Property Tax Levies

Prepared for the 2013 Annual Local Government Officials' Conference
April 4, 2013

Tax Equalization Division
Ohio Department of Taxation

Agenda

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

Property Tax Overview

● There are two types of property subject to taxation:
  - Real Property
    ● Class I real property
      - Residential
      - Agricultural
    ● Class 2 real property
      - Commercial
      - Industrial
      - Mineral
      - Railroad Real
    - Public Utility Personal Property
O. Const. Art. XII, Sec. 2 imposes two primary limitations on real property taxation:

- All real property must be taxed uniformly according to fair market value, i.e., all real property must be treated equally and taxpayers must be charged the same amount for the same service.
- Taxes can exceed one percent of “true value” (fair market value) only by popular vote.

Statutory law is even more restrictive:

- Unvoted taxes cannot exceed 1% of taxable value.
- See RC 5705.02

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.
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.

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.

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.
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)

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.

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.
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.

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).

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.
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.

Placing a Tax Levy on the Ballot

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
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.

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 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.

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.
Resolution Requirements

- 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

Resolution Language

- 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
- Does purposes expand with changes in law?

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
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.

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.

Certification Forms

- The DTE 140 M and DTE 140 R and all associated worksheets are available on the ODT website.
- www.tax.ohio.gov
- Click on the "Tax Forms" tab
- Select ‘Real Property Tax’ forms
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

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

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
When to file?

- The resolution must be filed with the board of elections not later than 90 days before the election
- Remember, the auditor’s certification must accompany this filing

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

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
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

**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.
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

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

Tax Reduction Factors (Simple Example)

<table>
<thead>
<tr>
<th></th>
<th>Taxpayer 1</th>
<th>Taxpayer 2</th>
<th>Jurisdiction</th>
</tr>
</thead>
<tbody>
<tr>
<td>Taxable Value Before Reappraisal</td>
<td>$40,000</td>
<td>$40,000</td>
<td>$50,000,000</td>
</tr>
<tr>
<td>Taxes Before Reappraisal (50 mill rate)</td>
<td>$2,000</td>
<td>$2,000</td>
<td>$2,500,000</td>
</tr>
<tr>
<td>Taxable Value After Reappraisal</td>
<td>$46,000</td>
<td>$42,000</td>
<td>$55,000,000</td>
</tr>
<tr>
<td>Taxes After Reappraisal (45.45 mill rate)</td>
<td>$2,091</td>
<td>$1,909</td>
<td>$2,500,000</td>
</tr>
</tbody>
</table>

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
### Basic TRF Calculation

<table>
<thead>
<tr>
<th></th>
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<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>1.00</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>3.00</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>2.00</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>1.00</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### Does new construction cause revenue to increase?

- Yes.
- TRF does not change.
- New revenue is equal to the value of new construction times the effective tax rate.
- Also applies to any other non-reappraisal increase (e.g., assessment of omitted property or the taxation of previously exempt property).

### Effect of New Construction on Revenues - First Year

<table>
<thead>
<tr>
<th>Description</th>
<th>2008 Total Taxable Value</th>
<th>2008 Valuation Change</th>
<th>New Construction</th>
<th>Reappraisal</th>
<th>2009 Total Taxable Value</th>
<th>2009 Carryover Value</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>$9,000,000.00</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td><strong>$10,000,000.00</strong></td>
<td><strong>$1,000,000.00</strong></td>
</tr>
</tbody>
</table>

*Carryover Value Calculation – 2009: Res/Ag.
Do you lose the new revenue from NC in the 2nd 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.

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

<table>
<thead>
<tr>
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<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Property</td>
<td>150</td>
<td>5,000,000</td>
<td>5,100,000</td>
<td>5,100,000</td>
<td>500</td>
<td>500</td>
<td>0</td>
</tr>
<tr>
<td>Land</td>
<td>250</td>
<td>1,000,000</td>
<td>1,100,000</td>
<td>1,100,000</td>
<td>500</td>
<td>500</td>
<td>0</td>
</tr>
<tr>
<td>Improvement</td>
<td>200</td>
<td>3,000,000</td>
<td>3,100,000</td>
<td>3,100,000</td>
<td>500</td>
<td>500</td>
<td>0</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>800</strong></td>
<td><strong>9,000,000</strong></td>
<td><strong>9,300,000</strong></td>
<td><strong>9,300,000</strong></td>
<td><strong>2,000</strong></td>
<td><strong>2,000</strong></td>
<td><strong>0</strong></td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th></th>
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<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Property</td>
<td>150</td>
<td>5,000,000</td>
<td>5,100,000</td>
<td>5,100,000</td>
<td>500</td>
<td>500</td>
<td>0</td>
</tr>
<tr>
<td>Land</td>
<td>250</td>
<td>1,000,000</td>
<td>1,100,000</td>
<td>1,100,000</td>
<td>500</td>
<td>500</td>
<td>0</td>
</tr>
<tr>
<td>Improvement</td>
<td>200</td>
<td>3,000,000</td>
<td>3,100,000</td>
<td>3,100,000</td>
<td>500</td>
<td>500</td>
<td>0</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>800</strong></td>
<td><strong>9,000,000</strong></td>
<td><strong>9,300,000</strong></td>
<td><strong>9,300,000</strong></td>
<td><strong>2,000</strong></td>
<td><strong>2,000</strong></td>
<td><strong>0</strong></td>
</tr>
</tbody>
</table>
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.

### EFFECT OF REAPPRAISAL VALUE DECREASE ON REVENUES

<table>
<thead>
<tr>
<th>Year</th>
<th>General Expense</th>
<th>TRF</th>
<th>Effective Rate</th>
<th>Carryover Value</th>
<th>New Value</th>
<th>Effective Rate</th>
<th>TRF</th>
<th>Carryover Value</th>
<th>New Value</th>
<th>Revenue Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>2009 TRF</td>
<td>1.00</td>
<td>0.00</td>
<td>1.00</td>
<td>27,000</td>
<td>1.00</td>
<td>27,000</td>
<td>0.00</td>
<td>27,000</td>
<td>1.00</td>
<td>27,000</td>
</tr>
<tr>
<td>2010 TRF</td>
<td>1.00</td>
<td>0.00</td>
<td>2.70</td>
<td>7,200</td>
<td>1.00</td>
<td>7,200</td>
<td>0.00</td>
<td>7,200</td>
<td>1.00</td>
<td>7,200</td>
</tr>
<tr>
<td>Total</td>
<td>2.00</td>
<td>0.00</td>
<td>3.70</td>
<td>34,200</td>
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<td>34,200</td>
<td>0.00</td>
<td>34,200</td>
<td>2.00</td>
<td>34,200</td>
</tr>
</tbody>
</table>

### 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.
New Levy Subject to TRF in First Year – With Positive Reappraisal Change

<table>
<thead>
<tr>
<th>Description</th>
<th>Authorized Rate</th>
<th>DEF</th>
<th>Eff. Rate</th>
<th>Change</th>
<th>Def</th>
<th>Eff. Rate</th>
<th>Change</th>
<th>Actual</th>
<th>Change</th>
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</thead>
<tbody>
<tr>
<td>Inside</td>
<td>3.00</td>
<td>1.00</td>
<td>3.10</td>
<td>0.10</td>
<td>3.00</td>
<td>3.10</td>
<td>0.10</td>
<td>3.00</td>
<td>0.10</td>
</tr>
<tr>
<td>Total</td>
<td>3.00</td>
<td>1.00</td>
<td>3.10</td>
<td>0.10</td>
<td>3.00</td>
<td>3.10</td>
<td>0.10</td>
<td>3.00</td>
<td>0.10</td>
</tr>
</tbody>
</table>

2010 Total Taxes: $27,000
2010 Effective Rates: 3.10

New Levy Subject to TRF in First Year – With Negative Reappraisal Change

<table>
<thead>
<tr>
<th>Description</th>
<th>Authorized Rate</th>
<th>DEF</th>
<th>Eff. Rate</th>
<th>Change</th>
<th>Def</th>
<th>Eff. Rate</th>
<th>Change</th>
<th>Actual</th>
<th>Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>Inside</td>
<td>3.00</td>
<td>1.00</td>
<td>1.90</td>
<td>0.10</td>
<td>2.00</td>
<td>1.50</td>
<td>0.50</td>
<td>2.00</td>
<td>0.50</td>
</tr>
<tr>
<td>Total</td>
<td>3.00</td>
<td>1.00</td>
<td>1.90</td>
<td>0.10</td>
<td>2.00</td>
<td>1.50</td>
<td>0.50</td>
<td>2.00</td>
<td>0.50</td>
</tr>
</tbody>
</table>

2010 Total Taxes: $24,000
2010 Effective Rates: 1.90

Restrictions on Tax Reduction Factors

- The legislature may place floors on effective rates for any type of jurisdiction
- Floors must be placed uniformly within the jurisdiction type
- Two floors are currently in place
  - The 20 mill floor for school districts
  - The 2 mill floor for joint vocational school districts
- Floors are beneficial to taxing authorities because they freeze effective rates at the floor level
Contact Information

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Rebecca Luck, Counsel
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