# REAL PROPERTY TAX IN OHIO

Traditionally there have been three types of taxes that consider a taxpayer's ability to share in the cost of government services. These are taxes on income, taxes on consumption (sales tax), and taxes on wealth (property tax). States have attempted to achieve a balance between these three sources of revenue to avoid a concentration of the tax burden on a limited segment of the population, and to prevent the tax structure from affecting the economic behavior of citizens. This paper focuses on the traditional tax on wealth, the real property tax. This is the tax on land and buildings.

Today, this is a peculiarly local tax in that it is assessed, levied, collected and distributed at the county level under the supervision of state officials. It is also the only tax in which direct control of the tax rate rests with taxpayers themselves. This was not always the case. In fact, a real property tax was the primary source of revenue for Ohio when it was granted statehood in 1803. This paper will detail the history of the real property tax and its evolution into an important part of the funding mechanism for local governments and school districts. This evolution can be characterized as a series of changes in the definition of the tax base, limits on the rates of taxation, methods of determining and monitoring taxable values, and the provision of certain tax relief programs.

Like any tax, the real property tax can be described by the basic formula:

$$(\text{BASE} \times \text{TAX RATE}) - \text{CREDITS} = \text{TAX}$$

This paper will address each component of the formula in turn to provide an overview of the laws governing current real property tax administration. There is also a section discussing the calculation, payment and distribution of real property taxes. For the reader's convenience, unfamiliar terms are defined in a glossary at the end of the paper.

# SECTION ONE: HISTORY OF THE REAL PROPERTY TAX

### *Early History (1803 – 1850)*

The real property tax was the first source of revenue for Ohio's state and local governments. From 1803 to 1825, the main source of revenue in Ohio was a general land tax. Local assessors rated land according to its quality and divided it into one of three classifications. Taxes were calculated using a graduated rate that ranged from a low of 20 cents per 100 acres in 1803 to a high of $3.60 per 100 acres in 1825.

Under this system, there was a gradual migration of land from the higher classification to lower tax categories. There were also administrative problems that arose from assessing and collecting taxes from a population scattered over a large territory. As the state became more populated and commercial property interests developed, there was also growing dissatisfaction that the primary source of revenue failed to consider any sort of tax on buildings or personal property. Attrition of revenues and growing public interest in tax reform manifested itself as support for the first *ad valorem* property taxation, or the taxation of property according to value.

In response to these conditions, the General Assembly abolished the land classification system in 1825 and established a general property tax. The new tax introduced a number of features, including the state taxation of all real property and certain types of personal property, the valuation of property at its true value in money, and the creation of boards of equalization to ensure the fair and accurate administration of the new tax. After these measures were enacted, a statewide revaluation of all property was undertaken. This resulted in the first Grand List of taxable property against which state, county and township taxes were levied. During this period the first property tax limits were also introduced, with the earliest references appearing in 1831. These were, however, primarily restrictions on levies for specific purposes and had little practical effect on tax rates. Property was revalued again in 1834 and at irregular intervals thereafter. Between 1825 and 1846, changes to the new law were essentially refinements to the 1825 act and new provisions that allowed the application of the tax to additional categories of property.

Unfortunately, the first two decades of the new tax system did not provide the anticipated result. The legislature used its power of taxation to favor or discourage special interest groups, such as agriculture or foreign banking interests. Property tax exemptions were also approved by the legislature for specific enterprises to indicate the legislature's support of various activities. Under these politically motivated practices, the tax list decreased until it represented only a quarter of the state's wealth. From 1836 to 1846, Ohio operated on a deficit basis and accumulated an additional $1.5 million in principal debt. The legislature attempted to salvage the system by imposing special taxes on a variety of businesses, ranging from insurance companies to the services of physicians and attorneys, but the effort failed to produce sufficient revenue and address public dissatisfaction with a system that was floundering in its attempt to curry favor with special interest groups.

In 1846 the General Assembly passed the Kelley Law, which required all real and personal property to be taxed at a uniform rate according to its true value in money. Exemptions were restricted and defined with greater precision and a system requiring property to be returned and taxed in the county or town where it was located

was introduced. New rules were drafted to guide the appraisal of property and a permanent schedule was set for future revaluations of property every six years. The new law also reconfigured the county and state boards of equalization.

### *Introduction of the Uniform Rule*

Despite these reforms, the public was still suspicious of the political nature of the tax. Although the Kelly Law had established uniformity as the general basis of the tax, a segment of the population believed the only way to protect the public's interest from political pressures on the legislature was to place the system in the state constitution. The result was this provision, which was included in the 1851 Constitution of Ohio as Section 2 of Article XII. Although it was recast by the Constitutional Convention of 1912 and has been amended several times, it is the basis of the system in place today.

> ...Laws shall be passed, taxing by uniform rule, all monies, credits, investments in bonds, stocks, joint stock companies, or otherwise; and also real and personal property, according to its true value in money...

The adoption of the 1851 Constitution necessitated a complete revision of the tax laws. This was done in 1852 to codify the constitutional requirements and to require sexennial revaluations, thus repeating the 1846 requirement that had not been followed. The uniform rule and the provision for assessment of property according to its true value in money was further imbedded in the statutory system in 1859, which also set the next date for statewide revaluation in 1864. This revaluation was postponed to incorporate decennial revaluations beginning in 1870. Clearly, enforcing statutory requirements for periodic revaluations continued to be a problem.

Although new, stringent requirements for property tax assessment were in place, the system soon began to falter with continued under-assessments of property. Eventually this practice became so widespread that it effectively supplanted the statutory full value requirement. Public concerns with problems in assessment practice are suggested during this period by the creation of additional boards of equalization at the state, city and township levels to monitor and correct property valuations.

In 1902, partially in response to the demands for equality in the property tax, Governor Nash urged the complete separation of state and local taxation by leaving the general property tax to local governments. The General Assembly apparently followed the Governor's lead by electing to levy no statewide tax for the general revenue fund in 1902, although taxes continued to be charged for common school and other minor purposes. This is the earliest record of the migration of the real property tax to its current position as a tax solely for local governments.

### *20th Century Tax Reform*

General dissatisfaction with the property tax resulted in the appointment of a committee in 1906 to investigate the state's tax laws. Among other reforms, the committee recommended the formation of a State Tax Commission, more frequent property appraisals, and the complete separation of state and local tax revenues. In

1910, the General Assembly responded by creating the State Tax Commission of Ohio. This body was empowered to order reassessments, correct valuations, and to require that county auditors (now the local assessors) place omitted property on the tax list. In general, the new Commission was granted the final authority in all matters relating to taxation.

By 1910 property was generally assessed at less than its full value. The new State Tax Commission reviewed property valuations and ordered county auditors to increase values in 1911. Property was so inconsistently and radically undervalued that mandated rates of increase ranged from 74 to 379 percent. Property values shot from $2.0 billion in 1910 to $5.3 billion in 1911. Since the purpose of the reappraisal was to raise values to the required level, rather than raise local taxes, the legislature quickly responded with the passage of the Smith Act in 1911.

The Smith Act restricted the combined property tax rate levied by schools, counties, townships and municipalities to a maximum of 1%, or 10 mills of the taxable value of property. An additional 5 mills could be levied if authorized by the voters or if used to pay debt charges on bonds. The only levies that were permitted outside the 15-mill limitation were levies for specific emergencies, such as epidemics or floods. It was also hoped that lower rates of taxation calculated under the new law would encourage more intangible property to be placed on the tax list since there would be little incentive to conceal it. This however, did not happen.

Laws requiring periodic reappraisals were repealed in 1913. With no growth in the tax base and no ability to increase rates above the 15-mill ceiling, even with voter approval, revenues became static and failed to meet the cost of providing government services for the expanding population. Local governments became indebted to cover the cost of current services and school district debt increased more rapidly in Ohio than in any other state. Cities also relied on deficit spending as municipal expenses outstripped revenue by nearly 30%. Due to this state of fiscal crisis, numerous exceptions to the 10-mill limit were enacted from 1915-1920. As a result of these exceptions to the Smith Act, over 90% of the local taxing districts were levying rates in excess of 15 mills by 1920.

Strict rate limitations were gradually removed during this period. By 1925, the statutory limit was 15 mills without voter approval, and there was no limitation on the levies voters could authorize in excess of 15 mills. As a result of the liberalization of the law, the average tax rate in Ohio rose to over 20 mills in 1920 from 15 mills in 1919.

Ohio's history of imposing limits on the revenue produced by property tax collections began in 1925. During that year the MacDonald Act was adopted which required general reappraisals of real estate every 6 years in each county. To prevent "windfall" revenue gains by local jurisdictions, the legislation also provided for the reduction of all voted levies so that revenue produced by these levies would remain the same as before the reappraisal. This type of limitation has remained in Ohio law in some form or another continuously until the present time.

As a result of the changes in the rate limitation law and modifications in budgetary procedures, local government budgets were gradually brought into balance after 1925 until the start of the depression. Schools were particularly successful in securing approval of additional levies during this time. In spite of these rate limitations, tax rates in Ohio remained close to national averages.

Since property values had not been updated since 1911, the State Tax Commission repeated its review of property values in 1926 and again ordered values to be adjusted by various percentages, this time to achieve a stated goal of 85% of true value. By now, fractional assessments were so common they had become the accepted standard in spite of the statutory and constitutional requirements for true value.

In 1929, the Constitution was amended to separate personal property into a different tax classification, but the full value requirement remained in place for real estate. This cleared the way for the Legislature to establish a system that would give preferential treatment to personal property over real estate. In order to secure the support of homeowners and farmers, the amendment also included the 15-mill limit on unvoted taxes. These changes were effective in 1931.

In 1933, the 15-mill limit was reduced to 10 mills of unvoted tax (unless permitted by municipal charter). One of the forces behind this reduction was the fact that assessed property values did not fall as rapidly as market values during the Great Depression. City real estate boards and farmers initiated petitions to roll the limit back to the 10-mill level. The amendment was placed on the ballot and approved by a large majority, carrying every county in the state.

Reducing the constitutional millage limits from 15 mills to 10 mills in 1933 had a major impact on local governments. The full force of this reduction had to be absorbed out of current operating funds since debt requirements had the first claim on property tax revenues. Total revenue for current operating expenses was reduced by approximately 30% as a result of the change. Because of the more restrictive rate limitation, the average statewide tax rate fell to 18.70 mills in 1934 from 22.42 mills in 1933. This rate reduction combined with a 13% decrease in property values from 1932-1934 and the high delinquency rate at that time would surely have had a more devastating financial impact than the Smith Act in 1911 if the state had not increased aid to local governments considerably.

In response to local governments need for more revenue, the state adopted a new 3% sales tax and a 1% increase in certain excise taxes on public utilities. The additional state revenue enabled the legislature to set up an aid program for schools and local governments which was necessary for them to survive under the 10-mill limit. The net effect of the 10-mill limit was to shift part of the financial responsibility for governmental functions to the state from the local level, while broadening the tax base. In fact, several tax experts of that time believed voter approval of the 10-mill limitation was due to this anticipated redistribution of governmental functions and not necessarily because voters believed they could reduce the overall tax burden.

In 1939, the State Tax Commission was replaced by the Department of Taxation. The Department of Taxation was an administrative agency consisting of a Tax Commissioner and the Board of Tax Appeals, which was nominally within the Department but outside the jurisdiction of the Tax Commissioner. Supervision of the real estate assessment process was transferred to this Board of Tax Appeals, which was a three-member board of gubernatorial appointees serving staggered six-year terms. The Act accomplishing the transfer was titled " An Act to equalize the real property valuations within the state for the purposes of taxation, " which suggests that achieving uniform property valuations continued to be an elusive goal.

In spite of the MacDonald Act and supervision by the Board of Tax Appeals, few property revaluations were conducted until 1947. This was due in large part to the practical challenges of finding qualified personnel to revalue property in 88 counties at one time. This impediment was removed in 1947 when the law was changed to require reappraisals once every six years in a staggered cycle. Still mechanical problems remained. Few

county auditors conducted the required valuations because there was no penalty for failing to comply with the law. Financing the cost of reappraisals was also a practical concern, because county governments received only 8-12% of property tax revenue, but were required to fund the entire cost of administering the tax.

The legislature responded to the first of these concerns with a provision that allowed the withholding of school foundation and local government funds if the auditor failed to comply with an order of the Board of Tax Appeals to revalue property. The second concern was addressed in 1957 with a new statute that earmarked a percentage of real property tax receipts for financing real property assessment. After money had accumulated in the new fund for two years, the Board of Tax Appeals ordered 30 counties which had not complied with the 1947 order to reappraise real property. These revaluations were challenged at the Supreme Court of Ohio by individual taxpayers who believed the Board's actions were illegal, because application of the Board's recommended increases raised their property values above market levels. The Court determined that the Board's actions were legal because they were based on an analysis of aggregate values. Individual property values were under the control of the county auditor as assessor, and not subject to control by the equalization authority. This is still an important facet of modern law in that the state may order adjustments in aggregate property values by class or political subdivision, but has no authority over the value of individual parcels.

In 1952, The Board of Tax Appeals attempted to equalize property values at 50% of market value based on the comparison of tax values to sales prices for 1946, 1947 and 1948, although statutes still required valuation by the true value in money standard. In 1957 the legislature changed the statute to reflect actual assessment practice by requiring that property be assessed according to *taxable value* rather than true value. The Board of Tax Appeals was charged with the responsibility to set the percentage of true value that was to be used to calculate taxes by administrative rule. This action was also challenged at Supreme Court of Ohio by a county auditor who argued that this was a contravention of the constitutional true value requirement. The Court ruled that the statute was legal, but the legislature restored the true value provision within weeks of the Court's decision in 1959.

In 1962 the first of an important series of cases was brought before the Ohio Supreme Court. Park Investment Company, a Cuyahoga County property owner, challenged the process of assessing real estate in a series of landmark lawsuits against the Board of Tax Appeals. The property owner argued that commercial property in Cuyahoga County was valued at a higher percentage of market value than other classes of property and sought an order to lower commercial values. Instead, the Supreme Court ordered the Board to perform its statutory duty by reviewing assessment ratios and adjusting property values accordingly. Although Cuyahoga County commercial values were eventually lowered as a result of this review, the practical solution to the problem could no longer be avoided. Since the problem was not that commercial values exceeded legal limits, but rather that residential and agricultural values were too low in comparison, residential and agricultural values would have to be substantially increased to ensure that all taxpayers were uniformly assessed. This painful process also caused a considerable shift in the tax burden.

Several important legal precedents were established in these cases. Foremost, was the requirement that all real property was to be taxed by a uniform rule according to value. This meant that the ratio of assessed value to market value had to be the same for all classes of property and also for all counties. Ancillary to this requirement was that property values must be reviewed on a regular basis to maintain the legal level. Another important precedent was that market value, or sales price, was the best indication of a property's true value in money. Also of note was the Court's consideration of the Board's sales ratio studies as the primary indictor of assessment performance. Although the Board had argued that it utilized other means of analyzing property

values and critics had dismissed the validity of these studies due to sampling errors, the weight given them by the Court established statistical analysis as the standard for determining the level of assessment and uniformity.

By the late 1960's, statutory pressure on the Board was increased to correct assessment inequalities. The Board prepared a series of administrative rules that would have officially adopted a 40% assessment level, but this was postponed when the legislature suspended the Board's authority for a period of two years, pending further efforts to reform the system. During this period, no agency supervised the assessment process. The tax system was once again reviewed by an independent commission, this time acting under the guidance of a temporary Master Tax Commissioner, who was charged with responsibility of seeing that Supreme Court's orders in the *Park* cases were carried out. These measures were considered imperative because property values – which were also the basis for the distribution of state aid – were so diverse and non-uniform that immediate correction would have had a chaotic impact on local revenues.

In 1965 the legislature took an important step toward modernizing the tax code. The 106th General Assembly recognized the socioeconomic difficulties inherent in raising taxable values to the required market level, and passed legislation requiring the Board to fix a percentage of true value to be used as taxable value. This was to be accomplished by rule, but could not exceed 50% of market value. The 40% assessment level was finally established and the practice of a *taxable value* different from *true value* was now legally permitted.

The 1965 legislation also provided a mechanism for a more comprehensive appeals process for individual property values. Under prior law, a taxpayer could seek relief only from an appeal to the local Board of Revision, which consists of the county auditor, the county treasurer, and the President of the Board of County Commissioners. The 1965 legislation provided for appeals from the local level to the State Board of Tax Appeals or to the county Court of Common Pleas. Decisions from the Board of Tax Appeals or the Court of Common Pleas, in turn, could be appealed to the Court of Appeals or the State Supreme Court. More detailed information about the current appeals process is included in a later section of this paper.

The repercussions of the *Park Investment* cases were not finally resolved until 1972, when new statutes became effective that significantly modified the Board's role in the assessment process. The Board was now charged with the responsibility of reviewing assessment levels annually and adopting rules to prescribe methods of determining value. The Board also set the level of assessment at 35% of true value – the current level – and ordered county auditors to comply beginning in 1972. The new rule also required the county auditor to adjust property values each year between sexennial reappraisals as property values changed in order to maintain the required level of assessment.

In 1976 supervision and review of the of the assessment process was transferred from the Board of Tax Appeals to a separate, cabinet-level administrative body, known as the Department of Tax Equalization. This was done following the suggestion of another Tax Study Commission that recommended reorganization of the Board to separate its administrative and quasi-judicial functions to strengthen the state's control over the assessment process. The new agency was headed by a gubernatorial appointee serving as Commissioner. In 1983, the General Assembly disbanded the new department, more as a move toward fiscal conservatism than as a further reform measure, and moved supervision of the real property tax and control of property values to the Department of Taxation, where it is currently located.

Once again, there was widespread concern that radical corrections in assessment practice would have a devastating fiscal impact on local governments, so the General Assembly permitted a phase-in of the new

requirements during the reappraisals scheduled between 1972 and 1977. This system of a gradual, rather than abrupt compliance with the law was acceptable to both the Court and lawmakers. Review of the historical sales ratio records from the early 1970's shows that, finally, assessment uniformity was becoming a reality.

The reform movement of the late 1960's also revisited the procedures relating to tax delinquency. Until then, the delinquency statutes were depression-born laws that delayed civil actions for collection and permitted delinquencies to be carried over a ten-year period with minimal penalties at low rates of interest. Elected officials were also hesitant to fulfill their statutory duties by foreclosing on the properties of their constituents. In 1969 the system was overhauled by reducing the waiting period required before commencement of foreclosure proceedings, and making these unpopular actions by local authorities mandatory rather than permissive. The ten-year payment option was replaced with a new plan that required payment over five consecutive, semiannual installments without interest. Since the annual interest charge was removed, the stage was set for continuing a situation in which the longer the tax remains unpaid, the lower the effective rate of penalty. An annual interest charge against delinquencies was reinstated in the early 1980's when high commercial interest rates tempted some taxpayers to delay paying delinquent taxes in favor of other, more costly obligations.

### *The Modern Era of Real Property Taxation*

Compliance with uniform property values came at a cost. As noted previously, the practical correction of unequal assessments meant substantial increases in both residential and agricultural values. This was particularly painful for farmers who were required to pay taxes based on the market value of their land in a state beginning to experience the rapid suburban development characteristic of the early 1970's. The legislature attempted to provide some relief to farmers with a 1971 measure that limited county auditors to considering only the current use of a property without regard to more intensive, neighboring land uses. This measure was later ruled unconstitutional as an improper attempt to provide preferential valuation to a single class of taxpayers.

Still, there was public support for tax relief for Ohio's farmers, homeowners and the elderly. In 1971 the electors of Ohio passed an amendment to the Constitution that permitted the General Assembly to reduce the property taxes of elderly homeowners. This cleared the way for the passage of the Homestead Exemption. This provided tax relief based on income and property value for homeowners age 65 or older. Additional constitutional amendments were added in 1974 and in 1990 to extend the program to disabled citizens and the surviving spouses of deceased participants, respectively. Statutory changes were also made to streamline filing requirements. The amount of tax relief under this program is set by statute and has been amended from time to time as inflation reduced the impact of the credit. An important provision of this program is that no revenue is lost to local governments. The credited amount is reimbursed by the state directly to local political subdivisions.

Also part of the general tax reform of 1971, was the institution of a 10% real property tax credit for all classes of property. This was joined by an additional tax credit in 1979, which allowed an effective 2.5% reduction in the net real property tax bill of every owner's primary residence within the state. As is the case for the Homestead Exemption, the state reimburses local taxing jurisdictions for the lost revenue of the 10% and 2.5% credits.

In 1973, another constitutional amendment appeared on the ballot and was passed. This proposal allowed the calculation of taxable value for agricultural land by the preferential method attempted by statute in 1971. In 1974, the legislature enacted the Current Agricultural Use Value program (commonly known by the acronym *CAUV*), which allowed land devoted exclusively to a commercial, agricultural purpose to be valued only in respect to its current use and with no consideration of any potential, more valuable use (i.e., market value). In developing areas, this method yielded substantial tax savings. The legislature assigned the responsibility of calculating the use values to the Board of Tax Appeals (later transferred with other administrative functions to the Department of Taxation) to encourage an unbiased, uniform assessment. Unlike the Homestead Exemption, however, tax reductions resulting from this program were not reimbursed by the state. Instead, these reductions represent an initial loss in revenue.

In order to limit the tax reduction, the new program had strict requirements and a significant penalty clause: if the enrolled land ever ceased to qualify for the program or the applicant withdrew, the owner would be required to repay the tax savings accumulated over the previous four years, called recoupment. Since its inception, the CAUV program has undergone changes to relax the enrollment requirements, lessen the burden of recoupment, and to redefine minor procedural aspects of program administration. A more detailed review of the CAUV law is included in a later section of this paper.

As property values increased rapidly in the 1970's, local assessors attempted to maintain the 35% assessment ratio required by the state. The rapid increase in the assessed value of real property brought out the previously hidden difficulties with the millage reduction procedures in Ohio law. Although voted millage rates were only to be reduced when *real* property values increased, the method in place also reduced the rates applied to *tangible personal* property values. This occurred even though the tangible property valuation may not have increased at all. Many real property owners, primarily homeowners and farmers, viewed this as an unfair shift of the real property tax burden from tangible personal property to real property. They felt that since only real property valuation triggered the millage reductions, then only the rates for real property should be reduced.

In response to real property owner's demands for relief from their rapidly increasing tax bills. The General Assembly passed legislation in 1976 which limited the tax reductions resulting from increases in real property values to real property taxes only. The bill, named House Bill 920, accomplished this by reducing the voted taxes levied on real property through a tax credit so that the total taxes levied on all real property would not exceed the taxes levied the previous year, excluding taxes on newly constructed property. With this measure in place, total tax collections should never increase because of inflationary increases in value. Under this restriction, the only sources of additional real property tax revenue are: the increase from millage inside the 10-mill limit, taxes on new construction, and additional voted levies. Later sections of this paper contain a more detailed explanation of these credits.

House Bill 920 also brought another major change in real property valuation law. Rapidly increasing market values threatened to jeopardize compliance with the value requirements established in the *Park Investment* cases. During this period, auditors were required to update property values each year following the completion of a sexennial reappraisal, which caused great dissatisfaction among taxpayers in an era of high inflation and soaring property values. In order to address this problem, House Bill 920 called for a less frequent adjustment in property values. The revised system called for the state to review property values three years after the sexennial reappraisal to determine whether values continued to meet the required standard. If market conditions had changed as measured by the state's statistical studies, the state was required to notify the county auditor of

the specific changes in aggregate property values needed to restore values to required levels. The county auditor was then required to apply these percentages within the county. Because this review occurs at the mid-point of the sexennial reappraisal cycle and makes adjustments to aggregate rather than individual property values, it is commonly referred to as the triennial update.

In 1980, the last major change to rate limitation law occurred with the adoption of a new section in the state's constitution. This measure created two classifications for purposes of calculating rate limitations, which allowed different types real property to be taxed by different effective tax rates. The first classification included residential and agricultural property, while the second included all other types, e.g., primarily commercial and industrial property.

Since 1980, few substantive changes have been made to real property tax law. As history has shown, the heavily constitutional basis of the tax means that significant changes often require the approval of the electorate. Consequently, most new legislation has dealt with procedural aspects, such as changes in filing procedures for special programs or measures that have made it easier to place tax levies on local ballots.

The future of the real property tax may be determined over the next few years. Reliance on the tax as a primary source of school funding was criticized in a 1997 decision by the Ohio Supreme Court. The case centered on a student from a rural Perry County school district who held that educational standards in his district were lower than those in wealthier districts because of funding disparities. Although the tax itself was not found unconstitutional, the Court held that allowing school districts to rely too heavily on local funding violated the state's responsibility to provide a "thorough and efficient" education for every Ohio child.

# SECTION TWO: DEFINITION OF THE TAX BASE

## *(PROPERTY VALUE DETERMINATION, CURRENT AGRICULTURAL USE VALUE PROGRAM, PROPERTY TAX EXEMPTIONS AND THE APPEALS PROCESS)*

### PROPERTY VALUE DETERMINATION

The real property tax is an *ad valorem* tax, meaning that real property is taxed according to its value. In determining the value of real estate for tax purposes, market value is considered to be the true value in money required by statute. In support of this interpretation, Ohio's courts have repeatedly recognized a recent arms-length sale as the best indicator of property value for tax purposes. Market values are determined based on the condition of property on January 1st, which is the tax lien date. Property is taxed at 35% of its the market value.

Market values are determined by the county auditor by means of a general reappraisal once every six years. The reappraisals are conducted on a scheduled basis with specific counties reappraising each year. At this sexennial reappraisal, the auditor must inspect each parcel in the county and determine its fair market value. Administrative rules written by the Tax Commissioner state that values should be calculated by using one of the three recognized appraisal methods: the cost approach to value, the sales comparison approach, or the income approach. Use of the cost approach is predominant, but the rule requires application of another method to confirm the accuracy of the final value. In practice, values are often estimated using computer programs that analyze cost, market and income data. Most county auditors contract with private firms that specialize in providing mass appraisal services to conduct a reappraisal.

Three years following the reappraisal, the Tax Commissioner is required to review values to determine whether adjustments are necessary to maintain market values. This is accomplished by comparing appraised values to sales prices for properties that sold during the three preceding years. If this comparison indicates that values have changed, the Commissioner issues a recommendation for adjustments in aggregate values by property class. The auditor then makes the percentage adjustments in existing values necessary to implement the Commissioner's recommendation. These changes are generally applied to large groups of properties based on statistical data, rather than accomplished by individual property appraisal. This type of revaluation is referred to as the triennial update.

The Tax Commissioner supervises the assessment process to provide a uniform standard for property valuation. This includes issuing orders to conduct reappraisals and recommendations for triennial updates as noted above. The Tax Commissioner also reviews the results of these revaluations to ensure that property is equitably appraised. This is done primarily through the preparation of sales ratio studies used to measure assessment level and uniformity. If values do not meet minimum requirements, the Commissioner may order adjustments in aggregate property values by class, city, township or other division, but has no authority to review or correct individual property values. Review of individual property values is reserved for the auditor and the local Board of Revision, which must also approve new property values before they are used to calculate taxes. An order of the Tax Commissioner to adjust property values may be appealed to the Board of Tax Appeals.

Although the Tax Commissioner does not review property values in non-reappraisal or update years, county auditors are charged with maintaining a current and accurately valued tax list. Each year auditors are charged with the responsibility to adjust market values as needed for existing property and to value new improvements.

## THE CURRENT AGRICULTURAL USE VALUE PROGRAM

The Current Agricultural Use Value program, commonly known by the acronym *CAUV,* was created by statute in 1974. It was made possible by a 1973 amendment to the constitution that allowed farmland to be valued at its use value, rather than at its market value. This is the only exception to the market value standard discussed above. The preferential value applies only to qualified, agricultural land and not to any improvements or land that is used as a residential homesite. For tax year 1998, the average participant saved 74% in taxes charged against participating acres.

The CAUV program is administered by the county auditor under the supervision of the Tax Commissioner. Use values are calculated annually by Department of Taxation through a formula that estimates land value based on its ability to produce agricultural income. New CAUV values are used by county auditors to revalue the qualified land every three years at the same time all other real property in the county is reappraised.

### *Program Requirements*

Requirements for the CAUV program remained substantially the same from 1974 to 1993, when the law was liberalized. Minor adjustments were made in 1995, primarily in the law regarding the treatment of woodland property.

In order to qualify for CAUV, the property owner must use the land exclusively for a commercial, agricultural purpose for a period of three years before making application to the county auditor. It is important to note that all qualifying uses are *commercial*, agricultural uses, which generally prohibits rural-residential and recreational landowners from qualifying for the program. The qualifying uses are defined by statue and include animal or poultry husbandry, aquaculture, apiculture, and the production of timber, field crops, tobacco, fruits, vegetable, nursery stock, ornamental trees, sod, and flowers. Each initial application must detail the current use for the property and be accompanied by a one-time $25 filing fee.

Qualification for the program is also based on acreage. Each application may contain only property under common ownership and must show a minimum of 10 acres used for a qualifying purpose. If fewer than 10 acres are used for agriculture, then the owner must show that $2,500 in gross income from the sale of agricultural products raised on the property is generated each year.

The qualification of woodland property has been a source of controversy, due primarily to the difficulties inherent in monitoring production of a long-term crop such as trees. Prior to 1993 law, woodland property could qualify only if it met the standard use test, essentially use as a commercial timber lot. Under current law, woodland property may qualify one of two ways. First, it may be used as a commercial timber lot, subject to all the standard requirements or if it is part of a farm that has a minimum of 10 acres devoted to a qualifying agricultural use. In this case, woodland may receive the CAUV value even though it is not used for commercial crop production.

Once an application is received, the auditor must view the property to confirm the current use. Continued participation in the program requires filing of an annual renewal application, which is sent to the property owner each year. The auditor is also required to view the property on an annual basis to make sure a qualified use is maintained.

If the owner elects not to renew his participation in the program, or fails to meet the statutory requirements, then the auditor is required assess a charge called recoupment. This is equal to all real property taxes saved on the property for the last three years and is billed in two installments in the calendar year following the property's removal from the CAUV program.

The auditor's decision as to whether property qualifies for the program is subject to appeal by the statutory process described on pages 14 and 15. In recent years, several cases have proceeded beyond the local level to establish important precedents to guide auditors in the administration of the program. In general, the courts have upheld a strict reading of the law and granted the preferred value only to acres actually devoted to a qualifying use, often only a portion of an owner's property.

### *Determination of Use Values*

CAUV values are determined annually by the Department of Taxation through an income approach to value prescribed by administrative rule. The calculation is performed for approximately 3,300 soil types each year and is based on the productivity of land and other characteristics, such as slope and erosion factors, that affect the capacity of a soil to produce a profitable harvest. The County auditor uses these values to determine the taxable value of each acre of CAUV land by its particular soil type.

The valuation formula considers crop price and production data, crop budgets (to estimate operating costs) and interest rates. All data used in the formula are collected from sources that monitor or participate in Ohio's agricultural industry. This is done to ensure the data reflects actual business conditions faced by local farmers. Data are generally gathered from a seven-year period and averaged to ensure that taxable values produced by the formula reflect long-term economic trends. This method has been used since 1974 with relatively minor changes.

The Department of Taxation prepares the values under the guidance of an Advisory Committee appointed by the Tax Commissioner to provide expert advice on technical issues. Members include such organizations as the Ohio Farm Bureau, the Ohio Department of Agriculture and The Ohio State University.

## PROPERTY TAX EXEMPTIONS

The Ohio Constitution authorizes the enactment of general laws exempting certain types of property. Specifically mentioned in the Constitution are "burying grounds, public school houses, houses used exclusively for public worship, institutions used exclusively for charitable purposes, and public property used exclusively for any public purpose..." In response to this authorization, laws have been enacted to exempt numerous types of real property. Among the main kinds of real property that have been exempted by statute are: (1)

government property (federal, state, and local); (2) property used for charitable purposes; (3) property of schools and colleges; and (4) cemeteries.

Generally, the owner of property must file an application for exemption with the Tax Commissioner who must determine eligibility for exemptions. The county auditor is required to maintain a list of all of the exempt real property in the county and correct that list annually if the auditor believes that the property should no longer be exempt. The Tax Commissioner may also order property removed from the exempt list and restored to the taxable list at any time. Furthermore, anyone owning real property in the county and various public officials (county commissioners, county prosecutor, county treasurer, township trustees, school boards, and municipal officials) may file a complaint against the continued exemption of property within the county. Upon receipt of such a complaint, the Tax Commissioner will investigate the use of the property and may restore the property to the tax list.

Another type of exemption is tax abatement. This is an exemption for a limited time and is granted by local officials to encourage economic development. These privately negotiated agreements may abate only a portion of the taxes due on qualified improvements, allowing school revenue to be collected in some cases. Tax increment financing (TIF) programs have also become popular in some parts of the state. These are similar to abatements, but require payments in lieu of taxes on the exempt property to be paid into a special fund used to finance a specific public project, usually infrastructure improvements, that will benefit the exempted property, such as roads or sewers.

By law, the county auditor is to value exempt property at the same time and in the some manner as taxable real property. This means that exempt property is to be valued at its market value and reappraised every six years. The county auditor must file an abstract of the exempt property values with the Tax Commissioner each year. This abstract shows the value of exempt property by type (church, public, etc.) and taxing district for the county.

In 1997, the total assessed valuation (35% of market value) of exempt property, was $22.7 billion. Over one half (56%) of this total consisted of public property (including the property of public school districts). Tax abatements made up the largest share of privately owned exempt real property although the totals for charitable and church property were only slightly lower. The amount of exempt property as a percentage of the local tax base varies greatly from county to county. The 1997 percentages varied from 6.4% in Morrow County to 62.9% in Pike County. Typically a county with large state or federal facilities has a larger share of its tax base exempted.

## REAL PROPERTY TAX APPEALS

The first level of appeal for real property tax matters is to the local County Board of Revision (BOR). The BOR, made up of the County Auditor, County Treasurer, and the President of the County Commissioners, considers all complaints regarding the actions of the County Auditor listed below:

(1) the valuation determined by the Auditor for a parcel of real property;

(2) the property classification of a parcel of real property;

(3) denials of applications for Current Agricultural Use Valuation (CAUV), removal of land from the CAUV program and "good cause" determinations for idle land applications; and

(4) denials of applications for the Homestead program.

Appeals of items 1-3 must be filed by March 31st of the following year. That is, a complaint challenging the tax year 1999 valuation of a property (taxes actually paid in 2000) must be filed by March 31, 2000. Appeals of denied homestead applications, however, must be filed by the close of the first-half tax collection, usually in January or February of the following year.

The law provides a specific list of those permitted to file complaints with the BOR. That list includes (1) individuals and businesses owning taxable real property in the county; (2) the Board of County Commissioners; (3) the township where the property is located; (4) the school district where the property is located; and (5) the municipality where the property is located.

Recent court decisions have imposed restrictions on the filing of complaints. Specifically, the courts held that only an individual owning property or an attorney representing that individual could file a complaint with the BOR. That is, complaints could not be completed and filed by tax agents for example. The courts also held that complaints from all business property owners must be filed by an attorney. In response to these rulings, the Legislature amended the law to allow the filing of a complaint for an individual owner by the owner's spouse or various individuals retained by the owner (professional appraisers, public accountants, and licensed real estate brokers). The legislation also allowed the filing of complaints for businesses by company officers, salaried employees, partners and members of the firm. Finally, trustees were allowed to file complaints for a trust. This legislation is currently being challenged in the courts.

A complainant can only challenge the valuation of a parcel once in the three-year period including the most recent reappraisal or update. For example, if the county reappraises in 1999, the owner may only file one complaint during the period from tax year 1999 through tax year 2001. However, an additional complaint may be filed if the property: (1) is sold; (2) loses value due to some casualty; (3) is substantially improved; or (4) is at least 15% unoccupied (business property).

If a complaint alleges that the taxable value of the property is incorrect by at least $17,500, the county auditor notifies the affected school district of the complaint. The school district may then elect to participate in the proceedings in the complaint and may appeal the final decision.

While a complaint is pending, the owner of the property may pay the tax based on the value the owner claims in the complaint. However if the value finally determined is higher than the amount claimed by the owner, the owner must pay interest on the amount of the underpayment and must also pay a 10% penalty in certain circumstances.

Decisions of the county BOR may be appealed to the State Board of Tax Appeals. This Board's decisions may, in turn, be appealed to the Court of Appeals or to the State Supreme Court. Instead of appealing from the county BOR to the Board of Tax Appeals, a taxpayer may appeal the BOR decision to the Court of Common Pleas in the county in which the property is situated. From there the taxpayer also has the right of appeal to the

Court of Appeals or the State Supreme Court. The Supreme Court may refuse to review a decision of the Court of Appeals but must hear any appeal carried to it from a decision of the Board of Tax Appeals.

## SECTION THREE: DETERMINATION OF THE TAX RATE

The second portion of the formula to determine an owner's property tax is the tax rate. In Ohio, the property tax rate applied to a property is the sum of the rates levied by the local political subdivisions where the property is located. The total rate typically includes levies for the county, school, township, and municipality as well as levies for various special districts such as fire districts. Although the state can place a levy on property, there has been no statewide property tax in Ohio since the early 1960's. As explained below, (see *Calculation of Tax*) the effective tax rate levied on property in a particular location varies depending on the class of property. The total (gross) rate is the sum of the rates levied by all of the political subdivisions that include the area where a property is located.

### *Inside versus Outside Millage*

There are two basic types of tax levies in Ohio: those requiring voter approval (voted levies) and those that do not require voter approval (unvoted levies). Unvoted levies are subject to strict limitation by both the Ohio Constitution and Ohio law. The Ohio Constitution (Article XII Section 2) limits the total rate of the unvoted levies on any property to 1% of the *true* value of the property. Ohio law (Section 5705.02) is even more restrictive. It limits the total of the unvoted levies to 1% (10 mills) on the *taxable* value of property. Since taxable value is only 35% of true value, the statutory restriction is approximately 3 times as strict as the constitutional limitation. This unvoted millage is typically referred to as inside millage since it is levied inside the 10-mill limitation.

### *Distribution of Inside Millage*

The County Budget Commission determines the share of the 10 inside mills received by the various subdivisions. The Budget Commission is composed of the County Auditor, County Treasurer, and the County Prosecutor. Subdivisions eligible to receive a portion of the inside millage include the county, schools, townships, and municipalities. Other subdivisions, such as joint vocational schools and special purpose districts, do not receive any of the inside millage. The Budget Commission's discretion in allocating the inside millage is limited by Section 5705.31. That section provides a minimum inside millage for the eligible subdivisions equal to two thirds of their average inside millage for current expenses and debt during the 5-year period from 1929 through 1933. After the subdivisions are allocated this guaranteed inside millage, the entire 10-mill allocation is typically used up.

### *Voted Levies*

Levies that have been approved by the voters are generally referred to as outside levies. This refers to the fact that these levies are outside the 10-mill limitation. Outside levies must be approved by the voters of a political subdivision. Eligible subdivisions include: counties, municipalities, townships, school districts and joint vocational school districts as well as a large number of special or single, purpose districts including fire districts, police districts, ambulance districts, etc. A resolution to place a tax levy on the ballot must be

approved by the governing body of the taxing authority. For example, the school board must approve a resolution to put a school levy on the ballot and that resolution must state that it is necessary for the school to levy a tax outside the 10-mill limitation.

Section 5705.04 of the Revised Code authorizes six general types of property tax levies as follows:

1. General levies for debt charges within the 10-mill limitation.

2. General levies for current expenses within the ten-mill limitation.

3. Special levies within the ten-mill limitation.

4. Debt levies authorized by law or approved by the voters in excess of the ten-mill limitation.

5. General levies for current expenses approved by the voters in excess of the ten-mill limitation.

6. Other special and general levies authorized by law or approved by the voters in excess of the ten-mill limitation.

Sections 5705.19 (non-schools), 5705.21 (schools) list numerous special purposes for levies outside the ten mill limitation. In addition, authorization for special purpose voted levies is in various sections scattered throughout the revised code.

***Special School Levies***

There are three types of levies that are limited to school districts. These are:

1. (Section 5705.194) Emergency levies which are levied to meet the emergency requirements of the school district or to avoid an operating deficit. These levies are distinguished by the fact that they are designed to produce a specific dollar amount of revenue. Therefore the county auditor sets the rate for emergency levies each year to produce the required revenue.

2. (Section 5705.212) Incremental rate levies are levies for current expenses that increase over a set period of time. For example, a school may pass a tax to start in 1999 at 2 mills with 1-mill increases in each of the following 4 years.

3. (Section 5705.213) Incremental amount levies are levies for current expenses for a specific amount where that amount increases by set amounts or percentages over the life of the levy. For example, schools may pass a tax to collect $100,000 in 1999 and provide for $10,000 increases in each of the next 4 years. This levy is similar to an emergency levy except that the amount increases over the life of the levy.

### *Duration of Levies*

Generally levies may be voted for either a limited time period (a set number of years) or for a continuing period of time. Limited levies generally cannot exceed a maximum of five years. However, in certain circumstances, and for certain purposes, the law allows limited levies of ten or twenty years duration. For example, levies for a general health district are limited to a maximum of ten years. School levies for current expenses and general on-going permanent improvements may be for a continuing period of time. Other school levies are limited to a maximum of ten years. Debt levies for all subdivisions are limited to the life of the indebtedness (they are collected until the debt is paid).

### *Ballot Language for Levies*

Levies may generally be referred to as additional, renewal, or replacement levies on the ballot. The difference between these descriptions is explained below.

1. Additional levies are new levies added to already existing levies. Therefore, additional levies result in an increase in the taxes paid by property owners.

2. Renewal levies are levies that continue existing levies at the same rates that are currently paid.

3. Replacement levies replace a levy that is expiring. Replacement levies have significance only for the purpose of ballot language and calculation of tax reduction factors (see *Calculation of Credits* below). Replacement levies sound like a renewal but actually provide additional revenues through favorable treatment under reduction factor law.

### *Gross versus Effective Millage*

The total tax applied to any particular property is the sum of the tax rates levied by all the taxing authorities levying taxes on that property. Personal property taxpayers (both public utilities and other businesses) pay what is referred to as the "gross millage" rate while real property taxpayers pay the "effective millage". The gross rate is simply the sum of the millage rates as approved by the voters plus the inside millage. However, the "effective rate" is the rate after reduction by tax reduction factors (see *Calculation of Credits*). Basically the actual rates applied to real property are reduced whenever the value of existing real estate increases. This typically would occur during a county's reappraisal or update year. These reduced rates are the effective rates applied to real property. Different rates are calculated for two classes of real property (residential and agricultural and all other real property).

## SECTION FOUR: CALCULATION OF TAX CREDITS

Tax credits provide a reduction in the amount obtained after multiplying the taxable value by the tax rate. The "gross" tax (total rate multiplied by taxable value) less credits equals the "net" tax due from the property owner. Although the terms gross and net tax do not appear in the law, they are useful in understanding the effect of tax credits on the property owner's final tax liability. Ohio law provides for four different property tax credits. Each of the four is explained below.

### TAX REDUCTION FACTORS

In general, the purpose of tax reduction factors is to eliminate the tax revenue growth that otherwise would result from appreciating property values. The current reduction factor system is not the first method used to control tax revenues when property values appreciate. In fact, Ohio has a long history of reducing the growth of real estate taxes as property values increase due to inflation. House Bill 920 enacted the tax reduction factor system in 1976, but rate reductions as values increase have been in effect since at least 1925. The main difference between the current reduction factor system and previous systems is that the current system targets relief to the real property class where values are increasing.

As stated above, the purpose of tax reduction factors is to eliminate the revenue growth that subdivisions would otherwise receive from appreciating real estate values. Tax reduction factors (TRF's) are calculated for two separate classes of real property. Those two classes are:

1. Residential and agricultural property and

2. All other real estate (basically commercial and industrial property).

The use of these two classes prevents the shift of the tax burden from one class to the other when values increase at differing rates. For example, if residential/agricultural (res/ag) values increase more rapidly than commercial/industrial property, the credit for res/ag property will be larger and prevent a shift in the tax burden to res/ag property.

TRF's are calculated for each individual tax levy (with some exceptions, as explained below) so that the revenue collected from the levy does not increase due to reappraisals of existing property. The statute refers to this previously existing property as "carryover property". Other types of changes in the real estate value of a subdivision (such as new construction) are not changes in carryover value and do <u>not</u> result in higher reduction factor credits. TRF's are calculated by the Department of Taxation based on data on value changes supplied to the Department by the county auditors. These data allow the Department to determine the actual change in carryover value for each of the two classes of property mentioned above.

The effect of the TRF's is best illustrated through a simple example (see page 24, Simple Example 1). This example assumes a ten mill voted tax levy and no change in res/ag value other than the change due to reappraisal. In this example, the res/ag value increases from $100,000 to $120,000 from 1998 to 1999 but the

tax received by the subdivision is to be held steady. Since the tax revenue on $100,000 in 1998 was $1,000 (10 mills time $100,000), the tax revenue from $120,000 in 1999 must also equal $1,000.

The TRF is the percentage by which the actual tax must be reduced in 1999 in order to produce $1,000. The TRF is calculated by dividing the total value in 1999 ($120,000) by the change in carryover value ($20,000). This calculation yields a TRF of .166667. This factor is applied to reduce the tax that would have otherwise been produced in 1999. Reducing the revenue that would have been produced ($1,200) by .166667 yields total revenue of $1,000 (the same as in 1998).

Again, TRF's are calculated only on the changes in value of "carryover" property. Carryover property is basically physical property that was taxable in both the current and preceding year. The reduction factors calculated apply to all of the real property in the same class. Simple Example 2 on page 24 illustrates the difference of the effect that changes in carryover have on reduction factors compared to other types of changes in value (such as increases due to new construction). Continuing with Simple Example 1, carryover value again increases from $100,000 to $120,000 due to reappraisals. However, additional value of $10,000 is also added as a result of new construction so that the total value now equals $130,000. Of this total increase of $30,000, only $20,000 is used to calculate the reduction factor. Therefore, the reduction factor still equals .166667 ($20,000 divided by $120,000) and applies to all real estate in the res/ag class. Because of the new construction, taxes collected by the subdivision increase from $1,000 to $1,083 ($130,000 times the new effective rate of 8.3333 mills).

### *Limitations on the Effect of Reduction Factors*

There are several limitations on the effect of reduction factors. First, reduction factors do not apply to all types of property tax levies. Levies not reduced by reduction factors include:

1. Debt levies

2. Emergency levies

3. Inside millage

4. Charter levies

Both debt levies and emergency levies, as well as any other levy designed to produce a specified amount of revenue are not reduced because the rates are already set to produce a specified dollar amount. In other words, the auditor sets the rate to produce the dollar amount required and no further reductions are necessary. Inside mills are excluded from reduction by both the Constitution and the Revised Code. Therefore, subdivisions receive revenue growth from their inside mills when values increase. Finally, charter levies are also excluded from the reduction. These are municipal levies that are authorized by the charter of the municipality.

The other major exclusion from reduction factors is the so-called "20 mill guarantee". The Constitution permits the General Assembly to limit the effect of reduction factors on the current expense revenues of subdivisions. Based on this provision, the law provides a guaranteed minimum of 20 mills for current expenses for school districts. This means that the total current operating millage of a school district cannot be reduced below a 20

mill effective rate by reduction factors regardless of the increase in value caused by reappraisals. When calculating this 20-mill guarantee, bond levies, permanent improvement levies, and emergency levies are not included in the 20 mills of guaranteed millage. That is, the school receives at least 20 mills of current expense millage plus any bond, permanent improvement and emergency levies it may have in effect.

Bond and permanent improvement levies are excluded from the 20-mill floor by definition since they are not current expense levies. Emergency school levies are specifically excluded by statute even if the levies are for operating expenses. Although the 20-mill guarantee has been part of the reduction factor law since 1978, emergency levies were not statutorily excluded from the 20-mill floor until 1987.

For 1998, there were 235 school districts with operating millage at the 20-mill floor. This is nearly 40% of all school districts. In comparison, only 163 schools (27%) were at the 20-mill floor in 1993. Once a school district's millage reaches the 20-mill floor, that district's current expense millage rate will not be reduced following reappraisals. Therefore, schools at the floor receive additional revenue when values increase due to reappraisal, which means that the taxes paid by property owners also increase.

In addition to the 20-mill guarantee for school districts, there is also a 2-mill guarantee for joint vocational school districts. This guarantee is calculated in the same manner as the 20-mill guarantee except that the guarantee is 2 mills. In 1998, 34 out of 49 joint vocational schools were at the 2-mill floor.

## THE 10% PROPERTY TAX ROLLBACK

The 10% property tax rollback is a simple 10% reduction in the real estate tax bill for every owner of real property. The reduction is automatic so the property owner does not file anything to receive the 10% rollback. After the owner's gross tax is reduced by the reduction factors, the amount remaining is reduced by an additional 10%. The amount of this reduction is reimbursed by the state. In 1997, this reimbursement cost the state approximately $720 million.

## THE 2½% ROLLBACK

State law also provides an additional percentage reduction for only owner-occupied homes. This reduction equals 2½% of the tax on the individual's homestead after the application of reduction factors. For purposes of this reduction "homestead" includes condominiums and owner-occupied units in multiple unit dwellings (such as doubles) as well as single family homes. The 2½% reduction applies to the taxes on the home itself and to the taxes on a maximum of one acre. Therefore an owner with a home on ten acres would receive the 2½% reduction only on the home and the acre surrounding the home. This reduction applies only to the primary home of the owner, so if someone owns two homes in the state, the reduction applies only to the primary home.

In order to receive this reduction, the owner must file an application with the county auditor where the home is located. The application can be filed at the time the home is acquired or it can be filed in any year thereafter. Renewal applications are not required.

The state also reimburses local subdivisions for the revenue lost as a result of this 2-½% reduction. In 1997, this reimbursement cost the state approximately $100 million.

## HOMESTEAD EXEMPTION

In 1971, the General Assembly enacted a major property tax relief program for elderly and disabled homeowners. This program currently provides a property tax credit against the property taxes of low-income homeowners who are either 65 years old or disabled. In order to qualify for a homestead exemption credit, the owner must meet the following qualifications.

1. The homeowner must be at least 65 years old during the year in which the homeowner first files for the credit, be permanently and totally disabled, or the surviving spouse of a person who was receiving the homestead credit at the time of death.

2. The homeowner must have total income of not more than the maximum allowed (for 1999 this maximum is $23,000).

3. The homeowner must own and occupy the home as the homeowner's principal place of residence as of January 1st of the year.

The amount of the reduction is determined by the homeowner's total income as shown in the following schedule for 1999.

| Total Income | Reduce Taxable By the Lesser of: |
|---|---|
| $11,900 or less | $5,000 or seventy-five per cent of taxable value |
| More than $11,900 but not more than $17,500 | $3,000 or sixty per cent of taxable value |
| More than $17,500 but not more than $23,000 | $1,000 or twenty-five per cent of taxable value |
| More than $23,000 | -0- |

The amount of the tax credit is determined by multiplying the reduction in taxable value by the gross tax rate where the property is located. This credit shows up as a tax reduction on the homeowner's tax bill. The income brackets above will be adjusted for inflation every year starting in 2000. In addition, the maximum allowable reductions in taxable value ($5,000, $3,000, and $1,000) will also be adjusted for inflation every year starting in 2002. The tax commissioner is to calculate the required adjustments and certify them to the county auditors by December of each year.

For purposes of the homestead exemption program, total income includes not only income subject to federal income tax but also social security payments, nontaxable retirement benefits, and interest on tax exempt government obligations. In addition, disabled homeowners are permitted to deduct all veterans' disability payments and a maximum of $5,200 of other disability payments.

Homeowners must file an application with the county auditor in order to receive the homestead exemption. The application must be filed by the first Monday of June in order to qualify. If the homeowner also would have qualified for the previous year but failed to file an application, the homeowner can file a late application for the preceding year. Therefore, an application for a 2000 homestead must be filed by June 5, 2000. If the applicant also qualified for 1999, a late application for 1999 may also be filed by the June 5, 2000 deadline. After the initial application, homeowners are not required to file renewal or continuing application unless information changes that would affect their eligibility for the homestead.

About 240,000 homeowners received the homestead exemption in 1997 and the total tax reduction granted was about $65 million. The tax reduction is reimbursed by the state in the same manner as the 2½% and 10% rollbacks.

## THE FORESTRY PROGRAM

Forestland may also qualify for a tax credit under a provision in the Ohio Constitution. By statute, this is a 50% credit in the taxes charged against qualified forestland. In order to receive the credit, property owners apply to the Ohio Department of Natural Resources, Division of Forestry. If the land use meets the criteria established by ODNR, the property owner and county auditor are notified that land is eligible for the credit. Unlike the rollbacks and the homestead exemption credit, tax reductions under this program are not reimbursed to local governments. Although this is technically a tax credit, most county auditors prefer to adjust property value by 50% for administrative purposes.

EXHIBIT 1

## SIMPLE EXAMPLE 1

| | YEAR 1 | YEAR 2 |
|---|---|---|
| | | |
| Taxable Value of Property | 100,000 | 120,000 |
| | | |
| Tax Rate | .01 (10 mills) | .01 (10 mills) |
| | | |
| Tax before TRF | 1,000<br>(.01 X 100,000) | 1,200<br>(.01 X 120,000) |
| | | |
| TRF | 0 | .166667 |
| | | |
| Tax after TRF | 1,000 | 1,000 |
| TRF = $\frac{20,000}{120,000}$ = .166667 | | |
| Tax Adjusted for TRF = $1,2000 – ($1,200 X .166667) = $1,000 | | |

## SIMPLE EXAMPLE 2

| | YEAR 1 | YEAR 2 |
|---|---|---|
| | | |
| Taxable Value of all Real Property | 100,000 | 130,000 |
| | | |
| Carryover Property | 100,000 | 120,000 |
| New Construction | 0 | 10,000 |
| | | |
| Tax Rate | .01 (10 mills) | .01 (10 mills) |
| | | |
| TRF | 0 | .166667 from (example 1) |
| | | |
| Tax before TRF | 1,000 | 1,300 |
| | | |
| Tax after TRF | 1,000 | 1,083 |
| TRF = .166667 (20,000/120,000) | | |
| Unadjusted tax = .01 X 130,000 = 1,300 | | |
| Tax Adjusted for TRF = $1,300 – ($1,300 X .166667) = $1,083 | | |

# SECTION FIVE: CALCULATION, PAYMENT & DISTRIBUTION OF REAL PROPERTY TAXES

## CALCULATION OF TAX BILL

The calculation of the real estate tax bill for a hypothetical property is shown in the chart below. This calculation assumes a property with a market value of $100,000 located in an area with a total gross tax rate of 60 mills and a reduction factor of 25%. The example also assumes that this is a residential home and that the homeowner qualifies for a $1,000 homestead exemption.

| | |
|---|---|
| MARKET VALUE | $100,000 |
| TAXABLE VALUE (35% OF $100,000) | $ 35,000 |
| GROSS TAX RATE | 60 MILLS |
| GROSS TAX (60 MILLS X $35,000) | $ 2,100.00 |
| REDUCTION FACTOR CREDITS (.25 X 2,100) | - 525.00 |
| SUBTOTAL | 1,575.00 |
| 10% ROLLBACK (.1 X $1,575) | - 157.50 |
| 2½% ROLLBACK (.025 X $1,575) | - 39.40 |
| HOMESTEAD EXEMPTION (60 MILLS X $1,000) | - 60.00 |
| NET TAX DUE | $1,318.10 |

### *Payment of Tax*

Due dates for payment of the real property tax vary among counties. The law sets the payment dates as December 31st and June 20th (with one half due at each). Thus, the 1999 tax would be due in two installments on December 31, 1999 and June 20, 2000. However, these due dates are subject to extension as provided by law. Some extensions are automatic, such as a 30-day extension in the payment dates when any tax levies are proposed on the November ballot. Other extensions are only given for cause and must be requested by the county auditor and treasurer. As a result of these extensions, payment dates typically fall in February and July. The taxpayer may elect to pay the entire tax at the first due date or pay one half at each due date. Taxpayers may also elect to enter into an agreement with the county treasurer to prepay the tax in installments. If the taxpayer elects this payment method, the tax is generally paid in monthly installments prior to the due date in a manner similar to escrowing taxes with a mortgage company.

### *Late Payment Penalty & Interest*

If one half of the taxes charged against a property are not paid on or before the first half due date, a 10% penalty is added to that amount. If the total amount is not paid on or before the second half due date a 10% penalty is added to the balance of the total amount still due. If either payment is late but made within 10 days of the due date, the penalty is automatically reduced to 5%. Penalties may be removed upon application to the Tax Commissioner only if one of the four following circumstances applies.

(1) Negligence or error of the auditor or treasurer in performing a statutory duty relating to the levy or collection of the tax caused the penalty;

(2) The taxpayer failed to receive a tax bill but made a good faith effort to get a correct bill within 30 days after the last day for payment of taxes;

(3) The taxpayer died, was seriously injured or hospitalized within sixty days before the last day for payment of the tax but the tax was paid within 60 days after the last day for payment;

(4) The taxpayer demonstrates to the commissioner that full payment was properly mailed in time to be postmarked by the last day for payment.

Ohio law does not permit any extensions to be granted for paying property taxes even though late payment may be due to extreme circumstances or personal hardship. Even failure to receive a tax bill will not excuse late payment, except as stated above in number two.

If the tax is not paid by December 1st of the year, interest is added to the unpaid delinquent amount. Additional interest will be added twice annually each year until the tax is paid.

### *Procedures for Delinquent Taxes and Foreclosure*

Within 30 days after the county auditor and treasurer settle for taxes collected on the real property tax duplicate at the second half payment, the auditor prepares a list of all delinquent properties and delivers the list to the county treasurer. Within sixty days following delivery of this list to the treasurer, the auditor publishes the list twice in a newspaper of general circulation in the county. Prior to this publication, notice of the forthcoming publication must be published once a week for two weeks. The delinquent list is filed with the county prosecutor four weeks following the final publication of the list.

If real estate taxes are not paid within 60 days after the auditor delivers the delinquent land duplicate to the treasurer, the treasurer may start foreclosure proceedings in the common pleas court. The county prosecutor may start foreclosure proceedings upon receipt of the list of delinquent properties from the county auditor.

## DISTRIBUTION & SETTLEMENT OF TAXES COLLECTED

Following the last day for payment of the tax, the county auditor and treasurer reconcile the taxes paid against the taxes charged. This process is called a *settlement*. Immediately following these settlements, the auditor distributes the revenue collected to the appropriate taxing authorities. Taxing authorities can also request advance payments of the amount due them during the collection period.

Within 30 days following each settlement the county treasurer certifies one half of the total amount to be reimbursed for the 10% rollback, 2 1/2% rollback, and homestead exemption to the Department of Taxation. Amounts are reimbursed directly to the taxing authorities by the Department of Taxation (non-school recipients) and the State Department of Education (school districts).

## GLOSSARY OF REAL PROPERTY TAX TERMS

**Administrative Rule** -- Written directive prepared by a state administrative agency to provide amplification of a statute.

**Annual Revaluation** -- The county auditor is obligated to make necessary changes in assessed value each year if he finds value has changed from the value at which it is listed on the tax list; but he can only be ordered to do so by the Tax Commissioner in years of sexennial reappraisal or triennial update.

**Appraisal** -- Determination of true or fair market value.

**Assessed Value** -- The portion of true market value to which the tax rate is applied to obtain the amount from which reductions are made to determine the net taxes due. The percentage of appraised value used in determining assessed value for real property is 35%.

**Assessment** -- (1) Process of determining the value of property for tax purposes; (2) the value determined as a result of the process; (3) "Special assessment" -- an obligation imposed upon a property owner for the cost of an improvement that directly benefits his property, e.g., sidewalk assessment, street-widening assessment.

**Board of Revision (BOR)** -- County treasurer, county auditor, and the president of the board of county commissioners are members; function is to hear complaints relative to assessment or valuation of real property; may order reassessment of property, or increase or decrease assessment. BOR also hears complaints on related assessment matter, e.g., CAUV and Homestead applications.

**Board of Tax Appeals** -- Reviews appeals of decisions by the county boards of revision and final determinations of the Tax Commissioner.

**Classes of Real Property** -- There are two classes of real property defined in Section 2a of Article XII of the Constitution for the purpose of providing a tax reduction factor to each class. Classification of real property for other purposes is prohibited by the Uniform Rule. The classes of real property are: (1) residential/agricultural, and (2) nonresidential/agricultural (commercial/industrial).

**Cost Approach** -- One of the three approaches to value. It is based on the principle of substitution, the theory a buyer will not pay more for a property than the cost of constructing an acceptable substitute with similar utility.

**County Auditor** -- Elected official serving as chief financial officer of the county. Responsible for assessing all real and certain personal property within his county; he prepares the general tax list and gives a duplicate to the county treasurer for the actual collection of taxes. The County Auditor also distributes real property tax collections to local political subdivisions.

**County Treasurer** -- Prepares property tax bills and collects property taxes.

**Due Dates for Real Property Taxes** -- December 31 of the year for which the taxes are levied and the following June 20; at least one-half of the taxes due must be paid at the first collection due date (December 31);

in practice, extensions for the preparation of the tax list and tax bills delay the due dates until weeks or months later.

**Excise Tax** -- A tax assessed in the form of a license or a fee.

**Exemption** -- Some property is excluded from the application of property taxes, e.g., churches, charities, public property used for a public purpose, tax abatements, etc.

**Fractional Assessment** -- Assessments that by law or practice have assessment ratios different than 1.

**General Tax List of Real and Public Utility Property** -- Record maintained by the county auditor that registers the assessed value of each parcel of taxable real or public utility personal property in the county.

**General Tax List of Tangible Personal Property** -- County auditor's record of all taxable personal property, except utility property.

**Homestead Exemption** -- Tax relief granted to qualified elderly and disabled homeowners. The tax reduction is equal to the gross millage rate multiplied by a reduction in taxable value determined by the income class of the homeowner.

**Improvements** -- A structure or other creation permanently affixed to the land; e.g., buildings, sidewalks, built-in swimming pools.

**Income Approach** -- One of the three approaches to value. It is based on measuring the present worth of an income stream as an estimate of value.

**Inside Mill** -- A tax levied "inside" the ten-mill limitation; inside mills need only be approved by the taxing authority of the taxing district that levies the tax.

**Intangible Personal Property** -- Property that has no physical existence beyond that which is representational. Its value lies chiefly in what it represents. Examples include corporate stocks, bonds, patents and trademarks. Intangible personal property is no longer taxed in Ohio.

**Levy** -- To impose a tax (verb); the tax imposed (noun). Types of tax levies: (1) debt levy -- a tax imposed for the purpose of paying the interest on and retiring bonds issued by a taxing district; (2) general levy for current expenses -- a tax imposed for the purpose of paying for all expenditures of a taxing district except debt retirement or certain permanent improvements (proceeds from a general levy are deposited in the general fund of the taxing district); (3) special levies -- taxes imposed for one of several specific purposes enumerated by statute. Special levies may not be used for any purpose other than that for which they were voted. A special fund is created for each special levy, and proceeds from each special levy are deposited in the appropriate fund.

**Mill** -- A unit of value equal to 1/10 of one cent ($0.001) or $1.00 for each $1,000 of taxable value.

**Outside Mill** -- A tax levied "outside" the ten-mill limitation; outside mills require the approval of the electorate.

**Personal Property** -- Consists of every type of property that is not real property. It is characterized as being moveable without damage to itself or to the real estate to which it is attached. Personal property is further subdivided as either "tangible" or "intangible".

**Real Property** -- Land and improvements.

**Recoupment** -- Charge levied against real property removed from the current agricultural use value program. It is equal to the taxes saved during the three prior years.

**Sales Comparison Approach** -- One of the three approaches to value. It estimates a property's value by reference to the sale of similar properties.

**Sales Ratio** -- The ratio of an appraised (or assessed) value to the sale price of a property.

**Sexennial Reappraisal** -- Once every six years, each county must revalue all real property; reappraisals are staggered so that in each year they are conducted in some counties.

**Tangible Personal Property** -- Every tangible thing which is the subject of ownership excluding real property. It differs from real property in its capacity to be relocated.

**Tangible Personal Property Tax** -- Tax imposed only on tangible personal property used in business at locally determined tax rates; personal property in a given taxing district is subject to the same gross millage rate as real property in the same district.

**Tangible Personal Property Tax Return** -- All taxable personal property must be listed by a taxpayer as to ownership, valuation, and taxing district in a return filed annually with the Tax Commissioner or the county auditor.

**Tax Commissioner** -- Chief Officer of the Department of Taxation; the Commissioner administers the assessment of personal and railroad property, supervises the taxation of real property in the state, and is charged with the duty of achieving uniformity in the taxation of real property.

**Tax Reduction Factor** -- (Sometimes referred to as a real property tax credit or by the name of its predecessor, the H.B. 920 credit.) Real property taxes on each of two classes of real property in each taxing district are reduced by a percentage so that the total taxes collected from that class do not exceed the amount of taxes collected from that class in the preceding year, except for the additional revenue generated by new improvements.

**Tax Rate** -- The number of mills by which taxable value is multiplied to determine the amount from which certain reductions are made to determine liability for taxes; prior to those adjustments, each mill generates $1.00 of gross taxes for every $1,000 of taxable value.

**Taxing Authority** -- The governmental body or agency within a taxing district that approves the levy of a tax on property; e.g., the city council in a city, the board of township trustees in a township, the board of education in a school district.

**Taxable Value** -- Also known as the assessed value, it is the value against which taxes are calculated. In Ohio, this is equal to 35% of the appraised value.

**Taxing Subdivision** -- A local government entity that is empowered to tax property, e.g., cities, counties, townships, recreational districts, school districts, other special districts.

**Ten-Mill Limitation** -- The sum of the tax rates levied against any given piece of taxable property cannot exceed ten mills unless the excess is approved by a majority of the electors voting on the issue in the taxing district that imposes that excess. It is important to note that the ten-mill limitation does not allow each subdivision to levy ten inside mills; rather, the ten-mill limitation is reached when the sum of all inside mills levied by all subdivisions equals ten mills as applied to property in a given taxing district.

**Triennial Revaluation (Update)** -- In the third year following reappraisal, the Tax Commissioner orders a county auditor to increase or decrease the assessed value of all real property in the county or of certain classes of real property if the Commissioner determines it is not valued as required by law.

**True Value or Fair Market Value** -- The price at which property would be exchanged between a willing seller and a willing buyer, neither being under compulsion to sell or buy and each having knowledge of the pertinent facts.

**10% Rollback** -- Each real property tax bill is reduced by 10%; the state reimburses local taxing districts for the revenue lost from the 10% reduction.

**2-1/2% Rollback** -- In addition to the 10% rollback, owner-occupied residential property qualifies for an additional 2-1/2% reduction in property taxes; the state reimburses local taxing districts for the lost revenue.

**Uniform Rule** -- Section 2 of Article XII, Ohio Constitution, requires that land and improvements be taxed uniformly; different classes of real property (e.g., residential, agricultural, commercial, industrial) may not be taxed at different levels of assessed value anywhere in the state, or at different tax rates within the same taxing district, except as expressly authorized by Section 2a of Article XII.