it solely. The CSA stated, “Without information from past sales and revenue from a casino located in this area or information from a similar deal negotiated between these parties, it was not unreasonable for the Tax Court to find that revenue projections increased the valuation beyond what a willing purchaser would pay for the land." Instead, the Tax Court followed the direction of the taxpayers' expert who used a sales comparison method based on probable alternative buyers for the Arundel Mills Mall property and comparable land sales to determine the assessed value of the property.

Practice Notes: Shouldn't the PPE Casino case have application to any situation, not just for casinos, when there is a percentage rent component that the tenant pays? When does a transaction that includes a percentage rent provision shift from being a real estate deal, for which all of the components of rent are included in the calculations to determine the assessed value of the real estate, to being a business deal, for which a portion of the payments are not considered as part of the real property assessment?

The Tax Court and the CSA in the PPE Casino case focused primarily on what a willing buyer would pay for the land from a willing seller. But wouldn't a willing buyer of the fee interest of the casino property pay an amount based on the anticipated income of that interest for years to come?

For commercial property that is leased, assessors typically rely on the capitalized income method to determine the assessment of the property. Retail leases often contain percentage rent clauses. In light of PPE Casino, commercial property owners should promote replacement cost values and comparable sales values if the income approach produces a high proposed assessment.

OHIO

Ohio Significantly Changes Real Property Tax Valuation Procedures, Curtailing Local Governments' Abilities To Initiate, Appeal, and Settle Tax Valuation Cases

A new Ohio law substantially changes the landscape for real property tax valuation challenges in the state. In general, it substantially curtails school districts' rights to initiate and appeal property tax valuation challenges. Governor DeWine signed the bill on April 21, 2022. It will become effective on July 19, 2022, and will affect valuation complaints that relate to tax year 2022 valuations.

The following bullet points summarize the law's significant changes. Each situation is different and may vary based on a variety of factors. We encourage each reader to contact their real property tax attorney to seek advice on their particular circumstances.

House Bill 126 significantly limits school boards' ability to initiate original complaints against property valuation. Under prior law, school boards could contest the valuation of any taxable property located within their districts. Under the new law, school boards and other political subdivisions may only file increase complaints where:

The property was sold in a recent arm's length sale that took place before January 1 of the tax year to which the complaint relates;

The sale price exceeds the auditor's valuation of the property by at least 10% and $500,000.00; and

The board or subdivision adopts a resolution that authorizes the complaint and the board or subdivision provided notice to the property owner at least seven days before the board or subdivision adopted the resolution to authorize the filing of the complaint.

Once effective, Amended Substitute House Bill Number 126 will prohibit private pay settlement agreements, commonly called "direct pays," as a means of resolving school-initiated valuation appeals. Under prior law, the property owner and the school board could agree to resolve a tax valuation case with the owner paying the school board a sum of money; in exchange, the school board would dismiss its valuation complaint or any appeal relating to the property's valuation.

The effect of this practice was to benefit the property owners and school boards who were parties to these cases and agreements, while excluding other taxing districts from enjoying increases in revenue resulting from school-initiated valuation complaints. The law's terms that abolish direct pay agreements would apply to agreements entered into on or after the bill's effective date, which is July 19, 2022.

The new law will also prohibit school boards and other political subdivisions from appealing county board of revision ("BOR") decisions to the Ohio Board of Tax Appeals ("BTA"). It is not yet clear what effect the bill would have on an attempt by a school board or other subdivision to appear as an appellee in a BTA case initiated by a property owner, assuming that the school board has filed a counter complaint in response to the owner's original complaint, or in the situation of a school board-initiated increase complaint that resulted in an owner-initiated BTA appeal.

The law also makes a variety of other procedural changes, including removing the current requirement that county auditors notify school boards of certain owner-initiated complaints, changing the deadline by which school boards may file counter complaints in response to owner-initiated complaints, and requiring county BORs to dismiss government-filed valuation complaints that the BOR does not resolve within a year of filing. The law applies to property tax complaints and counter complaints fixed for tax year 2022 (which would typically be filed between January 1 and March 31, 2023).

PENNSYLVANIA

What we know about how Philly conducted the citywide property reassessment

The city's chief assessor explains some of the methodology behind the new values, which represent significant increases for many homeowners.

Since the city posted new real estate assessments online Monday, many Philadelphia property owners have reacted with shock or skepticism about their valuations.

The reassessment, which will apply to taxes due in March 2023, is the first update to the city's real estate tax rolls in three years, as well as the first since the city implemented a new appraisal computer system and made other changes to its process.

Overall, residential property values rose 31%, and for many in rapidly gentrifying areas, assessments nearly doubled.

It's impossible for outsiders to say whether the reassessment of all 580,000 properties in the city is by and large accurate because the Office of Property Assessment has released neither citywide data nor the details of its appraisal methodology, both of which the city says will be made public in the coming weeks.

But James Aros Jr., who has led the office since February 2021, spoke with The Inquirer to help answer some frequently asked questions stemming from the reassessments.

Here's what we know so far:

How does the city determine property values?

There are several industry-accepted appraisal methods, and for single-family and small multi-unit properties the OPA used the sales comparison approach, in which recent nearby property sales are the primary factor in determining assessed values, Aros said. (Other methods rely on the revenue a property generates or take into account the cost of constructing the building that sits on the property.)

The city takes sales data on similar structures in OPA-determined geographic zones to reach estimated values for the area, and then augments the values for individual properties based on what the city knows about them from inspections, records, and permits, Aros said.

Do city appraisers inspect every house?

No. The city does not visually inspect every property for every reassessment.

But OPA staffers do hit the streets to look at many properties, Aros said. He declined to say how much of the city was inspected as OPA calculated the new assessments.

“We certainly still do work in the field, either driving or walking the street to see what might be changing,” Aros said. “I don’t have a percentage of properties that were looked at as part of this reassessment directly, but there’s still some level of that that goes on every year.”

Why have land values gone down?

Many residents pointed out that the land values listed in their assessments are lower than they were previously, a perplexing finding given the hot real estate market of the last couple of years.

The first thing to understand about the reassessment is that the city started from scratch instead of updating its old valuations. And this time around, the OPA applied an appraisal-industry rule of thumb known as an 80/20 split for determining the value of land under single-family homes and small multi-unit buildings.

That means that the OPA first determined a property’s overall market value, and then applied 20% of it to the land and 80% to the building, or the “improvement,” in appraisal parlance.

For homeowners whose land previously made up more than 20% of their assessed value, the new figures will appear to show that the land value has gone down.

Aros said that the reason for the change to an across-the-board 80/20 split was that the city’s previous approach — a sliding scale based on the building conditions — was confusing for many homeowners.

“That way, if your market value is different than your neighbor’s, you’re going to have a different land allocation, but at least you can see that it’s 20% as opposed to a different land value and a different percentage,” Aros said. “It’s a much more uniform allocation throughout the residential portfolio.”

Why is my neighbor’s house assessed differently than mine?

Property owners often question why apparently similar nearby properties sometimes have significantly different assessments.

Aros said those deviations often have to do with factors that can’t be seen from the outside, such as the internal conditions of a property or permits obtained by its owner. It’s also possible that unlicensed improvements result in inaccurate assessments.

But Aros said that if owners are confident their valuations are too high compared with their neighbors’, they should appeal their assessments with the Board of Revision of Taxes. The deadline to file an appeal is Oct. 3.

Overall, Aros said that the reassessment has passed muster with statistical tests of its accuracy, and that he believes it is an improvement over the values assigned three years ago.

“With this reassessment, we’ve analyzed several new years’ worth of sales from the last reassessment, and we would expect that these reassessments better reflect current market conditions,” he said. “That would be both from changes in the market and corrections from any values that were not as accurate as they could have been at the time, or that have gotten less accurate since the last reassessment.”

What is the CAMA system?

OPA this year implemented for the first time a Computer-Assisted Mass Appraisal, or CAMA, system.

It’s a major step in the right direction for OPA, and won praise in a recent review of the office by the International Association of Assessment Officers.

But implementing the new system has been rocky, and Aros said there still may be problems that need to be worked out. The city has said that the reasons assessments have been frozen for three years are limitations caused by the coronavirus pandemic and delays involved with launching the system.

“It does take a little bit of time for everybody to get familiar and understand how [the software] works,” Aros said. “So that is a multiyear process, and there is additional functionality that we as a city haven’t used before.”

Owners of Downtown Pittsburgh skyscrapers, other commercial properties could benefit from assessment appeals deal

A recent deal involving Allegheny County property assessment appeals this year not only could have far-reaching implications for thousands of homeowners but for the holders of some of Downtown’s biggest skyscrapers and other pricey commercial real estate.

The April 27 consent order already has local school districts and municipalities nervous about the implications for their budgets. And it could have even bigger ramifications if the owners of some of the county's most expensive properties go after the same tax breaks that homeowners could receive.

Jonathan Kamin, a Downtown attorney who represents commercial property owners, said he already has close to a dozen clients who are looking at potential appeals because of the situation.

"There's definitely an opportunity for a commercial property owner who has a current or high assessment on their property to get some relief," he said.

And since many of those properties generate significant revenues for the municipalities and school districts, changes to those values — and the taxes paid — could add to the woes potentially facing schools and municipalities.

Janet Burkardt, a solicitor for the Pittsburgh Public Schools and other area districts, said the deal could put taxing bodies at risk of "crippling refunds" in taxes.

"Our clients are extremely concerned, to put it mildly. This could devastate their finances, and they have no way to recover," she said.

At issue is the consent order, in which the county agreed to re-examine the way it coded some 2020 property sales data that will serve as the basis for calculating assessments during appeal hearings this year.

Those sales are used to determine what is known as the common level ratio, a state calculation used in appeals to account for widening gaps between assessed values and current sales prices since the last countywide reassessment a decade ago.

The ratio is used to figure out the value at which a property will be taxed. For 2022, the county had intended to use 81.1%.

But John Silvestri, the attorney who filed the lawsuit that resulted in the consent order, believes the ratio could drop to as low as 64% once the county completes its re-examination and re-codes sales that previously were determined to be invalid.

Just how sweeping the ramifications could be depends on what happens after the county determines the new ratio.

The plan right now is to use it in 2022 appeal hearings, which could help out new homeowners whose properties were appealed by districts or municipalities based on the sales price. It also could result in savings for other real estate under appeal.

But Ms. Burkardt has argued that applying the new ratio in appeal hearings this year is unfair to taxing bodies that have already based their 2022 budgets on the premise that the 81.1% ratio would be in place.

She believes that Common Pleas Judge Alan Hertzberg, who is overseeing the case, should wait until 2023 to apply the new calculation.

“Half of the year is over. To make changes to something as important as the common level ratio midyear upsets the whole system,” Ms. Burkardt said.

The even bigger wild card is whether either Judge Hertzberg or the county gives property owners another chance to file appeals in 2022, as Mr. Silvestri wants. The deadline for filing this year was March 31.

If the judge or county does so, that could open the floodgates for other homeowners, as well as commercial property owners, to appeal to get the recalculated ratio — particularly if it is substantially lower than the current 81.1%.

That could result in significant tax savings. For instance, a commercial property valued at $100 million would be taxed at $81.1 million using the current ratio. But if the ratio does end up being 64%, it would be taxed at $64 million.

All a property owner would have to do is to convince the assessment appeals board that the real estate changed value, no matter how slightly, to get the new ratio.

“I think you’re going to see that commercial taxpayers are going to take a second look [at appealing] as a rule,” said Sharon DiPaolo, an attorney who represents such property owners.

Mr. Kamin said many commercial property owners have already been impacted by the fallout from the pandemic.

“When you add [the ratio] with COVID, it’s very clear that all of the commercial properties are overassessed,” he said.

“The commercial industry will just tear away at this,” added Mike Suley, a former county assessment director and appeals board member who served as a consultant in Mr. Silvestri’s lawsuit.

Giving property owners a second chance to file 2022 appeals also could benefit homeowners, Mr. Suley noted — particularly those who are likely overassessed if they live in neighborhoods where property values have been declining.

But such an onslaught, Ms. Burkardt stressed, could play havoc with municipal and school district budgets.

“It will devastate the tax base of the entire county,” she said.

One reason courts seldom apply rulings retroactively, she argued, is that “people get hurt who are playing by the rules.” Applying the new ratio in 2023 rather than this year would create “a fair playing field for everyone,” she added.

Those on both sides of the issue acknowledged that the fallout — particularly if the common level ratio drops substantially and people have a second chance at appealing — could result in tax increases next year in some districts and municipalities.

“If there is a significant reduction [to the common level ratio], I think you likely will see a significant number of all property types, including commercial, file appeals. I also think taxing bodies will also look at increasing the millage rate,” said attorney Jason Yarbrough.

And if that happens, it could open the door for even more appeals in 2023 as property owners try to get the lower common level ratio to blunt the impact of a tax hike.

“In that case, it won’t be a school district or municipality chasing sales,” Mr. Yarbrough said. “It will be property owners filing to get reductions to avoid a tax increase.”

Some — Ms. Burkardt, Mr. Suley and Mr. Kamin among them — believe the ultimate solution is another countywide reassessment. But Allegheny County Executive Rich Fitzgerald has vowed that he won’t do one before he leaves office at the end of 2023.

In the meantime, property owners and taxing bodies and those representing both are left to figure out exactly how the consent order will play out — and what the consequences will be.

“It is screwed up the entire way around. That’s a true statement,” Mr. Kamin said.

Philly delayed property assessments for three years. Now residential values are jumping 31%.

Kenney's proposal to soften the impact of the reassessment by lowering the wage tax, as opposed to cutting the property tax rate, will likely set up a showdown with Council.

In the first citywide reassessment in three years, the value of the average residential property in Philadelphia increased a staggering 31%, Mayor Jim Kenney’s administration announced Tuesday.

The value of non-residential parcels like commercial properties, which took a hit during the coronavirus pandemic, increased only 9% on average, and the total value of assessed property in the city jumped 21%.

Property owners will be able to look up their new assessments, which will apply to tax bills due March 31, 2023, on the city's website beginning Monday. They will receive notice of their new valuations by mail by Sept. 1 of this year, and the deadline for filing an appeal with the Board of Revision of Taxes is Oct. 3.

The release of the long-awaited assessments will launch a debate over taxes between the administration and City Council members, who are currently negotiating over Kenney's $5.6 billion proposal for the city budget that takes effect July 1.

Kenney has proposed using part of the new revenue generated by the increased assessments to pay for cuts in the wage tax, but some on Council are skeptical of relief strategies that do not directly benefit affected property owners.

Not all homeowners will see significant increases. Changes in assessments of the city's 580,000 properties will vary widely depending on neighborhood, with fast-growing areas seeing spikes well above the average, and other areas seeing more modest jumps.

Tax relief measures proposed

If tax rates and exemptions remained unchanged, the city would generate $92 million in additional property tax revenue next year due to the spike in assessments, and $460 million over five years. But Kenney and Council have said they will pursue significant tax relief programs to offset the increase.

Kenney is casting his plan for softening the blow of the reassessment as revenue-neutral over five years by simultaneously proposing various tax breaks, including increasing the homestead exemption for owner-occupied homes from $45,000 to $65,000, and lowering the wage tax for city residents from 3.8398% to 3.7% over two years. (The plan also includes a minuscule cut in the wage tax for people who work in Philadelphia but live outside the city, from 3.4481% to 3.44%.)

Additionally, Kenney is pitching a 20% increase in funding for the Longtime Owner Occupants Program, which aids Philadelphians who have lived in their homes for 10 years and see a significant jump in their assessments, and a $40 million boost over five years to programs that help people stay in their homes, such as rent relief and the Senior Citizen Tax Freeze program.

"Growing property values reflect well on Philadelphia being a place of choice and represent an opportunity to build wealth for some," Kenney said in a statement. "But homeowners deserve protections, which is why I am proposing $200 million in new homeowner and rent relief over five years. At the same time, the additional revenues resulting from these rising values present an opportunity to reduce the most onerous of the City's taxes, the Wage Tax, by $260 million."

Disagreement over which taxes to cut

The administration's proposal to soften the impact of the reassessment by lowering the wage tax, as opposed to cutting the property tax rate, will likely set up a showdown between the administration and some on Council, where many members are adamant about keeping property tax bills low for homeowners and leery of cutting the wage tax, a priority of the business community.

Councilmember Mark Squilla, whose 1st District stretches from Pennsport to Kensington and includes many fast-growing neighborhoods, said that the reassessment will be a "disaster" for some homeowners, and he expressed skepticism over Kenney's plan to cut the wage tax rate using increased property tax revenue generated by the reassessment.

"It's apples and oranges," Squilla said. "I'm not saying I oppose the wage tax reduction, but I don't want to do it on the back of our property owners and our residents."

Squilla said that the city's delay in releasing the figures and the tight window between the mailing of the assessments and the appeal deadline could lead Council to vote to stall the reassessment for another year.

"Everything's going to be on the table, from pausing it to phasing it in to putting safeguards in place to looking at some of the options the mayor proposes," he said.

A group of six Council members, including Council President Darrell L. Clarke, released a statement Tuesday acknowledging the reassessment and listing strategies lawmakers will consider to reduce its impact, including the homestead exemption, the Longtime Owner Occupants Program, and phasing in tax increases. The list did not include reducing the wage tax.

"These are all options which City Council has previously taken action on to protect homeowners from the impact of rising property taxes," the Council members said. "We intend to examine every option at our disposal to protect Philadelphia homeowners."

Meanwhile, a new campaign led by progressive activists, including the group Tax the Rich PHL, is pushing for the city to substantially increase overall revenue to better fund city services.

The group on Tuesday posted on Twitter that it hopes Kenney and Council will "prioritize increasing the homestead exemption over cutting taxes for big businesses, so as to reduce the impact that the reassessment will have on low-income homeowners."

Why the reassessment was delayed

Philadelphia has long struggled to maintain a fair and efficient system for regularly reassessing property values. After decades of case-by-case exceptions leading to a wildly unfair assessment map, former Mayor Michael A. Nutter's administration implemented the Actual Value Initiative in 2014, simultaneously reassessing all properties for the first time in decades.

But problems have continued at the city's Office of Property Assessment. The latest reassessment has been paused since 2019 as the city struggled to implement its new Computer Assisted Mass Appraisal system and encountered delays caused by the pandemic.

The delays forced Kenney to omit proposals on tax rates from his March 31 budget address because the city could not yet say how much property tax revenue it expected to generate. Council initially planned to hold hearings on the reassessment in early April, but the administration requested a delay to finish the valuations.

Those hearings are now scheduled for Monday, with administration officials testifying before the Committee of the Whole at 10 a.m. and public comment on property assessments scheduled to begin at 3 p.m.

City Completes Property Reassessments, Unveils Plans to Expand Relief Programs and Reduce Wage Taxes

The City's Office of Property Assessment announced today that it has completed reassessments of all properties in Philadelphia, the first such reevaluation of market values since before the COVID-19 pandemic. At the same time, city officials unveiled plans to expand key relief programs to mitigate the impact of rising values on homeowners, and proposed reductions in wage taxes to speed the city's economic recovery and ensure its future competitiveness.

Property Assessments:

The new values of more than 580,000 residential, commercial, industrial and institutional properties in the city are to take effect for Tax Year 2023, with property taxes due on March 31, 2023. However, the Tax Year 2023 property values are not yet available online. They are expected to be uploaded to the property search application by Monday, May 9, 2022.

Written notices of the new values are scheduled to be mailed out by September 1, 2022 at the latest.

"The goal of this year's reassessment is to ensure that assessed values more accurately reflect sales and market forces," said James Aros, Jr. Chief Assessment Officer, Office of Property Assessment (OPA). "By doing so, we accomplish one of OPA's core missions: to minimize the inequities among comparable properties by ensuring that similar properties have similar assessments."

This new reassessment is the first to utilize OPA's new Computer Assisted Mass Appraisal (CAMA) system. "CAMA and other process changes represent the next step in the continued improvement of the accuracy, equity and uniformity of the City's assessments," said Aros.

Citywide reassessments scheduled for Tax Years 2021 and 2022 were postponed due to the operational issues posed by the implementation of CAMA (TY21) and the COVID-19 pandemic (TY22).

Reflecting the strong real estate market in Philadelphia, the citywide reassessment found that the aggregate value of all properties in Philadelphia has risen by approximately 21 percent since Tax Year 2020. Factoring in projected appeal and collection losses, this will result in additional property tax revenues to the General Fund of $92 million in FY23 and $460 million for the City's general fund over the course of the FY23-27 Five Year Plan. Information on appeal options can be found below.

Relief Programs & Wage Tax Reductions:

Concurrent with the release of the new property values, Mayor Jim Kenney today proposed a package of relief measures and reductions in the Wage Tax. Taken as a whole, these measures will ensure that the estimated $460 million increase in revenues resulting from new assessments are put directly back into the hands of taxpayers. Details on those proposals can be found below.

"Our Administration looks forward to working with our partners in City Council to do everything in our power to protect homeowners affected by this long-term boom in the real estate market," said Mayor Jim Kenney. "As I noted in my budget address, growing property values reflect well on Philadelphia being a place of choice and represent an opportunity to build wealth for some. But homeowners deserve protections, which is why I am proposing $200 million in new homeowner and rent relief over five years.

"At the same time, the additional revenues resulting from these rising values present an opportunity to reduce the most onerous of the City's taxes, the Wage Tax, by $260 million. This is particularly crucial now, as Philadelphia continues its post-pandemic economic recovery. Taken as a whole, these moves will protect our seniors and longtime homeowners while benefiting workers, employers, and the city as a whole for generations to come."

The $200 million in homeowner and rent relief includes the following:

- Homestead Exemption: The Mayor proposes that the Homestead Exemption, which reduces the taxable portion of a primary residential property's assessed value, be increased to $65,000 from the current $45,000. Homeowners currently in the homestead program will automatically see this change and do not need to re-apply. With this change, most homeowners will save more than $900 on their Real Estate Tax bill.
- Longtime Owner Occupants Program (LOOP): The Mayor also proposes a 20% increase to funds set aside for the LOOP program, the income-based program for homeowners who have lived in their home for ten years or more and experience a significant increase in their property assessment. Under the plan, the total amount of funds available for disbursement among qualified homeowners in a single fiscal year would increase to $30 million from the current $25 million.
- Additional Relief Efforts: The Mayor proposes allocating $40 million over five years to enhance implementation of all relief programs, increase outreach to homeowners about the programs, and to work with City Council on using a portion of those funds for improved rent relief and to improve participation in the Senior Citizen Tax Freeze program.

"Philadelphia has some of the most progressive Real Estate Tax assistance programs in the nation," said Revenue Commissioner Frank Breslin. "Together with City Council, we have designed these programs to protect our city's most vulnerable homeowners from enforcement action. Any homeowner who finds they cannot pay their taxes should contact the Department of Revenue or a Housing Counseling agency."

Wage Tax Reductions: Of the $460 million in anticipated additional property tax revenues over five years, Mayor Kenney proposes that $260 million be used to offset substantial reductions in the Wage Tax. Under the plan, the residential rate would be reduced over the next two years to 3.7 percent (from the current 3.8398 percent), and the non-resident rate would be reduced to a flat 3.44 percent (from the current 3.4481 percent). These would be the lowest wage tax rates in Philadelphia since 1976.

"Thousands of Philadelphia business owners and workers struggled during the pandemic, and these reductions in the Wage Tax demonstrate that the Mayor is focused on creating an economic climate that boosts their recovery," said Philadelphia Commerce Director Anne Nadol. "The reductions are acknowledgement of the sacrifices of business owners who remained committed to Philadelphia during the pandemic, and will help them better contend with staffing shortages and other challenges."

As part of this business and worker relief, the Mayor announced that he will seek state authorization to adopt market-based sourcing for service businesses. Under this approach, all service businesses in Philadelphia will only be required to pay Business Income and Receipts Tax on sales delivered to customers located within the city limits. This change in policy is meant to promote fairness by leveling the playing field for Philadelphia-based service providers with companies based outside of Philadelphia. It also will make Philadelphia business taxes consistent with Pennsylvania corporate income tax rules.

Information on Property Assessment Appeals: Property owners who believe their valuation is incorrect can request a First Level Review (FLR) with the OPA. FLR forms will be included with the Notice of Valuation that is to be mailed to property owners later this year. Residents who are not satisfied with the outcome of the First Level Review, or decide to skip the FLR process altogether, may file a formal appeal with the Board of Revision of Taxes (BRT). Formal appeals are due to the BRT by the first Monday in October. Details on both appeals options can be found at phila.gov/opa.

Additional Relief Programs: In addition to the Homestead exemption and LOOP program discussed above, residential property owners are reminded of the wide array of other relief programs that are available. These include:

- Owner-occupied Real Estate Tax payment agreement (OOPA). Provides affordable and manageable monthly payments for homeowners who struggle to pay past-due Real Estate Tax. Some homeowners can qualify for a zero dollar a month payment agreement.
- Low-income Senior Citizen Real Estate Tax freeze. Income-based senior citizen program that "freezes" Real Estate Tax so that they don't increase in the future, even if the rate or assessment increase.
- Real Estate Tax installment plan. Qualified homeowners may pay current year property taxes in up to twelve monthly installments through December 31.
- Real Estate Tax deferral program. Income-based program for homeowners with Real Estate Tax increases of 15% or higher.
- Tax credits to excuse Active Duty Reserve and National Guard Members from paying Real Estate Tax while they are called to active duty outside of Pennsylvania

TENNESSEE

Tax Assessment of Casino Is Limited to Value of the Land

In Anne Arundel County v. PPE Casino Resorts Maryland, LLC, No. 1248, Sept. Term 2019, 2021 WL 5071889 (Md. Ct. Spec. App. Nov. 2, 2021), the Court of Special Appeals (CSA) affirmed the decision of the Tax Court regarding the property tax valuation of the land on which the Maryland Live! Casino is located in Anne Arundel County. In its decision, the assessed value of the property was reduced by $55 million from the amount that the Anne Arundel County Supervisor of Assessments set.

Anne Arundel County asserted that the assessments should be based on the terms of a "ground lease," under which the casino operators are required to pay a base ground rent of $2 million per year with annual increases of 1%, plus 1% of the gross retail sales and revenue of the casino, less an annual credit of $1.5 million.

The property owners appealed the assessments for the 2011-13 and 2014-16 assessment periods to the Maryland Tax Court, where they argued that the Supervisor's approach included intangible value not properly a part of real property tax assessments. The taxpayers asserted that the assessment should be determined using a cost approach that focused on the value of the land. The Tax Court agreed with the taxpayers in PPE Casino Resorts Maryland LLC v. Supervisor of Assessments of Anne Arundel County, Case Nos. 14-RP-AA-0503 (1-2) and 14-RP-AA-1276 (Dec. 26, 2017). See Relating to Real Estate April 2018. The County appealed to the Circuit Court for Anne Arundel County, which affirmed the decision of the Tax Court. The County then appealed to the CSA and the CSA affirmed.

The Tax Court noted that two-thirds of the rent under the lease is from the business-oriented percentage rent. Therefore, according to the Tax Court, "the lease revenues value more than just the property — they include the value of the operating business, and don't reflect the amount a willing buyer would pay a willing seller for the property."

The CSA supported the Tax Court's approach of considering the rent under the ground lease, but not relying on it solely. The CSA stated, "Without information from past sales and revenue from a casino located in this area or information from a similar deal negotiated between these parties, it was not unreasonable for the Tax Court to find that revenue projections increased the valuation beyond what a willing purchaser would pay for the land." Instead, the Tax Court followed the direction of the taxpayers' expert who used a sales comparison method based on probable alternative buyers for the Arundel Mills Mall property and comparable land sales to determine the assessed value of the property.

Practice Notes: Shouldn't the PPE Casino case have application to any situation, not just for casinos, when there is a percentage rent component that the tenant pays? When does a transaction that includes a percentage rent provision shift from being a real estate deal, for which all of the components of rent are included in the calculations to determine the assessed value of the real estate, to being a business deal, for which a portion of the payments are not considered as part of the real property assessment?

The Tax Court and the CSA in the PPE Casino case focused primarily on what a willing buyer would pay for the land from a willing seller. But wouldn't a willing buyer of the fee interest of the casino property pay an amount based on the anticipated income of that interest for years to come?

For commercial property that is leased, assessors typically rely on the capitalized income method to determine the assessment of the property. Retail leases often contain percentage rent clauses. In light of PPE Casino, commercial property owners should promote replacement cost values and comparable sales values if the income approach produces a high proposed assessment.

TEXAS

Travis County headed for record number of property value protests this year

David Bawcom, director of appeals at Texas Protax, is accustomed to being busy this time of year, when his company goes into overdrive to help homeowners file protests of their appraised property values by the deadline each May.

But not like this.

“Our phones are literally melting,” Bawcom said. “It’s just night-and-day different” from previous years.

That’s because the median market value for all homes in Travis County — the amount for which the Travis Central Appraisal District thinks a home would sell — rose an eye-popping 53.6% this year, from $411,658 last year to $632,208.

The result has been sticker shock for many people when they opened their appraisal notices, and it's translating into a record number of appeals being filed.

Travis County median home value jumps to $632,000 a $200,000 increase over 2021

The appraisal district has said it's bracing for about 150,000 protests, compared with 140,593 last year. The record, set in 2019, is 147,695.

In Hays County, protests also are expected to hit record levels. Laura Raven, chief appraiser for the Hays Central Appraisal District, said protests probably will approach 30,000, surpassing the record of 26,393 set in 2020.

Williamson County chief appraiser Alvin Lankford said it was too early to provide an estimate for protests in his county, but he said the numbers are trending at about the same level as in 2021. Last year Williamson County saw 64,756 protests filed, according to Lankford.

Most Travis County property owners have until May 16 to appeal appraisals, although some might have until May 18, depending on the date their notice was mailed. The protests can be filed online using the appraisal district's website, traviscad.org.

Marya Crigler, the Travis County's chief appraiser, said Travis County property values increased dramatically this year because of the region's red-hot market for real estate and because they were lower than they should have been in past years.

"Property owners are feeling overwhelmed by a soaring housing market," Crigler said, which is partly why she said she's anticipating record appeals.

Still, property tax bills for people with homestead exemptions won't reflect the big increase in market values. That's because the taxable value of an existing home with a homestead exemption can't go up more than 10% per year under state law, no matter how much the appraised market value rises.

The median taxable value of all homes in Travis County — which is the value, after any exemptions, used to determine a homeowner's property tax bill — rose to $338,344, up 11% from $304,596 last year, according to the appraisal district.

'A crazy year'

But that hasn't stopped record numbers of rattled homeowners from weighing their options and considering protests.

Yvonne Heerema, founder of Valor Tax Solutions in Austin, said her firm traditionally works more with commercial property owners on appraisal appeals but has been getting a flood of inquiries from homeowners this year.

“We are getting way more calls for residential than we ever had," Heerema said. "I have never had this amount of residential requests — it has definitely been a crazy year."

Tax bills go out in the fall, and the amount a specific homeowner owes is based on a number of factors — the taxable value of the property; the tax rates set by various taxing entities, such as cities and school districts; and exemptions that might lower a bill.

Most homeowners qualify for a base homestead exemption, and those 65 and over qualify for another exemption.

The appraisal district encourages anyone who has not already applied for an exemption to do so. Applications for homestead exemptions can be filed online at the appraisal district's website.

"The best thing a property owner can do to reduce their tax bill is to make sure they are claiming all the exemptions they qualify for," Crigler said.

Bawcom, of Texas Protax, said appraised market values in Travis County have risen so much this year that it's unlikely an appeal will save money for a property owner who has a homestead exemption.

That's because even a successful protest of an appraisal that went up 40% or more is unlikely to reduce the increase to under the 10% homestead cap, he said, which means a property owner with a homestead exemption would pay the same tax bill anyway.

'"The people with homestead (exemptions), we just can't help them this year," said Bawcom, who encouraged people who don't have homestead exemptions to apply for one. "We can't save them any money at all."

Heerema said homeowners should protest anyway if they think their property has been appraised inaccurately, even if they do so without the help of a professional firm.

"You've got to look at it as due diligence and make sure they are putting the correct values on your property," she said. "What if they have it way off? Next year, that's the starting point."

Meanwhile, lawsuits challenging appraised values have been on the rise in recent years.

In 2018, the appraisal district said it saw 1,271 lawsuits protesting appraised values. In 2019, that jumped to 1,514 lawsuits. The number dipped in 2020, when most home values went unchanged because of a dispute over market data used to analyze properties, then picked back up the next year to 1,541 lawsuits.

Dallas County judge encourages homeowners to file property tax protests

Judge Clay Jenkins says Dallas County rates won't go up for most taxpayers.

As all Texans know very well by now, property values are exploding, and property tax rates are following closely behind.

It's the version of the Texas Two-Step we all hate.

And Dallas County Judge Clay Jenkins has a warning for Texas taxpayers all across the state: file your protests before the looming deadline, which is May 16.

And the Democrat says he's proud that Dallas County homeowners likely won't be paying more this year for the third year in a row. Jenkins says if property values rise 24% this year, and he says it looks like they will, the county will lower the tax rate 24% in kind.

"So, the average person will pay the same amount to us as they did last year," Judge Jenkins said on Inside Texas Politics.

But to be clear, not every taxing entity does this, so be sure to check with your local office.

And your county taxes are only one part of your property tax bill. School district taxes account for the biggest share.

Jenkins says he's talked to a number of superintendents and school board members this year about their tax rates. He says many are nervous to lower their rates because of funding-cut threats from state officials.

Jenkins says until the state lowers property taxes, the best thing you can do is file your protest and attempt to lower them on your own.

"If you just say hey, you said my house is worth $600,000, I say it's worth 500,000 and you don't put anything in there, that's not going to work. You need to have pictures or comparables or something to justify what you're saying," Jenkins said. "I've given you some examples of old appliances, cracks in the walls, wood rot. Maybe you need a new roof. Maybe your roof is 15–20 years old and you need a new roof. Tell them that."

Texans overwhelmingly vote to amend the state constitution on property taxes

Texas voters overwhelmingly supported two constitutional amendments on Saturday that economists and experts say will help slow down property tax growth, albeit modestly.

As of 8:54 p.m., the Texas Secretary of State's office website showed that 87% of voters — 816,896 — were in favor of Proposition 1. Meanwhile, 85% of voters in Texas voted for Proposition 2. These results are unofficial.

Proposition 1 would adjust and lower the taxes homeowners 65 and older or with a disability pay towards public schools.

Proposition 2 would raise the homestead exemption for school property taxes from $25,000 to $40,000. The exemption reduces the taxable value of a homeowner's primary residence.

Proposition 1 would go into effect on Jan. 1, 2023. Proposition 2 would go into effect immediately, applying retroactively to Jan. 1, 2022.

"The two propositions at least are trying to make a little dent in the problem," Donna Shelton, a retiree from Austin, told The Texas Newsroom after casting her ballot Saturday at Ben Hur Shrine Temple. "It's not a very big one, but it's a step."

Texas's homeowners like Shelton recently received their 2022 property appraisals, and many were shocked to see how their property values had skyrocketed.

According to the Texas Association of Appraisal Districts, many regions in Texas saw property values increase between 20 to 50%.

For example, appraised values in Travis County jumped 56% over the past year, according to KUT News. Meanwhile in El Paso, property value increased 18 to 20%, KFOX 14 reported.

James Quintero, policy director at the conservative think tank Texas Public Policy Foundation, said higher appraised values set "the stage for higher taxes."

But, he told The Texas Newsroom that "just because your appraised value goes up, doesn't necessarily mean that you should pay more."

Delilah Carrizal, 53, said she voted for the amendments because she worries an increase in property taxes will push out older residents out of their cities.

"It's pushing us all out," said Carrizal, an Austin resident. "We've lived here for almost 30 years and we can't afford to live here."

Some voters had expressed concerns about how the propositions would impact the finances of the state's public school districts.

Dick Lavine, a senior fiscal analyst at the left-leaning think tank Every Texas, said school districts would be no worse off nor better off with the passage of the amendments. He said the state would make up for the lost tax revenue.

"Instead of creating more money for schools, all it's doing is creating lower tax rates," Lavine told The Texas Newsroom.

Other voters — like Denise Calaway of Austin — are skeptical about how beneficial Proposition 2 was going to be.

"Is it going to make that much of a difference between [a homestead exemption of] $25,000 and $40,000?" Calaway said. "I doubt it, I really doubt it."

Experts agree Prop 2 would save the average homeowner around $175 to $180 a year.

However, Lavine said the measure provided some equity to Texas' homeowners.

“We are not especially looking to cut property taxes — we think the first priority should be increasing school funding,” Lavine said. “But if you do want to cut property taxes, this is the best way to do it because it’s more fair.”

Property valuations and property tax protest held in downtown El Paso

Several El Paso homeowners went out to San Jacinto Plaza Saturday morning to share their frustrations over the rising home valuations.

“Our valuations went up so high and with the same tax rate that we have therefore we have more taxes, more property taxes,” said Mayra de la Canal, demonstrator.

“ We understand the rate of the taxes isn’t going up, but the fact that our homes are being valued higher is going to bring that monthly payment up,” said Ana Saenz, demonstrator.

Roughly 30 demonstrators were out at the plaza, some holding up signs that said, “no more taxes” and “say no to taxes.”

People who participated in the protest said they went to the plaza to ask city leaders for help.

Many of them have seen their home values and property taxes go up, but their pay wages have not.

“ Property values go up, it isn’t our fault our income did not go up. We don’t feel like we have to pay more taxes,” Said Leslie Rhen, demonstrator.

According to the El Paso Central Appraisal District (EPCAD), the value of homes in certain areas of the county increased between 18 to 20 percent.

The Executive Director for EPCAD, Dinah Kilgore, said that's the highest it has ever been.

By law, homes have to be 100 percent market value, but it does allow the CAD to have a deviation of five percent.

Currently, some homes in El Paso are as low as 69 percent of market value and CAD officials said that trend holds up across the country and not just in certain areas.

Some are concerned that if their protests are not accepted by the EPCAD, they won’t be able to afford the uptick.

“For those of us like myself that are retired and living on a fixed income, I’ll be priced out of my house in a couple more years,” said Rhen.

“Thank god we have a job, but a lot of people haven’t gotten their jobs back so personally speaking. yes, we are worried about affording that payment,” said Saenz.

El Paso City Representative for District 6, Claudia Rodriguez was also at the protest.

She said the city is working to lower property taxes, but other taxing entities also need to make some changes

“I think that we need to look at this collectively,” said Rodriguez. “We need to look at what the city is doing and we need to look at what the school districts are doing because the school district is a big portion of our property taxes. “

There are currently two propositions that could lower property tax rates in Texas.

TEXAS STATE PROPOSITION 1:

"This proposed constitutional amendment shall be submitted to the voters at an election to be held May 7, 2022. The ballot shall be printed to permit voting for or against the proposition: "The constitutional amendment authorizing the legislature to provide for the reduction of the amount of a limitation on the total amount of ad valorem taxes that may be imposed for general elementary and secondary public school purposes on the residence homestead of a person who is elderly or disabled to reflect any statutory reduction from the preceding tax year in the maximum compressed rate of the maintenance and operations taxes imposed for those purposes on the homestead."

TEXAS STATE PROPOSITION 2:

"The constitutional amendment increasing the amount of the residence homestead exemption from ad valorem taxation for public school purposes from $25,000 to $40,000."

Taxes too high? Here’s how to protest your property appraisal

Last year, more than 140,000 Bexar County property owners protested the taxable value put on their homes and businesses.

An even higher number is expected before the May 16 deadline this year.

Officials at the Bexar Appraisal District say as many as 150,000 residents could submit appeals as they react to sharp increases in the appraised value of their property.

Local realtor Alex Perches is determined to protest the valuation on his 1,100-square-foot home, appraised at $200,000, just as he did in 2019.

He plans to prove it with photographs of wood rot on the patio, a broken planter and a 1959 kitchen that needs remodeling.

“There’s no way anybody would pay [that amount] for this house based on the repairs that need to be done,” Perches said.

The Appraisal District comes up with the value of a property based on sales prices of similar properties in the area. As the average home price in San Antonio has risen 19%, so did the average appraised value — by nearly 28% on the average single-family home.

The taxable value and the current tax rate are used to calculate the amount of property taxes an owner must pay to the County Tax Assessor-Collector.

But property owners who think the appraisal that recently landed in their mailbox doesn’t match up with reality can file an appeal and seek to reduce their tax burden.

Real estate broker Jim Hawkins said he has filed a protest on his Comal County home many times and recommends his clients in San Antonio do the same. If nothing else, it’s useful information to understand how the appraisal was developed, he said.

“At the same time, I think you need to do some homework,” Hawkins said. “You just can’t go in here and say, ‘I think my taxes are too high.’”

While two statewide constitutional amendments on the May 7 ballot, if passed by voters, could reduce taxes for some, the appeals process is already open to everyone.

Some property owners choose to do the work themselves in protesting their valuation. Others hire a property tax consultant or attorney who will do the legwork for you.

In many cases, consultants get a percentage of the savings as payment. To avoid being scammed, officials recommend asking for referrals from neighbors or a real estate professional.

If you decide to do it yourself, here’s a step-by-step guide to protesting the appraisal on your property:

Notice of protest

To start the process of appealing the appraised value of your property, or if you suspect an error has been made, you should first file a Form 50-132 Notice of Protest.

This form is available online at the Bexar Appraisal District website in English and Spanish; click on the Appraisal Review Board (ARB) heading.

The protest form can be submitted online using the Bexar Appraisal District's eFile system. Other options available include sending the form by email to protest@bcad.org, by fax to 210-242-2454 or mail: P.O. Box 830248, San Antonio, TX 78283.

Forms also can be delivered directly to a dropbox at the appraisal district office located at 411 N. Frio St.

When completing the form, select your reason for protesting the appraised value. The most common reasons selected are "incorrect appraisal" and "value is unequal."

Be sure to check the "evidence requested" box so that you can get copies of the data the appraiser will use if there's a formal hearing for your case. Also make sure you provide a good email address and phone number.

Informal meeting

After your notice of protest has been processed, the appraisal district will send you instructions on how to schedule an informal settlement meeting.

These meetings are conducted by phone or on the video conferencing platform Zoom.

When Perches filed his appeal in 2019, he was able to reduce the appraised value on his home by about $20,000, which satisfied him. He also recommends making sure you have a homestead exemption, which is available if you own and live in your home.

If you are dissatisfied with the decision made at the informal meeting, a formal hearing at the ARB is scheduled.

You can attend the hearing remotely by phone or Zoom, or request to appear in person, but the remote options are given priority in scheduling.

Formal hearing

At the formal hearing, the taxpayer and chief appraiser present evidence to the ARB, a panel of 45 individuals appointed by a local administrative judge.

As the property owner, you can discuss your objection to the appraisal, using relevant information to make your case about the true value of your home. This could include photos of your property and comparable properties, receipts or estimates for repairs, sales price documents (such as listings and closing statements), affidavits and calculations, architectural drawings, engineering reports, survey and deed records.

As soon as Hawkins' clients began to receive their appraisal notices in the mail earlier this month, his phone started ringing, he said. Many asked him for help pulling comparable home sales prices from the Multiple Listing Service that they can use in an appeal.

More information about presenting your case before the ARB is available at the State Comptroller's website.

After the ARB rules on your protest, a written order is sent to you by email or certified mail. If you disagree with the ARB's decision, you can appeal to district court, to binding arbitration, or to the State Office of Administrative Hearings.

VERMONT

Tax Assessment of Casino Is Limited to Value of the Land

In Anne Arundel County v. PPE Casino Resorts Maryland, LLC, No. 1248, Sept. Term 2019, 2021 WL 5071889 (Md. Ct. Spec. App. Nov. 2, 2021), the Court of Special Appeals (CSA) affirmed the decision of the Tax Court regarding the property tax valuation of the land on which the Maryland Live! Casino is located in Anne Arundel County. In its decision, the assessed value of the property was reduced by $55 million from the amount that the Anne Arundel County Supervisor of Assessments set.

Anne Arundel County asserted that the assessments should be based on the terms of a "ground lease," under which the casino operators are required to pay a base ground rent of $2 million per year with annual increases of 1%, plus 1% of the gross retail sales and revenue of the casino, less an annual credit of $1.5 million.

The property owners appealed the assessments for the 2011-13 and 2014-16 assessment periods to the Maryland Tax Court, where they argued that the Supervisor's approach included intangible value not properly a part of real property tax assessments. The taxpayers asserted that the assessment should be determined using a cost approach that focused on the value of the land. The Tax Court agreed with the taxpayers in PPE Casino Resorts Maryland LLC v. Supervisor of Assessments of Anne Arundel County, Case Nos. 14-RP-AA-0503 (1-2) and 14-RP-AA-1276 (Dec. 26, 2017). See Relating to Real Estate April 2018. The County appealed to the Circuit Court for Anne Arundel County, which affirmed the decision of the Tax Court. The County then appealed to the CSA and the CSA affirmed.

The Tax Court noted that two-thirds of the rent under the lease is from the business-oriented percentage rent. Therefore, according to the Tax Court, "the lease revenues value more than just the property — they include the value of the operating business, and don't reflect the amount a willing buyer would pay a willing seller for the property."

The CSA supported the Tax Court's approach of considering the rent under the ground lease, but not relying on it solely. The CSA stated, "Without information from past sales and revenue from a casino located in this area or information from a similar deal negotiated between these parties, it was not unreasonable for the Tax Court to find that revenue projections increased the valuation beyond what a willing purchaser would pay for the land." Instead, the Tax Court followed the direction of the taxpayers' expert who used a sales comparison method based on probable alternative buyers for the Arundel Mills Mall property and comparable land sales to determine the assessed value of the property.

Practice Notes: Shouldn't the PPE Casino case have application to any situation, not just for casinos, when there is a percentage rent component that the tenant pays? When does a transaction that includes a percentage rent provision shift from being a real estate deal, for which all of the components of rent are included in the calculations to determine the assessed value of the real estate, to being a business deal, for which a portion of the payments are not considered as part of the real property assessment?

The Tax Court and the CSA in the PPE Casino case focused primarily on what a willing buyer would pay for the land from a willing seller. But wouldn't a willing buyer of the fee interest of the casino property pay an amount based on the anticipated income of that interest for years to come?

For commercial property that is leased, assessors typically rely on the capitalized income method to determine the assessment of the property. Retail leases often contain percentage rent clauses. In light of PPE Casino, commercial property owners should promote replacement cost values and comparable sales values if the income approach produces a high proposed assessment.

WISCONSIN

The 2022 Property Tax Base of the City of Madison

The City Assessor is responsible for the assessment process including: (1) Discovering all real and personal property that is subject to tax unless exempted by law; (2) Listing all property characteristics used to determine value; and (3) Valuing all property subject to property tax. Creating and maintaining an accurate assessment roll (list of all taxable property: address, value, and owner) fulfills the first requirement. Sustaining property record cards with correct characteristics and information satisfies the second requirement. Accurate valuation, the final requirement, entails estimating the market value of all locally assessable property in the City. These values are used when establishing property taxes in December.

In Madison, all property is valued annually at 100% of market value as of January 1. For the purpose of taxation, property falls into two categories: real estate and personal property. Within these broad categories, there are several delineations of property. Real estate includes single family homes, condominiums, apartment buildings, commercial, and agricultural properties. Personal property consists of furniture, fixtures, and other types of property used in the course of business or commerce. Real estate and personal property are assessed by the City Assessor and represent approximately 98% of the property tax base. The remaining 2% of the tax base is manufacturing property valued by the Wisconsin Department of Revenue.

Real Estate Changes
Locally assessed real estate increased 10.9% for 2022. Commercial assessments increased 12.9% ($11,550 to $13,266 million) and residential assessments increased 11.4% ($20,119 to $22,699 million).

Personal Property Changes
Locally assessed personal property assessments decreased by $5 million between 2021 and 2022. This represents a 0.5% decrease from $591 to $586 million.

Manufacturing Assessments
Manufacturing full value assessments prepared by the State are available on the WI DOR website . Last year these assessments totaled $462 million ($388 million on real estate and $74 million on personal property).

Recap of Local Changes
A report (PDF) is available including tables that focus on the compositions and rates of locally assessed real estate growth.

WYOMING

Property tax burden too much

Property taxes shooting up 50%, 70%, 90% in a single year — or 337% in four years, depending on what properties sold in a neighborhood — shows just how broken Wyoming's tax structure is.

While claiming to be staunchly anti-tax, Wyoming lawmakers are taxing some residents at these exponential, eye-popping rates.

Skyrocketing bills illustrate the need for the Legislature to find new ways to pay for schools and other basic needs.

Historically, new taxes have been shot down.

Legislators won't tax personal income.

They won't tax corporate income.

They won't tax real estate transactions.

They won't tax unearned income — money people make off investments.

Wyoming pays its bills by leaning on four main pots of money by taxing: property (41%), general sales (31%), oil and gas (21%), and assorted things (7%) like fuel, tobacco, alcohol, insurance premiums and wind power.

So the heftiest tax burden for most residents is property tax. In theory the law for how to calculate property tax makes sense. Tax properties equitably based on fair market value. But that approach really stumbles when a real estate market turns volatile with purchases driven by panicked out-of-state buyers who sought a haven to ride out the pandemic. That overheated an already sizzling market.

The dramatic increase in real estate sales prices creates a brutal outcome for those who aren't actively buying and selling. So as some buyers purchase homes here to dodge income taxes in their home states by living here six months and one day, working families trying to buy a home or retirees trying to stay in their homes are being pummeled. And landlords often pass the tax increase on to renters.

Wyoming also taxes short-term lodging but dictates that the bulk of that money be spent to attract more tourists while limiting local governments' ability to use the money to retain workers needed to serve those visitors.

So visitors and second homeowners keep flooding in, while the workers and retirees keep getting washed out.

Since the problem is most acute in Teton County, whether state lawmakers will do anything to fix it might depend on whether local residents get involved.

Our local delegation in Cheyenne is mostly supportive of reforming property taxes and diversifying revenue sources, and hears regularly from Teton County residents. But they are just six of 90 legislators in Cheyenne.