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THE NEW PROPERTY TAX REVOLT

Colorado

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Colorado citizens have launched a new property tax revolt not unlike that launched by Proposition 13 in California during the 1970s. Double digit inflation rates resulted in increased home values accompanied by sharp increase in assessed values and property taxes.

Colorado homeowners have faced a perfect storm. Protection from inflationary increases in property taxes has been eroded and eliminated. In 2020 Colorado citizens approved Amendment B repealing the Gallagher Amendment. The Gallagher Amendment set the residential share of total statewide property tax revenue at 45%. As residential property values grew the residential assessment rate was continuously lowered to meet the 45% cap. By 2020 the residential assessment rate had been reduced from 21% to 7.15%. Repeal of the Gallagher Amendment removed the major protection of homeowners from inflationary increases in assessment rates and property taxes.

In this new property tax revolt citizens have sought relief both through the legislature and through the ballot box. In 2023 Colorado voters soundly defeated a legislative referendum, Proposition HH. It provided only temporary relief to property owners by reducing residential and commercial property tax rates when in fact it was a thinly disguised attempt to weaken the TABOR Amendment. Proposition HH would have cut the surplus revenue above the TABOR cap that would have been refunded to taxpayers. The state could then use that money to reimburse local governments for property tax relief - a strategy used by special interests in other states such as California. In California special interests carved out so many exemptions from their tax and expenditure limit that it became completely ineffective as a constraint on state revenue and spending. Ever since TABOR was enacted in 1992 special interests in Colorado have attempted such carveouts from the TABOR limit, but Colorado voters have defeated most of these measures at the ballot box.

With the defeat of Proposition HH and growing discontent from citizens paying higher property taxes, the Colorado legislature met in several special sessions to enact legislation providing property tax relief. In 2024 the legislature passed Senate Bill 24-233. That Bill split the residential assessment rate in two: one for school districts and another for non-school districts. The assessment rate for school districts increases from 6.7% to 7.15%. The assessment rate for non-school districts decreases from 6.7% to 6.4% in 2025 and then increases to 6.95% in 2026. The Bill reduces assessment rates for commercial and agricultural properties. The legislature will backfill any loss of revenue for local jurisdictions from the general fund.

SB 24-233 reflects the influence of special interests when the Legislature designs property tax relief measures. School districts will benefit from an increase in assessment rates and property tax revenues. Non-school district property owners will benefit from lower assessment rate temporarily but will face higher assessment rates in the long term. When the legislature uses the general fund to backfill local jurisdictions for loss of property tax revenues from the general fund it shifts the tax burden from property owners to all taxpayers in Colorado. SB 24-233 is so complicated it is difficult for citizens to know who if anyone receives property tax relief and who ends up paying the bill, which was the intent of legislators.

The most important thing for homeowners to understand is that their effective property taxes will increase in coming years even if the value of their property does not increase. The higher the value of the property the higher the increase in property taxes projected under B 24-233; and if the value of their property increases then the increase in property taxes is even greater. In short, Colorado homeowners face the same dilemma they faced before passage of this legislation.

SB 24-233 reveals the fundamental difference between property tax relief measures enacted by legislators and those proposed by citizens through the initiative process. When citizens propose property tax relief

measures through the initiative process the legislation is more likely to reflect the interests of property owners and all citizens rather than special interests.

Citizens in Colorado responded to the dramatic increase in their property taxes by proposing two initiatives, Initiative 50 and Initiative 108. Both of these initiatives would have provided significant property tax relief, but both were withdrawn when SB 24-233 passed in the legislature. That Bill was clearly designed to take the wind out of the sails of citizen led initiatives. Over the years special interests have pressured the Legislature to enact legislation designed to preempt citizen led initiatives. Their success in enacting SB 24-233 is especially egregious because that legislation fails to protect homeowners from inflationary increases in their property taxes in the long run.

Conclusion

We have learned a great deal from the new property tax revolt in Colorado. The most important lesson is that property taxes, and indeed all taxes, are too important to be left to the discretion of the legislature. Special interests are effective in influencing tax policy when it impacts them directly, and this special interest effect is evident when the legislature proposes amendments to the Constitution. The amendment proposed by the legislature Proposition HH was a sham. That amendment would have gutted the most important protection that Colorado homeowners have from burdensome taxes, the TABOR amendment. Special interests also had a major impact on the design of SB 24-233. In the guise of property tax relief that legislation leaves homeowners without protection from higher property taxes in the long run.

Fortunately, Colorado citizens have the benefit of direct democracy to protect them from burdensome taxes. They can protect themselves from special interests by proposing tax reforms directly through the initiative process. It is more difficult for special interests to influence citizens at the ballot box than to lobby a small group of state legislators. Citizens can propose amendments through the initiative process that better reflect their interest than anything promulgated through the legislature.

The TABOR amendment enacted through citizen initiative in 1992 remains the most effective tax and spending limit in the nation, despite numerous attempts by special interests to weaken and repeal it. However, TABOR does not protect individual homeowners from inflationary increases in their property taxes such as that experienced in recent years. The most effective protection for individual homeowners is a constitutional amendment capping assessment rates and millage rates, such as Proposition 13 in California. Proposition 13 has proven to be the most effective protection for individual homeowners from burdensome property taxes for more than half a century.

Appendix

State Constitutional Amendment Policy to Establish Property Tax Caps

This proposed constitutional policy both (i) caps a home or business owner's annual property taxes at the same amount at the time of purchase and (ii) requires approval by the property owners of new or increased property rates or taxes in the district.

The Need

- The primary drivers of real property tax increases are both rising property value assessments and increased tax rates.
- Increased local government spending causes the local governments to administratively deploy property assessments to increase property tax revenues.
- The ability of local governments to increase unilaterally property tax assessments is taxing unrealized and therefore speculative gains in the value of the owner's property. This is no different than taxing the unrealized gains in one's 401K!
- The ability of local government to threaten seizure and forfeiture of a property if the increased taxes are not paid continuously dilutes the private ownership of the property.
- For those with low or fixed incomes, increasing property taxes can exceed the monthly mortgage and force the sale or forfeiture of the property and the dislocation of the owner, if the property owner is unable to pay the taxes.
- State constitutions are the most lasting vehicle by which to provide a perpetual check on what is essentially "runaway" local government taxation of property by enabling the voters to review and approve such increases in their taxes.
- In conclusion, there should be "No New Property Taxes or Fees Without Voter Approval" and that:
 - Home and business property taxable values shall be based on the valuations from the year before ratification or the actual sale price after ratification.
 - A property's taxable assessment cannot increase unless it is sold or substantially changed or improved by construction at which time the taxable value shall be the fair market value.
 - The all-county property tax and fee rate (millage rate) for the first fiscal year after ratification shall be determined by dividing the total property tax revenues plus property-related fees (e.g., impact fees) by the county's total taxable valuations from the year before ratification.

The Essential Components of a Strong Property Tax Limitation Constitutional Policy

- In general, home and business property taxable values should be based on the valuations from the year before ratification or the actual sale price after ratification.
- No Increase in the Landowner's Property Tax Until Sold, Substantially Improved by Construction, or Transferred. Any increase in assessed taxable value notwithstanding, there can be no increase in the tax the landowner's property since its purchase or acquisition until the property is sold, substantially improved by construction, or transferred at which time the assessed taxable value shall be the fair market value of the property.
- Annual Adjustment of Taxable Value. Taxable value shall be changed annually on January 1st of each year; but shall not exceed the lower of the following: fair market value, the increase/decrease in the previous year's taxable value by the lesser of two (2.0%) or the annual percent change up or down in the Consumer Price Index.

- Sale Adjustment of Taxable Value. After any change of ownership, as provided by general law, the property shall have a taxable value equal to the purchase price and only applied:
 - At the time of sale or change of ownership, including the sale of parcels; or
 - When the cost of substantial structural size additions, excluding repairs or replacement of structures, are completed.
- Millage Tax Percentage Cap. Each county's property millage tax percentage is capped as of January of the year following the Amendment's approval. The county millage tax cap percentage shall include: All ad valorem property taxes levied in the previous year plus all lean enforceable fees, fines, assessments, charges, and levies unless approved by a majority vote of affected-property-owners divided by the counties total of all tangible property's taxable value.
- Tax Cap Increases Only By a Vote of the Property Owners. An increase in the county millage tax cap percentage or any sub-county property taxing district or special assessment district must be approved by a majority vote of the county, district or special assessment district property owners for up to 30 years provided the ballot states the estimated total property taxes over the assessable years.



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