

OREGON LEGISLATORS CONSIDER ELIMINATING PROPERTY TAX LIMITATIONS



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Ambrose Bierce defined property as “[a]ny material thing, having no particular value, that may be held by *A* against the cupidity of *B*.” While Bierce may have considered the value of property to be entirely subjective, property tax is the greatest source of revenue for Oregon’s local governments and, as such, creating a fair system to value property for tax purposes is a subject that has frustrated policymakers and taxpayers for decades. However, Senate Joint Resolution 3 (“**Resolution 3**”) could simplify the Oregon property tax system at the cost of eliminating key protections relied on by property owners.

As a primer on Oregon’s current methodology, owners of real property (e.g., land, homes, buildings, fixed machinery), manufactured homes, and personal property used in a business are subject to an annual property tax. The tax is based upon the *taxable assessed value* of their property determined as of January 1 of each year. The taxable assessed value is the lesser of the *real market value* of the property, as determined by a local assessor, and the *maximum assessed value*, which is simply the maximum assessed value of the property in the prior year plus 3%. This limitation was enshrined in the Oregon State Constitution by Oregon Measure 50, which was enacted in 1997. As a consequence, while arbitrary, the original assessment on which maximum assessed value figures are based is a property’s real market value in 1996.

If this system sounds confusing, you are in good company. In 2015 *The Oregonian* reported that Mark Hass, the state senator who chairs the Oregon Senate Finance and Revenue Committee, appealed his property tax bill and won, but because the adjusted real market value of his home was still in excess of its maximum assessed value, his tax bill didn’t change. Hass later admitted, “Here I am, the chairman of the revenue committee, and I was befuddled.”

As with most controversial ideas in Oregon, Measure 50 traces its roots to California. In 1978, as a response to rapidly rising home values that led to skyrocketing property taxes, California taxpayers enacted Proposition 13, which limited increases to the assessed value of property to 2% annually. In Oregon, during the dotcom boom of the 1990s, property owners faced a similar frustration to that of California taxpayers prior to 1978. In response, Oregon tax activists, including Bill Sizemore, put forward Measure 47, which ultimately was enacted in a modified form as Measure 50.

The key difference between the property tax system in California versus Oregon is that while Proposition 13 allows property to be reassessed to the purchase price when it is sold, Measure 50 bars reassessment except where a property has been improved or developed (e.g., addition of structures, new subdivisions). As a result, Proposition 13 is routinely criticized for the disparate taxes paid by neighbors enjoying the same public benefits when one is a long-term owner and the other has recently purchased their home, sometimes at greater than ten times the cost and, thus, ten times the assessed value.

In contrast, Oregon neighbors with comparable homes are typically taxed similarly, though property taxes may be substantially greater for new developments than for neighborhoods developed prior to 1996. For example, similarly priced homes in recently developed areas are often taxed far greater than remodeled homes in rapidly gentrifying areas such as Northeast Portland. This disparity is due to the value of the older homes appreciating at a far greater rate than 3% per year, and the maximum assessed value of homes built in the last twenty years being based on the year they were built. In addressing this variance, Senator Hass commented that “[h]omes of equal value are paying vastly different property taxes, which is just a basic unfairness we have to remove.”

Resolution 3 would eliminate the maximum assessed value limitation and instead provides that “each unit of property shall be assessed. . . at the real market value of the property.” As a result, all taxpayers would be at the mercy of the current assessed value of their property, regardless of when it was developed and/or built.

While addressing injustice is a predictable justification for tax reform, taxpayers often consider their potential out-of-pocket costs to be much more salient. Based on the Oregon Department of Revenue’s Property Tax Statistics for 2015–2016, the total real market value of taxable property within the state is approximately \$508 billion, as compared to the assessed value of property of \$371 billion. It follows that the passage of Resolution 3 as proposed would allow local governments to impose tax on an additional \$137 billion of property values. This could result in a 37% increase in the amount of property taxes paid by Oregonians. Thus, it is fair to conclude that the Resolution 3 is more related to raising additional revenues than removing unfairness.

It should be noted that Resolution 3 does instruct the legislature to provide a homestead exemption which would exclude part of a taxpayer’s residence from taxation. However, any exemption value is yet to be determined and would be up to the legislature’s discretion, rather than a taxpayer vote. Resolution 3 is currently being discussed in the Senate. Should it pass the Oregon legislature (a similar resolution has been proposed at the Oregon House of Representatives), its fate will be determined by Oregon voters during the primary season in May 2018.