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The Property Tax Under Pressure: A Policymaker's Guide

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The Lincoln Institute of Land Policy created the Tax Policy Roundtable, composed of informed persons from the academic, business-industrial, and governmental communities to identify major or emerging issues in tax policy, and programs that impact land use decisions to analyze and evaluate their impact, to generate research, discussion, and publication on these topics, to draw them to the attention of policy makers and government officials, and to prepare materials for instructional use.

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Pre-war Property Taxes: A Generalization

Local governments in the United States other than a few *ad hoc* districts financed their activities in large part by levying ad valorem property taxes prior to World War II. These taxes, commonly referred to as "general property taxes" because of the universality and uniformity requirements that characterized them at the turn of the century, applied to privately owned property not specifically excluded by exemption or "in lieu" tax laws. By the late '30s, such laws excused from property taxation much intangible property, many licensed motor vehicles, and most household goods and personal effects, along with the real and personal property of religious, educational, and charitable organizations that was used by the organizations in activities appropriate to the purposes for which they were created.

Most of the remaining privately owned tangible property was assessable by local government officials at its market value on a specified day of the year, or occasionally at a uniform percentage thereof. Assessed values were subject to annual revision, except that real property which was not materially changed could be revalued only at two- to four-year intervals in a few states. These values were determined initially by assessors who served counties in the South and West and jurisdictions of less than county size in most of the East and Midwest. County assessors were usually elected to office and were required to have no qualifications other than those required of voters; few elected or appointed assessors of smaller jurisdictions had to meet more exacting qualifications. Their assessments were reviewed upon appeal to, or occasionally at the initiative of, a local agency consisting typically of the tax-levying body of the assessment district, and often on further appeal to a state assessment supervisory agency or a local court of general jurisdiction [1].

State governments also had access to general property taxes, but not many of them were availing themselves of this access by the beginning of World War II. These governments nevertheless played an important role in property taxation by enacting the laws under which local governments administered the tax, by assessing the property of railroads and other public utilities for local taxation, and by loosely supervising local administrators, many of whom were inept and some of whom were corrupt despite this oversight [2].

Each local government's legislative body annually levied a single tax rate, sufficient to balance its budget or expenditure plan when applied to the assessed value of taxable property within its boundaries. The taxes were payable in a lump sum or in a few installments. Those on real property were secured by liens upon the property, and the liens were foreclosed if the taxes remained delinquent for several years. Taxes on personal property were collectible (though not always collected) with little delay, if necessary by obtaining a judgment from a local court or by seizing and selling the delinquent's property.

1980 Property Taxes

The foregoing is an oversimplification but, as generalizations go, not an unrealistic picture of general property taxes in the United States at the opening—and the close—of World War II. It is no longer so. Today—

- Property taxes are a second-place source of local government revenues, overshadowed by aid from state and federal governments and liberally supplemented by the proceeds of other taxes, fees, and user charges.
- The property tax base is replete with exemptions, prominent among which are homestead exemptions and exemptions of business personal property that can be easily relocated in states with hospital tax laws.
- A widely accepted property tax relief device—the "circuit breaker"— resembles an exemption but, in its usual form, is better described as a remission or refund of property taxes which absorb an unduly large part of a property owner's (or renter's) annual income.
- Most farm land and increasing numbers of other properties are eligible for assessment on the values they would have if perpetually restricted to current use rather than on their market values.

- In a few states, assessors are prohibited from fully reflecting rapidly rising market values of individual real properties in their annual or multi-annual assessed value revisions.
- In California, and potentially in Nevada, land which is increasing in value may be reassessed at its market value only when its ownership is changed, and improvements which are increasing in value may be reassessed at their market value only at the time they are constructed or their ownership is changed. This departure from convention attracted nationwide attention in the context of "Proposition 13," a 1978 amendment of the California Constitution.
- Many states have provided for assessment of property at minor fractions of full value.
- In three or four times as many states as in the prewar period, and in the District of Columbia and Cook County, Illinois, two or more major classes of tangible property are assessable, by law, at different percentages of value or taxed in uniform proportion to value but at different tax rates (Note A).
- Elderly persons in several states can defer property tax payments on their homes until they sell or cease to live in them.
- Assessors are sometimes required to demonstrate technical qualifications for office before entering upon their duties even though they are not otherwise subject to formal merit systems of employment; other assessors and members of many assessors' staffs are obliged to acquire periodic training in appraisal and other assessment activities. Among the techniques for which training has been widely provided is the use of computers in the appraisal of real property.
- Many state tax agencies, in addition to other supervisory activities, annually estimate the average ratio of assessed value to market value of taxable property in each local assessment district. These ratios are used not only to allocate state property taxes equitably and to equalize state assessments with local assessments as in earlier times, but to allocate massive state aid to local governments, to improve local assessment practices, and occasionally to help property owners determine whether their own properties have been fairly assessed.
- Independent assessment appeal boards have supplanted *ex officio* appeal boards at the local level in a few states and have widely supplanted assessment supervisory agencies as appellate bodies at the state level, with the expectation that taxpayers will obtain a more impartial review of assessments than was previously available.
- A large majority of local legislative bodies are subject to limitations on the amounts or rates of property tax they can levy.
- A milder form of property tax limitation that goes by the name of "full disclosure" requires local legislative bodies in several states to publicize and hold special hearings when they propose to levy property tax rates which will produce revenues in excess of those produced in the prior year (or a percentage thereof) on real property that was taxable in the prior year.
- Broader types of limitation, applicable to local government revenues from major sources, including property taxes, or to local government expenditures for most major purposes, have been inaugurated in a good many states.

This recitation and the subsequent description of major postwar developments in property taxation disclose legislative concern for property owners in general, for homeowners in particular, and especially for economically insecure homeowners. Some of the changes were intended to mitigate the tax effects of inflation; others were designed to cure administrative ills that had become less tolerable as taxable values increased without offsetting reductions in property tax rates. Many of them are departures from the admonition of some early writers in the public finance field that taxes should be used to finance governments and not to achieve social goals.

A. Hartford, Connecticut has a classified system that expires in 1980.

With an exception or two, all of the enumerated changes represent property tax relief efforts. One exception is the improvement of the professional qualifications of assessors and their staffs. Ironically, this improvement, coupled with closer state supervision and sporadic judicial intervention, increased property tax burdens in many instances by helping keep assessments abreast of rising market values. When market values began to rise faster for residential properties than for business properties, the stage was set for many of the other changes.

State and Federal Aid and Local Nonproperty Taxes

Local property taxes have risen spectacularly since World War II. From $5,850,000,000 in fiscal 1948, they rose to over $66 billion in fiscal 1978—more than a tenfold increase (Note B). In the same period, however, their contribution to total tax collections of local governments dropped from 88.6% to 80.1% as cities, counties, and a few special districts acquired and exercised the right to levy sales, gross receipts, and income taxes. As a percentage of general revenue from own sources, property taxes collected by local governments declined from 74.4% to 59.5% [3, p. 55].

Meanwhile, state and federal aid to local governments exploded from $3,501,000,000 to $85,500,000,000 and from 44.5% to 76.8% of local general revenue from own sources. State aid alone approximated local property tax collections in fiscal 1978 [3, pp. 55-79].

The shrinking role of property taxes was even more pronounced at the state level. In 1978, the $2.3 billion of state property tax collections (much of which came from special rather than general property taxes) were over eight times as high as state collections from this source in 1948, but they had decreased in this 30-year period from 4.1% to 2.0% of total state tax collections and from 3.7% to 1.7% of state general revenue from own sources (Note C) [3, p. 79; 4].

This reduction of the relative importance of property taxes seems to have been responsive to public opinion. Probably mainly because of its high visibility, its reputation for poor administration, and latterly an internal shift of burden from business to residential properties, the local property tax was still the least popular tax in the United States when the Advisory Commission on Intergovernmental Relations surveyed public attitudes on governments and taxes in the Spring of 1978 [5, p. 1], one month before the property tax revolt in California known throughout the country as Proposition 13 (Note D).

Property Tax Exemptions

Between the end of World War I and the beginning of World War II, the major changes in composition of general property tax bases had been occasioned by total exemption of intangible property in several states and subjection of this type of property to nominal special property taxes in most other states. *Tangible* personal property, however, was totally exempt only in Delaware, New York, Pennsylvania, and the Territory of Hawaii when we entered World War II. Now a new area of total exemption of tangible personal property is developing in the Midwest. In Illinois, the personal property of natural persons has been exempt for almost a decade, and that of corporations is exempt on and after January 1, 1980. Minnesota, Wisconsin, Nebraska, and the Dakotas tax very little personal property now, and Iowa is preparing to join the states with total exemption of this subject in the near future [6, p. 9].

B. There was a 3.3% decline in state and local property tax collections in the 12 months ended June 30, 1979, according to the Census Bureau's latest compilation *(Quarterly Summary of State and Local Tax Revenue,* Oct. 1979). The $2.147 billion nationwide decrease was considerably less than the $5.367 billion decrease in California.

C. Indiana, Ohio, and Wisconsin have enacted what might be characterized as "inverse general property taxes" in the 1970s. Instead of adding to property tax bills, the state governments have paid part of them.

D. Perhaps because of Proposition 13 and contemporary property tax relief elsewhere, the federal income tax forged slightly ahead of the property tax in the ACIR's 1979 unpopularity contest.

The first post-World War II portent of total personal property exemption appeared when Nevada enacted its "freeport" exemption in 1949. This law allowed goods to come into the state for warehousing, performance of functions common to wholesalers, and subsequent shipment to out-of-state destinations without property tax liabilities. Freeport exemptions spread like wildfire until they were nearly nationwide [7, p. 11]. As they spread, their scope was expanded in much of the country to include goods originating in a state and shipped elsewhere.

The freeport exemptions were only way-stations on the road to total exemption of inventories in many states. All business inventories are exempt or are being phased out of the property tax base over the next few years in over two fifths of the states and the District of Columbia [6, p. 9]. Interstate competition for wholesale and manufacturing enterprises has prevailed over whatever inhibitions legislators in these states may have had against singling out a particular class of tangible business property for favored tax treatment.

Land and buildings used in business pursuits have remained taxable in all states and the District of Columbia save for some temporary exemptions for new and expanded manufacturing facilities. Interstate competition for industrial expansion found a new outlet shortly after World War II, when Pennsylvania granted permanent exemption to machinery and equipment, whether real or personal property. Half the New England States and several states in the upper Midwest have followed suit [6, p. 9]. The history of inventory and general personal property exemptions suggests that exemption of this class of property will spread in the next decade as other states enter the industrial beauty contest.

The major postwar property tax exemption movement, however, has been in the residential area. Household personal property contributed little to property tax bases by the late '30s, by reason of either total exemption or liberal application of exemptions of limited dollar amounts; further inroads on this portion of property tax bases were made as legislators became more sensitive to the tax burdens of householders. Major relief for homeowners came a little later in the form of homestead exemptions and "circuit-breakers."

Homestead exemptions had enjoyed a brief vogue during the Great Depression. They were advocated then as a means of preserving homeownership in the face of widespread economic distress and of reaping the social and political benefits that homeownership was presumed to offer. There were 13 states with some type of general homestead exemption or property tax credit on owner-occupied homes when we entered World War II. Now there are nearly twice as many. The recent exemptions were advocated mainly as a means of redressing the alleged regressivity of the property tax and of countering the tendency for residential property to assume a larger share of the property tax load as it rose in value more steeply than business property.

In a baker's dozen other states, only elderly or elderly and handicapped owners are afforded property tax relief by means of homestead exemptions. Eligibility is further restricted in some of these states by a means test. Annual income is the most prevalent means test, but asset or net worth tests are used in several states, sometimes in combination with income tests [8, pp. 112-137; 9, pp. 82-84].

Circuit-breakers

The latter states might be said to have rudimentary forms of "circuit-breakers." Circuit-breakers are devices by which relief is granted to homeowners, and often to renters, whose property taxes, or the presumed portions of rents that represent forward-shifted taxes of landlords (Note E), are excessive relative to the owners' or tenants' annual incomes. Inaugurated in Wisconsin in 1964, this device is now found in approximately three fifths of the states and the District of Columbia. In three out of

E. The portions of rent presumed to represent property taxes shifted by landlords to tenants varied from 6% to 30% and averaged a little over 17% in the 24 states with this kind of renter relief in April 1978 [2, pp. 64–68].

four jurisdictions with circuit-breakers, this relief is available only to elderly persons or to the elderly and disabled or other closely restricted categories of younger persons. In the District of Columbia and nearly one-third of the circuit-breaker states, however, relief is available to all persons of limited means, or even without a means test as in Michigan, Minnesota, and Vermont [3, pp. 64-68; 9, pp. 56-59].

Many of the postwar property tax exemptions, like most of their precursors, have been funded by property tax levying governments. Since the property tax has provided much of local governments' revenue from own sources, owners of taxable property have shouldered many of the local governments' "tax expenditures" arising from exemptions. Since the late '60s, however, state funding of at least the easily measurable tax losses arising from exemptions has become fashionable. It is most widely employed in the homestead exemption and circuit-breaker fields.

Use-Value Assessments

The rapid growth of urban populations in the postwar period, the greater mobility that came with widespread motor vehicle ownership, and flight from the core cities produced a ready market for land on the urban fringes. As fields and orchards were rapidly converted to subdivisions, farm land values rose to much higher levels than current farm income could justify. Many assessors closed their eyes to these higher values; others were impelled by professional pride and ethics or pressure of state monitors to reflect them in their assessments. It soon became politically popular to relieve the tax pressures on farm land by legally restricting assessed values to the amounts that would be appropriate if the land were perpetually restricted to agricultural use. This change from assessments based on highest-and-best use (market values) to assessments based on restricted use began in Maryland in 1957 and was found in all but a half dozen states by 1979 [6, pp. 286-287; 9, p. 104-105].

Tax relief by means of use-value assessments was generally advocated as a deterrent to conversion of rural land to urban uses. (Its proponents would have been more realistic and perhaps more candid had they advocated it also as an equity measure which gears tax payments to taxpayers' cash flows.) Its efficacy as a conservation device depends on the inducement or compulsion to forego alternative land uses. Many states permit a beneficiary of the program to change land use only if he is willing to pay a "rollback" tax equal to the tax benefits that have been enjoyed for a certain number of prior years, including interest on the deferred taxes. Ideally (but perhaps not economically), two values are placed on land that has qualifed for use-value assessment in these states, either or both of which can be appealed to the assessment review agency. Only the use-value assessments are used to compute regular tax bills until a change in use occurs; the market values, for as many years as required, are then used to compute rollback taxes.

States that do not use rollback taxes to discourage change of use may require applicants for use-value assessments to sign contracts which commit them to maintain the eligible use for a substantial period of time. Nearly a dozen states, however, neither impose penalties for changing to an ineligible use nor require a continuing commitment to eligible uses.

Use-value assessments have spread from farm land to other open space in some states and more recently to historical sites and structures and perhaps in one or two states to real property of all kinds (Note F).

F. Oklahoma's Constitution, Art. X, Sec. 8 says in part: "...no real property shall be assessed...at a value greater than 35% of its fair cash value for the highest and best use for which such property was actually used or was previously classified for use, during the calendar year next preceding the first day of January on which the assessment is made." What does "previously classified for use" mean? Idaho Code Sec. 63-923 says in part: "The market value for assessment purposes ... shall be determined by the county assessor ... but where real property is concerned it shall be the actual and functional use of the real property..." It is possible that the reference to "actual and functional use" is over-ridden by the constitutional requirement (Art. VII, Sec. 2) that "every person or corporation shall pay a tax in proportion to the value of his, her, or its property..."

Whether this form of tax relief has substantially curbed the subdivision of rural land is questionable. By increasing the value of rural land suitable for subdivision, it has surely encouraged more frugal use of residential land and reduced urban sprawl, but it has been far more successful as a tax relief measure than as an open-space preservative in the opinion of most informed observers [10].

Limitations on Assessed Value Increases

The exceedingly rapid rise in real property values in the last decade gave birth to a new type of property tax limitation—a ceiling on the increase from one year to the next in assessed values of substantially unchanged individual real properties. Unless associated with severe tax rate limitations, these restrictions shifted taxes from rapidly appreciating properties to properties whose values were declining or rising at less than weighted average percentages [11, pp. 20-22].

Since assessors are seldom able, even if willing, to change all real property assessments annually and a few are still prohibited by law from doing so, the compounding during the '70s of 10 to 30 percent annual increases in market values between reappraisals often led to doubling or tripling of assessed values of some properties in the absence of ceilings. Frequently not all real properties in the larger governmental units were reassessed simultaneously, so higher assessed values on some of the real properties could not have been fully counterbalanced by lower tax rates even had governing bodies been willing to forego easy opportunities to raise larger revenues. And where rate reductions might have been anticipated, recipients of notices of higher assessed values almost always assumed that they would soon receive tax bills that had increased in the same proportions. The complaints of these anguished property owners were clearly audible in the state capitols.

While early assessment limits ranged in the 5 to 10% level, California's Proposition 13, in its original version, came even closer to freezing assessments of properties whose ownership is unchanged and which involve no new construction. It provided for indexing assessed values of such real property from a 1975 base value by the Consumer Price Index or "comparable data" but not to exceed 2% per annum. The original version's failure to provide for any reductions in assessed values unless the cost of living index (or comparable data) dropped from one year to the next led to early amendment. Reductions of assessed values are now required "to reflect substantial damage, destruction or other factors causing a decline in value. "Now there is a 2% lid on upward revisions of assessed values and an unlimited bottom on downward revisions. Idaho has, and Nevada may soon have, a 2% limit that resembles the original version of their California model (Note 6).

California's Proposition 13 did attempt to escape the unfairness of an assessment limit that preserves most of the inequities existing when the ceiling is enacted. It provided that "real property not assessed up to the 1975-76 tax levels (to which other assessments were to be rolled back) may be assessed to reflect that valuation." This passage has been the subject of much discussion, some litigation, and finally legislative interpretation that the assessed values of property which had been revalued for the 1975-76 tax rolls were to be used as the values to which the 2% annual increases were applied and that other properties were subject to revaluation to bring them into equalization. Idaho's statutory replica of Proposition 13 contained a similar passage with a 1978 base year, the year in which the voters approved the initiative measure. Nevada's pending constitutional amendment, however, will preserve any inequities that existed in the 1975 assessments if it is approved for the second time by the electorate (Note H).

G. The Idaho Attorney General has opined that this limit violates the constitutional passage quoted in the preceding footnote but has advised county assessors to honor the limit until the question is adjudicated.

H. Nevada's amendment, which must be approved by a majority of the voters a second time to be adopted, defines "full cash value" as (1) the amount at which real property was appraised by the county assessors or the Nevada Tax Commission for the fiscal year commencing July 1, 1975 or (2) the appraised value of the real property if the same was purchased or newly constructed or if a change of ownership occurred after equalization of the 1975 assessment."

Minnesota's statutory assessment limit initially prohibited increases in the full value of a property for tax purposes by more than 5%, was then amended to proscribe increases of more than 10% or more than 25% of the property's market value increase, whichever was greater, and was again amended to raise the alternative limit to 50% of the market value increase. This statute has been held unconstitutional by the Minnesota Tax Court. "'Limited market value' violates the 14th Amendment of the U.S. Constitution which guarantees equal protection and Article X, Section 1 of the Minnesota Constitution which guarantees uniformity of taxation within a class of property," the Court said (Note I). The Chief Justice of the California Supreme Court, in the dissenting portion of a concurring and dissenting opinion on the validity of Proposition 13, made the same contention (Note J).

Reflecting Market Value Changes Only When Ownership Changes

Proposition 13 removes the ceiling on assessed value increases when a property's ownership changes and requires a market value appraisal for property tax purposes as of the sale date. The popular rationalization of this provision is that the new owner has invited and prepared himself for the higher assessed value when he paid a high price for the property but that this penalty should not be visited upon those who have done nothing to deserve it and have not yet realized capital gains (Note K). No other state now has such a provision, though Nevada may have one by 1981. Some assessors in other states, however, are so impressed with the argument for the policy, or with the political consequences of following the market, that they seldom alter assessed values of properties which have not been sold since the last assessment date.

This policy violates traditional perceptions of property tax equity. Horizontal equity is said to be achieved when properties of like value are assessed equally; vertical equity is said to be achieved when properties of different values are assessed in proportion to their respective market values. While lack of equity by these standards is not yet highly visible in California, it will rapidly become so if the price escalations of the recent past continue even at moderated rates. New owners will pay taxes based on prices that are much higher than 1975 values, while others' taxes are based on assessments that exceed 1975 values a mere 2% per year. The Chief Justice of the California Supreme Court was directing her attention to this aspect of Proposition 13 as well as to the 2% assessment limit when she wrote the dissenting passage in her opinion on the test case of the proposition.

One of the provisions of Proposition 13 was an overall limit of property tax rates to 1% plus the amount required to service indebtedness approved by the voters prior to the effective date of the proposition. This rate limitation drastically reduced California property taxes and substantially diminished their effects on the real estate market. The prohibition against use of market values to assess real property in the absence of property transfers, however, will inevitably have a chilling effect on real estate transactions. Homeowners who know that they face the prospect of paying several times as much to property tax collectors year in and year out if they change their abodes will think at least twice before selling one home and buying another. In an economy that is facing a severe energy shortage, prospects of rising unemployment, and a chronic housing shortage, a tax that discourages people from moving closer to their places of employment or into a community with better employment opportunities and encourages "hoarding" of housing by persons whose family size has decreased is undesirable.

I. *In the Matter of the Petitions of Malcolm A. McCannel*, Jan. 31, 1979.

J. *Amador Valley Joint Union High School District v. State Board of Equalization*, 22 Cal. 3d 208, Sept. 22, 1978.

K. Professor Break finds one good principle in Proposition 13—the certainty which it lent to the property tax. When one buys California real property which is likely to increase in value, he can predict with great accuracy the property taxes he will pay as long as Proposition 13 remains in its present form. (George Break, *Adam Smith and the Property Tax: Some Neglected Advice*, Lincoln Institute Tax Policy Roundtable Property Tax Papers Series number TPR-2, 1980.)

Proposition 13 is shifting the tax burden from slow-turnover property classes, such as commercial and industrial properties, to high-turnover property classes, such as owner-occupied and rental housing. In one California county, for example, the percentage of the tax borne by homeowners is expected to rise from 50.3% in 1977–78 to 60% by 1982–83 according to news reports [12].

A change-of-ownership trigger for reassessment poses many technical problems. Not only does it discourage sale of appreciating properties; it encourages sale of properties that are decreasing in value because of depreciation or depletion (a fault that California voters quickly corrected). Corporate ownership can be changed legally without substantially changing the owners of the corporation, thereby qualifying a property whose value is declining for reassessment unless a "tax free" reorganization (comparable with or identical to the concept used for income tax purposes) is devoid of property tax consequences. When a partnership gains or loses a partner, there is an ownership change. Creation of a trust vests legal ownership in the trustee, and replacement of one trustee with another is a change in legal ownership. Change of beneficial ownership would be a better test for property tax purposes, but has there been such a change when a revocable trust is created? A lease—the longer the term the better if the property is expected to increase in value—can confer most of the benefits of ownership to lessee without triggering a reassessment if "ownership change" is strictly construed. When property is owned in undivided interests, does the sale of one interest constitute a sale of the whole property or of only the sold interest (which is usually not separately assessed)? When one of the joint tenants of a property dies and another such tenant becomes the sole owner, has ownership changed? Does a quit claim deed change ownership? A contract of sale? How can the assessor discover ownership changes that are unrecorded, as is often the case at the time beneficial ownership is changed by contract of sale?

California legislators and officials have tried to cope with these and other problems by statutes and administrative rules. The State Board of Equalization has sent assessors 50 examples of problem transfers, more than half of which require reappraisal but many of which do not. It remains to be seen how the statutes, rules, and interpretations will fare when they are litigated.

Nevada's proposed constitutional amendment seeks to avoid California's problems by specifying nine different ownership changes that do not trigger a revaluation. But by this specificity, the proposal may inflict the state with a rigidity that precludes further exceptions. It does not face up to the problem of leases, but there is no cure for this problem anyway other than California's arbitrary statutory division into short-term and long term leases.

Improvement of real property is a reassessment trigger that complements change of ownership. This trigger, too, has objectionable results; by shifting taxes from land to improvements, it discourages useful economic activity. It also poses technical problems. A California task force found more unresolved issues in this part of Proposition 13 than in the change of ownership passage [13, p. 30]. The principal problems are (1) distinguishing between new construction, remodeling, and maintenance, (2) determining when the new construction has occurred and is to be assigned the value which can then be increased by no more than 2% a year, and (3) deciding how much value the new construction has added to the previously taxable property.

If real property is to be revalued only when it changes hands or is improved, the focus of an assessor's activities shifts from valuation to investigation; as has been said by one Californian, the assessor needs attorneys more than he needs appraisers. The appraisal task is greatly simplified by timing it to the moment when value evidence is most readily available, and it may be almost as difficult to find out what property to appraise as to value it. This may be considered a virtue by those who are willing to overlook the faults of these revaluation triggers.

Fractional Assessment Standards

In the early postwar years, many assessors believed that real property was selling for more than it was worth. This misconception was gradually dispelled, and the prospect of major assessment increases appeared. Many state legislatures met this threat by reducing statutory assessment standards, sometimes more than once in a single state. Fewer than two fifths of the states now direct their assessors to enroll properties at their full values [6, pp. 281-283].

An alternative that could have prevented property tax increases as effectively as reducing statutory assessment levels was to impose restraints on property tax rates or levies. This was done or had already been done in several states whose legislatures recently supplanted fractional statutory levels with full value standards and in at least two of the states whose courts ruled that *de facto* fractional assessment levels violated constitutional requirements [14]. These restraints need to be imposed only long enough to establish a new concept of acceptable tax rates.

Substantial inequality is virtually certain to pervade an assessment roll whose average level relative to market value is well below the *legal* level. Persons whose properties are assessed at less than the legal level are all too likely to think that they are escaping their proper share of the tax burden or at least are not bearing *more* than their fair share. Hence, they are unlikely to complain to the assessor or appeal to a review agency, though they may have a legitimate complaint because other properties are assessed at even lower ratios.

There is reason to believe that assessed values closely approaching full values are associated with greater equity than assessed values that are low, even where the low assessments result at least in part from legally prescribed fractional assessment standards. For one thing, disparities appear larger at higher percentages than at lower levels; for example, a 120% assessment ratio is only as far away from a full value standard as a 30% ratio is from a 25% standard, but it is more likely to be brought to the attention of the assessor or the appeal agency because the 20 percentage-point variance looks larger than the 5 percentage points. A full value standard is more conducive to equality than a fractional standard for the further reason that property taxpayers often think in terms of full value and react as if this were the test of fair assessments even when they know—and not all do—that a fractional standard is prescribed by law. Finally, if there is virtue in an informed public, full value assessment is to be preferred because it removes an operation that is both needless and confusing.

The trend toward progressively lower assessment standards may have been reversed, for fractional assessment laws have been repealed in California, Nebraska, and Washington in recent years. Iowa and Oregon moved from fractional to full value standards, too, but subsequently retrogressed by enacting what amount to classified property tax systems (Note L). In several other states, the courts have sought to enforce long-standing full value assessment laws, as often as not with indifferent success or none at all [14]. Ironically, the inflation in real estate values which encouraged many fractional assessment laws in the first place may be a major force for full value assessment. Policymakers have learned that it is impractical to try to counter continued inflation with repeated reductions in the legal assessment ratio and have turned to other cures for the ills attributed to rapidly rising assessed values of real property.

L. In Iowa, real property is divided for taxable value calculations into several categories. Assessors report their full value of each category, exclusive of new construction, to the State Revenue Department. The Department adds the full values to derive statewide totals. If these totals exceed the respective prior-year totals by more than 4% (8% for utilities other than railroads), the Revenue Department directs all county auditors to reduce the full values of properties in the category by a percentage that is uniform throughout the state and will produce a statewide taxable value for the category that is larger than last year's by 4%.

Oregon's new law is similar to Iowa's but differs in important respects. It establishes two categories—owner-occupied homes and all other county- and state-assessed property—either or both of which may qualify for fractional taxable values. Full values are used in a category whose ratio is 1.05 or less, and taxable values are less than full values only when a category's statewide full value total exceeds last year's by more than 105%. This law will expire if it is not approved by a majority of those voting on the issue in the 1980 primary election.

Classified Property Tax Laws

Where local assessors failed to keep their assessments abreast of market values, they frequently allowed some kinds of property to slip farther behind than others. For a mixture of economic and political reasons, residential and agricultural properties were usually assessed at the smallest ratios of market value, locally assessed commercial and industrial properties at intermediate ratios, and state-assessed utility properties at the highest ratios. States where these differential assessment levels existed without constitutional or statutory sanction had *de facto* "classified property tax systems."

Occasionally a court decision threatens to upset such a system by mandating uniformity. A common legislative response is to establish, or invite the electorate to establish, a *de jure* system that roughly approximates the *de facto* classification. This was alleged to be the scenario not only in the three or four states with substantial classification in pre-World War II days, but also in most of a half dozen states, the District of Columbia, and Cook County, Illinois, where several major classes of property are now subject by law to different effective tax rates (note M).

Classified property tax systems are politically attractive where there have been substantial interclass disparities in assessment levels. They are not without political risks, however. There is no logical basis, other than past practice (which is unlikely to be even roughly uniform throughout a state), on which to predicate differences in effective tax rates. Hence, special interest groups may be expected to harass lawmakers once the principle of uniformity has been foresworn. Constitutional classification is much less uncomfortable than statutory classification in this respect, but legislatures initiate constitutional amendments as well as enact statutes. Proliferation of classes has been observed in some of the older systems as special interest groups have successfully pleaded their causes in legislative circles [15].

The Railroad Revitalization and Regulatory Reform Act of 1976 has placed several classified property tax systems in jeopardy. It proscribes taxation of transportation property owned or used by a common carrier railroad subject to the Interstate Commerce Act (1) on an assessment which is higher relative to market value than the assessment of other commercial and industrial property or (2) at a higher rate than is applied to other commercial and industrial property (Note N).

Classified property tax systems complicate the task of assessors. Classes are seldom divided by sharp lines of distinction. Assessors must classify some properties by rather arbitrary decisions and divide unitary values (e. g., the value of an apartment house with businesses on the ground floor) into two or more parts by somewhat arbitrary means. The not inconsiderable problems of distinguishing exempt from taxable properties are out-numbered several fold by the problems of allocating taxable properties among a number of classes.

The other objection to classified property tax systems is that they result in misallocation of resources. They direct excessive amounts of capital and labor into tax-favored enterprises and deficient amounts into other enterprises.

M. There is no generally accepted definition of a classified property tax system. In early literature (cf. Simeon E. Leland, *The Classified Property Tax in the United States*, Boston: Houghton Mifflin, 1928), property tax systems in which intangibles were legally taxable at lower effective rates than tangible property were considered classified systems. Favored treatment of intangibles apparently ceased to constitute a test of "classification" as most states adopted this policy or totally exempted intangibles. Steven Gold rules out tangible personal property favored treatment, too, for the same (though as yet less compelling) reason.

N. The act has been successfully invoked to preclude enforcement of a classified property tax law that prescribes a higher assessment ratio for railroads than for other commercial and industrial property. (*State of Tennessee* v. *Louisville & Nashville Railway Co.*, U.S. District Court for the Middle District of Tennessee, Docket No. 79-3025.) *De facto* overtaxation of railroad property that is legally taxable to the same extent relative to market value as other commercial and industrial property is less likely to be corrected. Satisfactory evidence of the assessment level of commercial and industrial property is hard to come by. The act directs the United States District Court that hears an appeal to fall back on a ratio study of all nonrailroad property in an assessment district where such evidence is unavailable.

Deferred Tax Payments

One of the earliest proposals for tax relief for elderly persons—deferring tax payments on owner-occupied homes until their owners die or dispose of or vacate their homes—has been highly regarded by many of those who are ineligible for this type of relief and rejected by most of those who are eligible. It has been offered in eight states and the District of Columbia according to a recent review (Note O) [9, p. 85].

The unpopularity of this form of property tax relief among the low-income elderly is attributed to their preference for grants, such as circuit-breaker relief, over loans and a common desire to leave an estate to one's heirs.

Deferred real property taxes, like undeferred real property taxes, are secured by liens on the taxed properties, or, conceivably, on other properties of the beneficiaries. Liens recorded prior to an owner's entry into the deferred tax program take priority over the government's lien unless waivers by prior lienholders are prerequisite to deferral. Private liens recorded after entry may have priority over or be subordinate to subsequently deferred taxes. To avoid deterioration of what is conceived as a loan program into a grant program, applicants may be denied deferral privileges unless they own their homes free and clear of debts or have a minimum equity in them. The younger the age at which eligiblity is acquired, the more likely it is that deferred taxes will eventually exceed the value of the security.

Deferral is usually conditioned on the income of the homeowner or of the occupant family. This is not a necessary condition, however, if age limits (including limits for spouses if they automatically succeed to deferral privileges), equity requirements, and interest charges are high enough to give reasonable assurance that the deferred taxes plus interest will be adequately secured. Of course the interest rate must be sufficient to effectively discourage use of the government as a lending institution run for the benefit of homeowners and their heirs.

Elderly persons tend to congregate in the more hospitable areas of a state, and local governments in these areas if not elsewhere would be hardpressed to finance a deferral program until it has become mature. Consequently, it is appropriate for the state to fund the deferrals and hold the liens by whose foreclosure or threat of foreclosure the program is expected to come somewhere near breaking even. This is all the more necessary when inflation is eroding the purchasing power of the deferred taxes.

Improved Assessment Practices and Appeal Opportunities

Better assessment practices and better opportunities to obtain relief from excessive assessments by appeal to review agencies provide a source of tax relief for those who have been the victims of discriminatory assessments. Owners of business properties, nonresidents, new owners, and owners of low-value properties are groups that have suffered from poor assessment practices in various localities and should welcome these changes.

More careful selection and better training assessment personnel, sophisticated use of computers in the appraisal process, independent local and state assessment appeals agencies that do not have tax-levying or assessment supervisory duties, and use of state findings of local assessment levels in the appeal process are principal means by which discriminatory assessments have been reduced in numbers and amounts.

Two or three of the property tax relief measures described in earlier pages threaten the professionalization of assessment personnel. Limits on assessed value increases when market values are rising, especially when the limits are so tight that they are widely operative, and deferral of reappraisals until properties are transferred tend to remove assessors from the mainstream of the appraisal profession—a mainstream which they had only recently entered. Fractional assessment standards are

O. Oregon also offers deferral privileges to farmers in disaster areas.

not incompatible with professional appraisals, but they somewhat lessen the pressures for a high degree of equity and greatly lessen them if not well advertised. Tax rate limits, a subject about to be addressed, expose assessors to undesirable political pressures and to unfair public reproach [11, p. 29].

Property Tax Rate Limitations

In earlier times the general property tax was the source of whatever revenues were needed to fill the gap between a local government's budgeted expenditures and its anticipated revenues from other sources. With a base that had been established before the budget was completed and a delinquency rate that was predictable within narrow limits, the governing body had only to set a rate sufficient to balance the budget. In many states, the property tax no longer has much flexibility. An intricate web of property tax rate and levy restrictions forces governing bodies to assign other revenue sources and expenditures major roles in the budget-balancing act.

Like many of the other recently enacted property tax relief devices, limitation of property tax rates and levies is not a postwar innovation. The early limitations, however, were mostly applied to rates, whereas levy limitations have attracted greater interest in the last few years [16, p.2]. The reason for this change in popularity is the rapid rise in real property values, which made it possible for a local government's assessed valuation and the product of its assessed valuation times a fixed rate limit to rise more rapidly than its revenue needs as perceived by those who had the last word on property taxing authority.

Property tax rate limits take different forms. A limitation on the rate that can be levied for a specific purpose by a particular kind of local governmental unit, a "categorical limit," is the narrowest form. One on the total rate that can be levied by a specified class of local governments, called a "specific limit" by the Advisory Commission on Intergovernmental Relations [16], is an intermediate form. And a limit on the total rate that can be imposed in a given area or on a specified class of property, an "overall limit," is the most comprehensive form. Various combinations of these categorical, specific, and overall rate limits may be found within a single state. Four fifths of the states had some such limits in late 1978, and, despite their failure to stem property tax increases when assessed values were rising in response to inflationary forces, the number grew in 1979 [9, pp. 160–162; 11, pp. 32–45].

Overall limits are most likely to achieve the major objectives of rate limitations, but they pose one very difficult problem. How should the total allowable rate be divided among overlapping taxing jurisdictions? There are three common ways to cope with this problem, none of which is fully satisfactory (Note P).

First, the legislature or the state constitution can make the division. This has been done, for example, in the State of Washington, where for many years the state could levy up to 0.2%, counties could levy up to 1%, cities up to 1½%, school districts up to 1%, and road districts up to 0.3% on a *de jure* 50% assessment level. This practice results in a series of specific rate limits which add up to the overall limit in areas where all types of governmental units are represented.

Second, the overall limit may be divided in whatever proportions existed in a pre-limit base year. For example, if the county levied one fifth of the total of the rates levied in a certain area in the base year (in a state which did not itself utilize the property tax), it would be allowed to use one fifth of the overall rate limit. It is important to note, however, that the area chosen for this purpose must be the one in which the county had the lowest fraction of the base year total rate. This is so because the conventional county rate must be uniform throughout the county; it cannot be one fourth of the

P. Alabama's constitution was amended in 1978 to provide a fourth method. If the sum of the rates of overlapping governmental units exceeds the applicable overall rate limit, each rate is proportionately reduced. This plan would seem to reward the profligate government or the government that exaggerates its needs the most.

overall limit in part of the county and one fifth of the overall limit in another part. The same least-fraction rule applies to the rate limit of any less-than-countywide taxing unit of government which is not coterminous with all other less-than-countywide units levying taxes within its boundaries (Note Q).

The third method is to confer authority to divide the overall limit upon some agency other than the state legislature such as the county legislative body. Assigning this authority to the governing body of one of the units competing for a share of the overall rate has its obvious disadvantages. No state apparently has done so. Several states, however, have given the task to other county and state agencies; whether this constitutes an unconstitutional delegation of legislative powers is an interesting legal question which has apparently not been litigated.

Property tax rate limits are usually intended to restrain rates rather than to reduce them. Where they do produce massive property tax reductions, as Proposition 13 did in California, they tend to increase building values temporarily and land values permanently if not counterbalanced by reduction of government services that enhance real estate values. The temporary increase in building values is most evident in rental properties. Not all landlords will voluntarily reduce rents enough to offset their lower taxes, and competition will not force them to do so immediately because it takes time to erect the buildings with which to increase the supply. The small number of rent reductions that followed adoption of Proposition 13 has already spawned more than two dozen rent control ordinances precluding greater profits from rental properties in major cities of California. These ordinances are encouraging wholesale conversion of apartments to condominiums (and conversion moratorium ordinances) and will soon contribute to undermaintenance of rental properties.

Property Tax Levy Limitations

A levy limitation restricts the total amount of property taxes a government can levy on the taxable property within its boundaries no matter how much the property's assessed value. Although some recent limits freeze levies, the conventional limitation permits a legislative body to levy more than it did, or (to discourage unnecessary use of maximum allowed levies in order to preserve future taxing powers) more than it was *permitted* to levy, in some past period—the prior year, a base year, or an average or choice of more than one past year. In prewar days, the excess was expressed in percentage terms; for example, an Oregon local government could levy 6% more than it previously levied. This is still the most common provision; Arizona allows a 10% increase, Colorado 7%, New Mexico 10%, and Washington 6%. As inflation has taken its toll of the dollar's purchasing power, however, indexing of levy limits has attracted some attention. In Wisconsin, for example, the general purpose levies of a local government may not exceed its prior-year levies by more than the increase in the equalized value of all taxable property in the state unless the State Department of Revenue authorizes a greater increase because of a population growth rate exceeding the state's, assumption of new functions, or other specified reasons. Indexing property tax levy limits is examined in the next section of this report.

Property tax levy limits have at least two advantages over rate limits. Assessors in some states, either by law or by choice, revalue all real property in one part of their districts in one year and in another part the next year, covering their whole districts in a cycle of three or more years. With a rate limit, the tax levying power of a small governmental unit where this is the practice remains more or less stable for several years and then, in an inflationary period, leaps upward. Budgeting, financing, and maintaining good public relations is difficult for such a government. A rate limitation also places the assessor under undesirable pressures from his colleagues in local

Q. California's Proposition 13 avoided this problem, perhaps fortuitously, by providing that "That maximum amount of any ad valorem tax on real property shall not exceed one percent... The one percent to be collected by the counties and apportioned according to law to the districts in the county." The legislature required each county to levy the full 1% throughout its jurisdiction and provided for distribution of the proceeds within the county.

government who seek a large tax base and also from taxpayers who want to curb public expenditures by restricting the tax base. These pressures and the criticism that they evoke may distract an assessor from his sole responsibility—to appraise and assess property as directed by law.

A number of states which do not impose continuing levy limits have temporarily restricted the levies that can be adopted after a revaluation of taxable property. As pointed out above, the purpose of a temporary restriction is to establish a new level of acceptability. It seems unlikely, however, in light of current attitudes toward government and taxes that a limitation, once imposed, will be discontinued.

A mild form of levy limitation that has attracted much interest in the past few years is variously known as a "truth in taxation" or "full disclosure" law—terms that have been used to mean other things in other times. In general, they require publicity and a well advertised public hearing by the tax levying agency when it proposes not to reduce the tax rate enough to offset an increase in the local government' s assessed valuation beyond that accounted for by new construction. Since Florida pioneered this type of property tax restraint in 1970, full disclosure has been required in several other states and has been endorsed by the Advisory Commission on Intergovernmental Relations, the International Association of Assessing Officers, and others.

Expenditure and Revenue Limitations

Local governments' reaction to limitations of property taxes has often been to replace some or all of the revenue loss from this source by initiating or increasing other taxes, fees, or user charges. One of the early purposes of property tax limits allegedly was to shift taxes from property to other subjects, and this purpose survived at least until 1978. Proposition 13, however, was intended to effect a massive property tax reduction with little or no replacement with other *tax* revenues; it permitted imposition by counties, cities, and special districts of "special taxes" other than ad valorem taxes on real property or transaction taxes on sales of real property, but only with the approval of two thirds of the "qualified electors" of the local government. The proposition also required approval of at least two thirds of the members of each house of the state legislature to change state taxes "for the purpose of increasing revenue," thereby making it difficult for the state to grant large amounts of aid to local governments once its general fund surplus has been exhausted (Note R).

Proposition 13 did not specifically preclude or inhibit the use of higher fees and user charges by local governments, though there have been lower court decisions that these revenue sources, to the extent that they exceed the costs associated with them, are "special taxes." Widespread resort to these replacement revenues that were paid by consumers rather than businesses was doubly burdensome to the public since they could not be deducted by those who itemized expenditures for state and federal personal income tax purposes. To halt this practice whatever the outcome of the pending litigation, one of the sponsors of Proposition 13 successfully circulated a second proposed amendment of the California Constitution which he dubbed "The Spirit of 13." This initiative was approved by an overwhelming majority of those who went to the polls on November 6, 1979.

The Spirit of 13 is one of the newest additions to a family of limitations on a broad range of expenditures or revenues that have been imposed on state, local, or both state and local governments in recent years. To date, most of these limits have been applicable to state governments and school districts. However, Massachusetts, Nebraska, Nevada, and New Jersey apply them to local governments of all types, and California's limit applies to all local governments except a few special districts with low tax rates in the 1978–79 fiscal year.

R. This difficulty will be much greater if a proposed constitutional amendment, unofficially known as "Jarvis II" (alias Jaws II), wins a majority vote at the 1980 primary election. This proposal prohibits rates for taxes "on or measured by income which are imposed under the Personal Income Tax Law or any successor" that exceed 50% of the rates in effect for the 1978 income year.

Expenditure limitations are usually expressed in terms of budgeted appropriations. If revenues exceed appropriations, provision must be made for disposing of the surplus. When there is a local property tax whose rate is flexible, the simple way to handle a local government's surplus is to carry it forward for appropriation in the succeeding year. Alternatively, the surplus may be made available for reduction of indebtedness or for diversion into a reserve fund which can be accumulated up to a specified ceiling.

Revenue limits have much the same characteristics as expenditure limits. The major difference is that appropriations are controllable and usually known at the beginning of the fiscal year or shortly thereafter whereas revenues will inevitably exceed or fall short of amounts estimated at the time local governments' budgets are prepared unless the state has a grant program that precludes shortfalls and surpluses. Excess revenues can be disposed of in one of the ways described for expenditure limits. Revenue shortfalls below budgeted amounts merely mean that the limits have not been breached.

Revenue limitations encourage underestimation of revenues since surpluses are less troublesome than deficits to local government administrators and governing bodies. Revenue limits have the further disadvantage of adversely affecting credit ratings whereas expenditure limits are believed to have no effect on ratings or possibly to improve them [17, p. 38].

Problems Common to Limitations of Various Types

There are several problems common to more than one or all of the limitations on property taxes, expenditures, and revenues described above. These problems are more acute for local governments than for state governments because it is difficult to devise a limit that will accommodate the many variations among and within classes of local governments.

Base year. Relatively few property tax rate limitations make use of base years, but all of the other limitations do. A base year is the year whose characteristics determine the limit for the current year. It may be either fixed—e. g., the year preceding the adoption of the limit—or moving—e. g., the year immediately preceding the current year. There are two base year problems.

First, some local governments' base year experiences are bound to be abnormal and therefore ill-suited to determine future limits. This problem can be alleviated but not always solved by averaging quantities for two or more prior years as Indiana does (in counties that do not levy income taxes), or by giving a local government a choice of more than one such year as Oregon does.

The second problem is the obsolescence of base year experience. What was normal in a year or years prior to adoption of a limitation may have little relevance to a subsequent year, and the more remote the base year the less likely it will fit current conditions. This problem can be alleviated by general indexing and by adjustments to reflect changes in service areas and functions.

Indexing is applied mechanically to all local governments; changes in service areas may be handled either by general indexing or by tailored adjustments, and changes in functions can only be handled by tailoring (Note S). An example of a tailored adjustment is that made when two or more units of local government are consolidated and their individual limits are added to derive a limit for the consolidated unit. When a governmental unit annexes a portion of another unit, it is entitled to a limit that is higher by an amount equal to the reduction of the other unit's limit; these offsetting changes can be agreed upon or submitted to arbitration. Transfers of functions between governmental units call for similar offsetting adjustments.

S. A popular recent development is state funding of local governments' costs of state-mandated new functions or increases in service levels. There is no denying the validity of the principle involved in this development, especially when it is coupled with state-imposed restraints on local government revenues or expenditures. There is probably no greater violation, however, of the principle that the government which spends tax money should be responsible for raising it. If the state pays such costs, how can it discourage inefficiency and profligacy?

Indexing. A change in service areas can also be recognized by general indexing, using an index that reflects expansion or contraction of a governmental unit's boundaries. Assessed valuation and population are the two indexes that do this (Note T). They also reflect the need for changes in expenditures on services supplied within an unchanged area.

Raw assessed valuations can be used for this purpose, but they can be distorted by changes in assessment levels. To avoid this distortion, the real property component of such an index may be the current assessed value of new construction plus last year's assessment of other real property.

Population is favored as the measure of required service quantities in several states. It is open to the criticisms, however, that U.S. Census data are available only at infrequent intervals and only for major classes of local governments, that special enumerations are costly, especially for those local governments whose boundaries are not well known to their inhabitants and to canvassers, and that population estimates made without enumerations are of limited accuracy. Enrollment or average daily attendance, a readily available figure, is a common index for school districts where population is used for other governments.

Assessed valuations correct for changes in both quantity and cost of services, albeit somewhat crudely (Note U). A population index, however, must be supplemented by some sort of price index if it is to achieve any success over several years. Two price indexes are available—the U.S. Bureau of Labor Statistics' Consumer Price Index and the U.S. Commerce Department's "implicit deflator for purchases of goods and services by state and local governments." The CPI is available for a number of large cities and can be tailored more closely to regional differences in costs than the "deflator," which is available only on a nationwide basis. The deflator has moved up more rapidly than the CPI in most prior periods because it is more heavily weighted with labor costs, which account for a large percentage of government expenditures and a relatively small percentage of private consumers' expenditures. The CPI may be appropriate if the limitation is intended to reduce the government's sector of the economy over the long run, and the deflator is appropriate if the purpose is to keep the government's sector from growing.

Exclusions. There are probably no universal property tax, revenue, or expenditure limits. Some expenditures can always be financed by revenues that are unrestricted by rate limits, levy limits, or general revenue limits, and some expenditures are always unrestrained by expenditure limits. There is a bewildering variety of existing and reasonably conceivable exclusions.

Exclusion of amounts required to service general obligation debts incurred prior to the effective date of a limit by a local government that must rely heavily on its own revenues is probably universal. Whether subsequently incurred general obligation debt should be serviced without restraint is debatable. If this debt is excluded, there is a risk that governments will resort to excessive debt financing; if it isn't excluded, credit ratings will fall and interest costs will rise. Much depends upon the other restraints on borrowing. The income with which revenue bonds are secured is likely to be omitted from revenue limits whether the bonds pre-date the limits or not.

Financing associated with pension funds, special assessments, public utility enterprises (except, perhaps, to the extent that they accumulate surpluses or incur deficits), activities for which user charges are collected, other special fund activities,

T. To index levy limits for its local governments, Wisconsin uses the statewide equalized assessed value of taxable property (together with population if it has increased faster in the local governmental unit than statewide). Statewide assessed value measures price changes rather than changes in service needs of individual local governments.

U. So does a personal income index, often used for state government limitations, but this statistic is not available for local governments.

capital expenditures, federal-, state-, or court-mandated costs, and matching state and federal grants may lie outside the scope of specific limitations (Note V).

Escape valves. There are no property tax, revenue, or expenditure limits applicable to local governments that cannot be lifted in one way or another. The "full disclosure" limit described above has the simplest "escape valve"; all that is necessary is a vote of the members of a tax-levying body at a meeting advertised and held for this purpose. Much the most common escape from the rigors of a limitation is a local election. An appeal by the local legislative body to a higher authority is not uncommon. Sometimes more than one escape valve is provided in recognition of the fact that a popular election is expensive and time-consuming. Even Proposition 13's seemingly iron-clad property tax restriction can be lifted, but it will require a statewide election to do so.

When a vote is taken, either a simple majority or an extraordinary majority may be required to exceed a limit. The simple majority is more compatible with democratic principles, and this is the rule in most jurisdictions. There is something to be said, however, for requiring a larger majority (Note W). The turnout for an election is often small, and special interests in spending programs are more likely to vote, it is contended, because program benefits tend to be concentrated while tax burdens are diffused.

Government waste and inefficiency. Tax, revenue, and expenditure limits are promoted as means of eliminating government waste and inefficiency. It is reasonable to expect that they will eliminate some projects of marginal value and reduce the scope of others. Whether they will increase the efficiency with which retained programs and programs of undiminished scope are conducted is open to question. When they result in reductions of government employment, there is no assurance that those who remain in service are as efficient as those who leave it. And when they result in lower compensation for government employment, they discourage competent persons from entering public service and making it their careers.

Legal context. Should these broad limitations be imposed by state statute or imbedded in the state constitution? The constitution is clearly more suitable for a limitation on the state government than for one on local governments. A statutory limit on state revenues or expenditures is only psychologically more restrictive than the regular budgeting process since it can be repealed or amended by the same body that adopts the budget. And a state government limit can be more easily designed than local government limits because the state's economy is more certain and predictable than the economies of smaller areas within the state. There is nevertheless much to be said for statutory limits for state governments unless the limits have escape valves that can be activated without incurring the cost and uncertainty of a popular election.

V. California's new limit is something of a hybrid expenditure-revenue limit. In the case of a local government, it limits appropriations of "the proceeds of taxes levied by or for that entity and the proceeds of state subventions to that entity. . . exclusive of tax refunds" and exclusive of subventions reimbursing the cost of state-mandated new programs or higher levels of service. "Proceeds of taxes" are then defined to "include, but not be restricted to, all tax revenues and the proceeds. . . from (i) regulatory licenses, user charges, and user fees to the extent that such proceeds exceed the costs reasonably borne . . . in providing the regulation, product, or service, and (ii) the investment of tax revenues." The limit for the state government is similar except that it excludes appropriations for subventions to local governments other than those for mandated new programs or expended service levels. This restriction of expenditures to appropriations out of designated revenues can be implemented only by fund accounting that will surely exceed the capabilities of many small governmental units.

W. Massachusetts requires a two thirds majority vote in any city, town, or district with a population of 2,500 or more. Washington requires a three fifths majority of those voting on the issue at a special election, or at a general election in which the number of votes on the issue is more than 40% of the total number of votes cast at the last general election and a larger majority when the 40% level is not reached.

The case for statutory local government limits in preference to constitutional limits is far stronger. It is impossible to draft limits that will accommodate the legitimate needs of a multitude of local governments without making them so loose that they are meaningless or providing easily activated escape valves. No one can foresee all the occasions when lifting the limits will seem reasonable to well informed persons of widely different attitudes toward the public sector. Even generous opportunities to escape constitutional limits may not provide needed flexiblity. Unless it is written in very general terms with ample opportunity for legislative interpretation and implementation, a constitutional limitation is likely to contain unforeseen flaws that should not be etched in stone. This may be the principal lesson to be learned from Proposition 13.

Conclusion

This paper opened with a four-paragraph generalized description of property taxes in the United States. It would be impossible to describe the remnants of this form of taxation in 1980 in a dozen paragraphs. There are still some common threads. Most taxable property is still assessed by local assessors in most states; Hawaii, where assessment of all property by the central government long predates statehood, and Maryland and Montana, where county-based assessment personnel are now state employees, are the exceptions. Railroads and some or all other public utilities are state-assessed almost everywhere. "Circuit-breakers" are commonplace. Use-value assessment is available for farm land in all but a few states. Commercial, industrial, and residential real property is assessable with very few exceptions on the basis of market value appraisals. Assessments are subject to revision as of specified dates at annual or short multi-annual intervals. Very few state governments impose taxes on tangible property other than the railroad cars of private car lines and motor vehicles, but these taxes continue to be the largest single source of local government revenue in all but a few states, though sometimes by a narrow margin. The property tax systems of the 50 states have little else in common.

Property tax relief, the common theme of recent developments reviewed herein, has not been achieved without some casualties. Local self-government has suffered from state intrusion in a field which has been increasingly monopolized by local governments and is still considered their fiscal mainstay. The mystery that has long surrounded the property tax but had begun to burn off has deepened as incredibly complicated laws have supplemented or supplanted traditional fiscal institutions (Note X). The clerical labor and accounting expertise required to implement new laws is replacing at least a modicum of the public services for which governments were created. In the opinion of many who are closely associated with property tax administration, equity in distribution of tax burdens—the very purpose for which many property tax relief measures were enacted—has been a major casualty [18].

But the strength of a federal system of government is the opportunity it affords for experimentation. In the United States, where the central government is virtually barred from the property tax field, property taxes are legitimate experimental subjects. The number of such experiments in the past few years is little short of astounding.

X. One who is familiar with the simplistic language of Proposition 13 may question this judgment. An examination of Chapter 282, California Statutes of 1979, the vehicle by which the proceeds of the 1% property tax in California is to be divided among local governments hereafter, will resolve any such question. In a property tax relief law in another state there is a single sentence containing 242 words. Whether government officials who are required to work with laws such as these can understand them is questionable; public understanding, or even comprehension by more than a few legislators, would be too much to expect.

Which of the experiments deserves to survive and to multiply is highly debatable; consensus would be difficult to obtain on any of them. It has been the purpose of this paper to describe the general nature of the principal experiments and to illuminate some of their virtues and their faults. Much more experience needs to be accumulated, recorded, and analyzed before policymakers can be expected to know the past and not be condemned to repeat it.

It was suggested above that the principal lesson to be learned from Proposition 13 may be that severe limitations on local governments' fiscal powers should be statutory rather than constitutional. Looking beyond California to the broader context of postwar property tax developments, we see another lesson of equal or greater importance: overzealous adherence to traditional general property tax concepts can incite revolutionary change where evolutionary change would be more appropriate. The momentum of Proposition 13 produced constitutional spending limits on both state and local governments in California. Neither of these measures had much immediate impact, the first because the state government had a large surplus with which it replaced almost all of the property tax reduction and the second because the limits are not expected to be tight for the first year or two. But if the cumulative momentum and the electorate's euphoria arising from their delayed impact should result in adoption of a massive personal income tax reduction at the June 3, 1980 primary election, this second lesson will have been learned at the expense of either tax equity or adequate government services or both.