

Property Tax Restraint Initiative

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Comments Provided by Nevada Taxpayers Association Staff for the Association's Members

General Information

Under the current property tax system for valuing real property:

1. Taxable value of land equals market (or full cash) value.
2. Taxable value of improvements (houses, etc.) equals replacement cost new less 1.5% per year straight line depreciation to 75%, leaving a residual value of 25%.
3. Assessed value is 35% of taxable value.
4. Tax rates are "per \$100 of assessed value".
5. Tax bills are capped at a maximum of 3% for owner-occupied residential property and 8% for all other property including personal property. (AB 489 of the 2005 Regular Session.)

Under the proposed property tax system for real property pursuant to the petition:

1. The *base value* is the taxable value in existence in FY 2003-04 plus 2% increase per year or the CPI increase per year or other adjusted value, whichever is less. If the base value is changed by improvements or is built after FY 2003-2004 the base value is *full cash value*.
2. The real *property tax rate* is set at 1% of the *base value*, which is a function of *taxable* or *full cash* value not the *assessed value*. The 1% limitation does not apply to voter approved general obligation debt or general obligation debt incurred prior to the effective date of the initiative which was not voter approved.
3. Personal property is not addressed by this Initiative, therefore it will be valued and taxed under existing statutory provisions; value depreciated based on schedules of life and the maximum increase in a tax bill capped at a maximum of 8%.

General Comments

In reviewing the language of the Initiative there are a number of assumptions that have been made. Unfortunately, these assumptions are required, because as indicated in the section by section summary, there is more than one interpretation of a word or phrase. It is these types of ambiguities that have made California's Prop 13 subject to extensive litigation.

Assumptions

1. Full cash value equals market value without the depreciation or 35% assessed value ratio.
2. Debt incurred prior to the effective date of July 1, 2009 and retirement schedules will be based on the current system which is at 35% of taxable value. No assumption is made regarding whether general obligation debt incurred after the effective date of the initiative will be based on 35% of taxable value or full cash value.

Initiative Petition

State of Nevada

The matter in *bolded italics* is new; matter between brackets [~~omitted material~~] is material to be omitted

THE PEOPLE OF THE STATE OF NEVADA DO ENACT AS FOLLOWS:

Section 1. Article 10 of the Constitution of the State of Nevada is hereby amended by adding thereto a new section to be designated section 6, to read as follows:

Sec 6. 1. The maximum amount of tax ad valorem that may be levied on real property shall not exceed 1 percent of the base value of the property. This limit does not apply to taxes ad valorem levied to pay the interest and principal of any bonded indebtedness incurred before this section became effective or approved thereafter by two-thirds of the votes cast by voters voting on the question in the taxing district in which it applies.

Sec. 6.1 continued

COMMENT: Voter or legislatively approved general obligation debt funded by property tax prior to the enactment of the Initiative is outside the 1% cap. After enactment of the initiative all debt funded by real property tax must receive approval by 2/3s of the voters (currently a simple majority).

The Initiative does not exclude from the 1% cap voter approved property tax overrides such as: the 75¢ “pay-as-you-go” property tax levy for school construction (which is in place in Elko County); the voter approved property tax operating override for police officers which has been approved in both the city of North Las Vegas and for the Clark County Metropolitan Police Department (Metro); the voter approved operating override for the senior center in Carson City, in addition to numerous other overrides. Because voter approved property tax funded operating and maintenance overrides are not outside the cap, it would seem that the school operating rate of 75¢ and voter approved operating overrides would have to be funded first. The remaining revenue would be distributed as operating rates for the various entities within a county, which for some local jurisdictions would serve to further reduce general fund operating revenues.

The existing property tax debt rate is outside the 1% limit. The existing debt rate now is applied to the *assessed value*, so for this section it is assumed that the debt rate will be applied to the assessed value, not the taxable value of real property. The petition does not specify. Additionally some one will have to figure out how to address the state debt limit which per Article 9, section 3 of Nevada’s Constitution “is set at two percent of the assessed valuation of the state”. Is another Constitutional amendment needed to correct this? Or is it another set of records that will have to be kept by the County Assessors.

2. Except as otherwise provided in subsections 3, 4, and 5, the base value of real property is the taxable value from which the assessed value for the Fiscal Year 2003-2004 was calculated, but if the property was not appraised or reappraised for that fiscal year, the taxable value determined by appraisal or reappraisal for a subsequent fiscal year may be appropriately adjusted to determine the taxable value as of the Fiscal Year 2003-2004.

COMMENT: This provision accommodates owners of real property in counties that are still on a 5-year reappraisal cycle. Only Clark County is on an annual reappraisal cycle. However, if property was not appraised or reappraised for FY 2003-2004 the above language states it “. . . may be appropriately adjusted to determine the taxable value. . .” Because “may” is permissive does this mean the property does not have to be adjusted?

3. Except as otherwise provided in this subsection and subsection 6, if the ownership of real property is transferred to the extent of one-half or more of the total interest in the property, the base value of the property becomes the full cash value of the property as of the date of transfer of the property. The provisions of this subsection do not apply if the transfer is to the spouse of the transferee, to or from a separate legal entity of which the transferor is the beneficial owner, or to a child or grandchild of the transferor.

COMMENT: The transfer of ownership of real property applies not only to the sale of a residence, but also to the transfer of ownership via stock; generally business transactions. This provision would require a system of reporting for businesses that transfer real property through a stock or shares transaction. Such a reporting system does not currently exist and would not be as easy to set up as it might seem. While corporations and limited liability companies or partnerships can be identified as they are required to be registered with the Secretary of State, corporations do not report their “owners” and it is an optional requirement of limited liability firms. Partnerships on the other hand have NO reporting requirements. This language is an attempt to treat all property owners equally however, it did not take into account the lack of a reporting system or the complexity and cost of developing such a reporting system.

It also appears that if a sale of real property occurs that was on the property tax roll prior to 2003-2004 and that property is sold after that time, the value of the real property would have to be rebased to market value which could result in an increased tax liability. This increase could be substantial so long as property is appreciating and because the increases would be compounded.

4. Except as otherwise provided in subsection 6:

(a) if new improvements to real property are constructed, except to replace existing improvements destroyed by natural disaster or other casualty, or existing improvements are materially enhanced, the base value of the property must be increased by the full cash value of the new improvements or enhancement.

(b) If real property is converted to another use, the base value of the property must be redetermined after the conversion by appraisal at its full cash value in accordance with the new use of the property.

COMMENT:

Paragraph (a) - If the “materially enhanced” improvements constitutes the addition of a guest house or a room or a pool to a house that has been rolled back to FY 2003-2004 value it would appear, from the above language, that the existing structures on the property will have a taxable base value and the improvements will have a base value of full cash value. What it will take in time, and technology and the related costs for County Assessors and Treasurers to accommodate this record keeping is unknown.

Paragraph (b) - This section raises a question of interpretation. Is “converted to another use” a change of use when a structure is built on vacant land? Or, is “converted to another use” a change of zoning, i.e. single family homes to apartments, or industrial to hotel, etc. These are vastly different interpretations of “converted to another use”. If it is the latter interpretation, not every local jurisdiction provides for zoning, which would lead to additional inequities in the valuation for like properties.

5. Except as otherwise provided in subsections 3 and 4, the base value of the real property shall not be increased from year to year by any amount greater than the lesser of:

- (a) The percentage of increase in inflation, if any; or*
- (b) Two percent.*

The base value of real property must be decreased from year to year by the percentage of inflationary reduction or disinflation, if any, or to reflect substantial damage or destruction, or other causes of a decline in value, including, but not limited to, economic or market conditions. For the purpose of this section, the percentage of increase in inflation and the inflationary reduction or disinflation shall be measured by the Consumer Price Index for All Urban Consumers, or other appropriate inflation indicator as may be determined by the Legislature, as it applies to each county or other taxing jurisdiction.

COMMENT: This section basically establishes that real property values, either under the current method of valuation, or full cash value upon sale will not increase greater than 2%. Please see comment under Sec. 8 regarding “effective date”.

6. Notwithstanding any provision of this section to the contrary:

(a) An owner domiciled in this state who has attained the age of 62 years may replace his principal residence with another of comparable value and transfer to the new residence the base value of the old residence for the purpose of limiting the ad valorem tax on the property.

(b) A new improvement may be constructed, or an existing improvement materially enhanced, without change in the base value of real property if the construction or enhancement is necessary to protect the safety of the occupants or improve accessibility to the disabled.

(c) An owner whose real property is taken by the exercise of eminent domain may replace that property with property of comparable value and transfer to the new property the base value of the old property for the purpose of limiting the ad valorem tax on the property.

Sec. 6 Continued

COMMENT: This is one of two sections that has been materially changed from the petition circulated in 2004 and from language that was added to California's Prop 13. In the 2004 initiative petition the language stated: "The legislature may provide by law the circumstances under which: . . ." value could be transferred because the real property was owned by a senior or the real property was taken by eminent domain. Additionally the 2004 petition did not contain paragraph (b) above.

There is also a question raised as to the transfer of value. What value is used if the real property an owner is selling is based on a taxable value established in 2004 and the property being purchased has been previously sold and is now valued based on full cash value? What value will be the basis for future increases? Taxable value? Full cash value?

7. No new or additional tax may be imposed on the sale or other transfer of real property after the date this section becomes effective.

COMMENT: This is the other section that has been changed from the 2004 initiative; as now written it is straightforward. The rates of real property transfer taxes that are in place as of the date the Initiative is effective are frozen.

8. This section shall take effect for the tax year beginning on July 1 following the passage of this amendment.

COMMENT: All the existing statutory provisions governing the preparation of budgets, certification of rates, and preparation of tax bills occur prior to July 1 of the year. Since this effective date is specified as "July 1 following the passage of the amendment" it would appear, that the caps would not be reflected in property tax bills until Fiscal Year 2010-11.

9. If any section, part, clause or phrase hereof is for any reason held to be invalid or unconstitutional, the remaining sections, parts, clauses and phrases shall not be affected but will remain in full force and effect.

COMMENT: Self-explanatory.

Section 2. Section 1 of Article 10 of the Nevada Constitution is hereby amended to read as follows:

Section 1. **1.** ~~{The}~~ *Except as otherwise provided in Section 6 of this Article, the* Legislature shall provide by law for a uniform and equal rate of assessment and taxation, and shall prescribe such regulations as shall secure a just valuation for taxation of all property, real, personal and possessory, except mines and mining claims, which shall be assessed and taxed only as provided in section 5 of this article.

Please Note:

1. The remaining sections and subsections of Article 10 are unchanged.
2. The fiscal note prepared by LCB fiscal division is attached to this document as page 5.

FINANCIAL IMPACT OF THE ANGLE PROPERTY TAX RESTRAINT INITIATIVE

FINANCIAL IMPACT - YES

Overview

The Angle Property Tax Restraint Initiative (Initiative) proposes to amend Article 10 of Nevada's Constitution to change how real property value is determined and establish a maximum property tax rate of 1 percent of the base value of the real property. Based on the Initiative, the base value of a parcel of real property in any particular year would be a combination of the taxable value and full cash value of the property including adjustments for allowable growth, depending upon such factors as when the property was last sold or improvements were added. If the Initiative were implemented, the first fiscal year it could become effective is fiscal year 2009-10 (July 1, 2009 – June 30, 2010).

Projected Impact of the Initiative Compared to the Current Property Tax System

To estimate the fiscal impact of the Initiative, projections of the total value of real property from fiscal year 2005-06 to fiscal year 2013-14 were prepared under the provisions of the Initiative and the current property tax system. The estimates for the current property tax system were based on the partial abatements established by the 2005 Legislature. Based on assumptions using available historical information and Fiscal Analysis Division's interpretation of the provisions of the Initiative, the following impacts in fiscal year 2009-10 (the first year the Initiative could become effective) and fiscal year 2013-14 (five years after the initial effective year) were produced:

- 1.) In fiscal year 2009-10, the Initiative is projected to generate approximately \$3.057 billion in statewide property tax collections, compared to the \$3.241 billion under the current property tax system (partial abatements approved by the 2005 Legislature). The Initiative is estimated to reduce statewide real property tax collections by approximately \$184 million (a 5.7 percent reduction).
- 2.) In fiscal year 2013-14, the Initiative is projected to generate approximately \$3.991 billion, compared to the \$4.528 billion under the current property tax system (partial abatements approved by the 2005 Legislature). The Initiative is estimated to reduce statewide real property tax collections by approximately \$537 million (an 11.9 percent reduction).

The fiscal impact in a particular county may be different from the estimated impact at the statewide level.

Summary of the Assumptions Required to Project the Fiscal Impact of the Initiative

Based on Fiscal Analysis Division's interpretation of the provisions of the Initiative and available historical information, several assumptions were established to generate an estimate of the fiscal impact of the Initiative compared to the current system established by the 2005 Legislature. The allowable rate of increase in the value of real property existing on the prior year's tax roll, and not required to be revalued at full cash value, is assumed to be 2 percent. The following provides a general description of the main areas requiring additional assumptions of future activity to produce estimates of real property value over the fiscal year 2005-06 to fiscal year 2013-14 projection period:

- 1.) The rate of appreciation or depreciation each year in the value of real property existing on the prior year's tax roll in each county.
- 2.) The level of new real property value added to each year's tax roll in each county.
- 3.) The rate of transfer of existing real property in each year and the full cash value (market value) of the transferred property in each county.