

## Voted Property Tax Levies

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## Agenda

- I: Types of Property Tax
- II: Inside Millage
  - Limitations, Procedures, Exceptions
- III: Voted Millage
  - Types, Terms, Renewals and Replacements
- IV: Reduction Factors
  - Practical Effect on Revenues
- V: Placing a Tax Levy on the Ballot

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## Property Tax Overview

- There are two types of property subject to taxation
  - Real Property
    - Residential & agricultural (Class 1)
    - All Other (commercial, industrial, mineral or Class 2)
  - Personal Property
    - General business
    - Public utility

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### Property Tax Rates

There are three different tax rates for each levy that is in effect:

- 1 The *voted rate* at which the levy was originally enacted, which is the rate that is always applied to tangible property (general business or public utility)
- 2 The *effective tax rate for Class 1 real property*, which is the rate calculated after application of Class 1 reduction factors
- 3 The *effective tax rate for Class 2 real property*, which is the rate calculated after application of Class 2 reduction factors

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### Property Tax Rates

- There are two different ways tax levies can be implemented:
  - Unvoted millage (*inside millage*) is approved by the county budget commission, but cannot exceed 10 mills (a mill is 0.1 percent) for any taxpayer
    - Rates must also generally be applied uniformly by purpose
    - Allocation limited by Guarantees
  - Voted millage (*outside millage*) is approved by popular vote

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### Voted (Outside) Millage

- All levies in excess of the 10-mill limitation are outside levies and can only be enacted by popular vote
- There are many different allowable purposes for voted tax levies
- For voted levies, the purpose determines whether *tax reduction factors* apply
- Inside millage is not subject to reduction factors

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### Levy Purposes

- There are generally four purposes for voted tax levies:
  - 1 **Current Expense**, for the general operations of a jurisdiction
  - 2 **Emergency**, for the general operations of a school district
  - 3 **Special purpose**, which must be used for the specified purpose (i.e. permanent improvement, fire equipment, parks, etc.)
  - 4 **Bond**, for site acquisition and building construction

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### Special Purpose Levies

- RC Section 5705.19 lists the majority of the tax levies available to non-school political subdivisions
- There are 45 different purposes
- Some purposes are combinations of options as a single issue
- Some purposes are limited to certain taxing authorities

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### Special Purpose Levies

- Make sure you are specific about the purpose of your tax levy
- Is it an allowable purpose for your authority?
- If multiple purposes are available, you should specify which ones you want to use
- Suggest you use the terms in the authorizing statute in the resolution and on the ballot

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### Levy Types

- Voted levies can be divided into two groups:
- Fixed-rate levies
  - Current expense
  - Special Purpose
- Fixed-sum levies
  - Emergency, Substitute, Conversion (school district only)
  - Bond (debt)

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### Voted (Outside) Millage

- Fixed-rate levies are subject to tax reduction factors for real property taxation
  - The full rate applies to tangible property
  - Provides revenue growth if additional property is added to the district
- Fixed-sum levies are designed to raise specific dollar amounts from all types of property, and are not subject to reduction factors
  - As new property is added, the rate generally decreases.

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### Voted Levy Types

- **Additional** levies are new. They result in an increase in tax.
- **Renewal** levies continue taxation at the same rate that is already being paid.
- **Replacement** levies sound like renewal levies, but provide additional revenue under reduction factor law. The additional revenue comes only from real property.

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## Renewal or Replacement Levies

- Use of the terms “renewal” or “replacement” is considered an advantage in seeking voter approval of tax issues.
- There are limitations as to when those terms can be used.

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## Renewal or Replacement Levies

- The levy purpose and amount must be exactly the same as the original levy.
- The levy can, generally, only be renewed or replaced during the November election of the last year it is levied or at any election in the following year (year of payment).

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## Renewal or Replacement Levies

- Levies may generally be renewed or replaced with:
  - An increase in the rate or
  - A decrease in the rate.
- The increase or decrease must be clearly labeled.
- See R.C. 5705.192 for required ballot language

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### Voted Levy Terms

- **Fixed-term** levies usually last five years, but some specific purposes are allowed for up to 10 or 20 years
- **Continuing** levies are permanent
- **Debt** levies continue until debt is paid; typically 23 years.

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### Tax Reduction Factors

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### Tax Reduction Factors

- Purpose is to eliminate revenue growth that would otherwise result from appreciating real property values.
  - Applies only to voted fixed rate levies.
- Tax rates have historically been limited in some fashion, but practice basing limits on the amount of revenue began in 1925.
- House Bill 920 is the basis of the current system.

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### Tax Reduction Factors

- TRF's are calculated each year for every levy subject to reduction
  - Fixed-rate levies
- The calculation is based on the increase in the value of property that was taxed in the same class in both the current and preceding year
  - This is called *carryover property*

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### Common Misconceptions about Reduction Factors

- Tax reduction factors are not designed to:
  - Ensure every taxpayer within a jurisdiction pays the same taxes on a levy as in the year preceding reappraisal or triennial update
  - Prevent taxing authorities from receiving additional revenue from new construction

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### Tax Reduction Factors (Simple Example)

ILLUSTRATION

	Taxpayer 1	Taxpayer 2	Jurisdiction
Taxable Value Before Reappraisal	\$40,000	\$40,000	\$50,000,000
Taxes Before Reappraisal (50 mill rate)	\$2,000	\$2,000	\$2,500,000
Taxable Value After Reappraisal	\$46,000	\$42,000	\$55,000,000
Taxes After Reappraisal (45.45 mill rate)	\$2,091	\$1,909	\$2,500,000

Valuation in district increases 10 percent, but Taxpayer 1's value increases 15% and Taxpayer 2's value increases 5%

Assumes all 50 mills of tax are outside levies subject to reduction

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### Do you lose the new revenue from NC in the 2<sup>nd</sup> year?

- No.
- New property created new revenue for the political subdivision in the first year.
- The new revenue becomes part of the higher base revenue for succeeding years.

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### Effect of New Construction on Revenues - Second Year, No Value Change

	AUTHORIZED RATE (MILLS)	2009 TRF	2009 EFFECTIVE RATES (MILLS)	2009 TAXES CHARGED	NEW 2010 TRF	NEW 2010 EFFECTIVE RATES (MILLS)	2010 ACTUAL TAXES CHARGED	REVENUE INCREASE FROM 2009
Tax Rates: ABC City								
Inside Current Expense	3.00		3.00	\$ 30,000		3.00	\$ 30,000	0
Voted								
2006 Current Exp.	3.00	.1000	2.70	27,000	.1000	2.70	27,000	0
2000 Parks & Rec.	2.00	.4000	1.20	12,000	.4000	1.20	12,000	0
2003 Fire & EMS	1.00	.2000	0.80	8,000	.2000	0.80	8,000	0
<b>TOTAL</b>	<b>9.00</b>	<b>.1444</b>	<b>7.70</b>	<b>\$77,000</b>	<b>.1444</b>	<b>7.70</b>	<b>\$77,000</b>	<b>0</b>

*Carryover Value Calculation - 2010: Res/Ag	
2009 Total Taxable Value	\$10,000,000
2010 Valuation Change	
2010 Total Taxable Value	\$10,000,000
2010 Carryover Value	= \$10,000,000

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### EFFECT OF NEW CONSTRUCTION ON REVENUES - SECOND YEAR, REAPPRAISAL CHANGE

	AUTHORIZED RATE (MILLS)	2009 TRF	2009 EFFECTIVE RATES (MILLS)	2009 TAXES CHARGED	NEW 2010 TRF	NEW 2010 EFFECTIVE RATES (MILLS)	2010 ACTUAL TAXES CHARGED	REVENUE INCREASE FROM 2009
Tax Rates: ABC City								
Inside Current Expense	3.00		3.00	\$ 30,000		3.00	\$ 30,000	\$ 3,000
Voted								
2006 Police	3.00	.1000	2.70	27,000	.1833	2.45	27,000	0
2000 Fire	2.00	.4000	1.20	12,000	.4550	1.09	12,000	0
2003 EMS	1.00	.2000	0.80	8,000	.2700	0.73	8,000	0
<b>TOTAL</b>	<b>9.00</b>	<b>.1444</b>	<b>7.70</b>	<b>\$ 77,000</b>	<b>.1922</b>	<b>7.27</b>	<b>\$80,000</b>	<b>\$ 3,000</b>

*Carryover Value Calculation - 2010: Res/Ag	
2009 Total Taxable Value	\$10,000,000
2010 Valuation Change	
Reappraisal	+1,000,000
2010 Total Taxable Value	\$11,000,000
2010 Carryover Value	= \$11,000,000

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### What if value decreases due to reappraisal?

- Reduction factors will decrease to protect the revenue base on carryover property.
- Exception: operation of the reduction factor cannot increase the effective tax rate above the rate authorized by the voters.

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### EFFECT OF REAPPRAISAL VALUE DECREASE ON REVENUES

	AUTHORIZED RATE (MILLS)	2009 TRF	2009 EFFECTIVE RATES (MILLS)	2009 TAXES CHARGED	NEW 2010* TRF	NEW 2010 EFFECTIVE RATES (MILLS)	2010 ACTUAL TAXES CHARGED	REVENUE CHANGE FROM 2009
Tax Rates: ABC City								
Inside Current Expense	3.00	-----	3.00	\$ 27,000	-----	3.00	\$ 24,000	(\$ 3,000)
Voted								
2006 Police	3.00	.1000	2.70	24,300	.0000	3.00	24,000	(300)
2000 Fire	2.00	.4000	1.20	10,800	.3250	1.35	10,800	0
2003 EMS	1.00	.2000	0.80	7,200	.1000	0.90	7,200	0
TOTAL	9.00	.1444	7.70	\$ 49,300	.0789	8.29	\$ 66,000	(\$ 3,300)

*Carryover Value Calculation - 2010: Rev/Ag	
2009 Total Taxable Value	\$9,000,000
2010 Valuation Change	
New Construction	0
Reappraisal	-1,000,000
2010 Total Taxable Value	\$8,000,000
2010 Carryover Value	-\$8,000,000

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### Are levies subject to TRFs in the first year?

- Levies are subject to reduction factors in the first year (ORC 319.301(D)).
- Millage was based on most recent valuation available for the estimate (last year's value).
- Factor adjusts the rate so current value produces same revenue as the value used in the estimate.

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## Placing a Tax Levy on the Ballot

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### General Information

- The election process is governed by local boards of election and the Secretary of State
- Specific questions about the election process should be directed to those officials
- Also encourage you to work with your legal counsel throughout the levy process

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### General Information

- There are, however, some specific procedures that apply to tax levy issues and involve ODT
- Our presentation will focus on those technical requirements and the election -related forms that fall under the Tax Commissioner's authority

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### A word about tax budgets...

- A non-school taxing authority must adopt its tax budget on or before July 15 and file it with the county budget commission on or before July 20
- In the case of a levy issues that are passed in the current tax year (additional, renewal, or replacement) to be levied in the current tax year, the tax levy must be included in the next annual tax budget

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### The Auditor's Certificate

- Subdivisions considering a tax issue must request a certification from the county auditor to document anticipated revenue, requested rate, and levy type.
  - The request must be made by resolution or ordinance of the subdivision
- The subdivision may ask for:
  - Revenue produced by a specified number of mills
  - Mills necessary to raise a specified amount of revenue

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### This resolution or ordinance must include:

- The purpose of the tax
- The levy type: renewal or replacement (may be with increase or decrease), or additional
- The Revised Code Section authorizing the tax
- The resolution should be delivered to the home county auditor

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### The Auditor's Certificate

- The auditor must issue the certification within 10 days of receipt of the request
  - The auditor calculates the rate of the levy needed to produce a specific revenue, or
  - The revenue that will be produced by a specific rate.
- The certification also includes information necessary for the ballot
  - Mills per dollar of value
  - Cents per \$100 dollars of value

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### The Auditor's Certificate

- The auditor's certification must be submitted to the BOE along with the legislation requesting the issue be placed on the ballot
- RC Section 5705.05(B) prohibits a board of elections from submitting a tax levy issue to the voters unless the auditor's certificate accompanies the resolution or ordinance the subdivision certifies to the board.

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### Certification Forms

- ODT has issued forms and worksheets for the auditors to use in preparing the certification
- DTE 140 M and DTE 140 R
- Worksheets provide detailed instructions on how to account for TPP reimbursement payments in estimating revenue for eligible renewal or replacement levies

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### Certification Forms

- The DTE 140 M and DTE 140 R and all associated worksheets are available on the ODT website
- [www.tax.ohio.gov](http://www.tax.ohio.gov)
- Click on the 'Tax Forms' tab
- Select 'Real Property Tax' forms

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### Resolution of Necessity

- A subdivision's taxing authority must pass a resolution by a vote of two-thirds of its members
- The resolution must contain specific statements, which include:
- Inside millage will not produce enough revenue to operate the subdivision

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### Resolution of Necessity

- Necessity of levying a tax outside the 10-mill limit
- The general, primary or special election at which voters will consider the issue
  - Each issue is limited to one special election per year (February or August)
- The purpose of the levy
  - Limited to what is described in one division of the statute

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### Resolution of Necessity

- The requested tax rate
- The term of the levy
- The type of the levy
- The first tax year the levy will be in effect
- The resolution goes into immediate effect upon passage, and no publication is necessary other than the notice of election

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### When to file?

- The resolution must be filed with the board of elections not later than 75 days before the election
- Remember, the auditor's certification must accompany this filing

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### Levy Purpose

- Caution: if you limit the purpose of the levy in the resolution of necessity, you limit the purposes for which the revenue can be expended
- This limit applies even if the authorizing statute allows more purposes than are mentioned in the resolution

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## Levy Purpose

- This limit applies even if the ballot language is more general
  - A recent OAG Opinion addressed this issue and found the resolution to be controlling in determining a levy's purpose

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## Contact Information

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