MAY 2022 NEWSLETTER

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MONTANA TAXPAYERS ASSOCIATION OPPOSES CI-121

The Montana Taxpayers Association (Montax) has taken the stance to oppose Constitutional Initiative CI-121. The Association believes that CI-121, if implemented, would create tremendous inequity in the Montana property tax system pitting taxpayer against taxpayer and local government against local government. It also looks upon CI-121 as a poorly conceived and drafted attempt to cap the growth in residential property values and taxes, seriously reducing the ability of local governments and schools to provide services and/or causing significant tax shifts to properties not protected by the initiative.

This initiative which attempts to address a serious problem regarding property taxes in Montana does not solve the problem of over reliance on property taxes to fund many government services. Instead, its goal is to insulate a select group of property owners, who are major users of local government services, from having to pay their fair share of the costs of those services. To make matters even worse, if passed, it would allow those protected residential property owners to continue to vote for mill levy increases and bond issues knowing that they would not have to pay for them and the costs would be borne by the rest of the taxpayers.

CI-121 Not for Montana

Residential property owners already pay one of the lowest effective tax rates of all property classes in Montana. Only those residential property owners who pay over 741 mills pay taxes above the 1% of value limit provided for in CI-121. Most property owners in other classes of property pay well above 1% of their value in taxes. Some types of property pay up to up to 9% of their value in taxes at 741 mills.

Montax is urging its members not to sign the petition to place this dangerous initiative on the November ballot.

CI-121 would amend the Montana Constitution and implement the following required changes in the property tax system.

1. It would require the 2023 Legislature to define what property would be considered residential and receive the protections provided by CI-121.
2. It would roll back the values of the properties defined back to their 2019 values.
3. It would allow the values of those residential properties to only increase in value at CPI or 2% whichever is less.
4. When the protected properties change hands or are significantly improved, they would immediately jump to current market value.
5. The maximum tax a protected property could pay is 1% of its value.
6. The Legislature could also allow acquisition value to be used to value any other type of property in place of current methods.

The Montana Taxpayers Association is concerned about the implementation of CI-121 and its effects on other taxpayers. The concerns are as follows:

1. During the signature gathering period and at the time of the election in November, no one will know what properties will be protected by the initiative. The properties receiving the protection will not be known until the 2023 Legislature creates a definition of "Residential Property". That most likely will be a much smaller group of properties than is currently considered residential by the Montana Department of Revenue. The qualifiers in current statute for residential property tax relief programs require owner occupation for a minimum of 7 months. It is probable that the definition of residential property would not include second homes, recreational properties, rental property, and vacant lots among other properties, including homes owned by people from out of state.

2. Rolling the values of those properties defined as residential back to 2019 values creates inequities with other classes of property that are valued annually. Properties like industrial property, pipelines, electrical, and telecom properties are valued each year and will be at 2023 values when CI-121 rolls residential property back to 2019 values. Commercial property and non-protected residential property will be valued at 2023 values and may have to be valued annually also instead of the current two-year valuation cycle.

3. Allowing newly defined residential property to increase at CPI or 2%, whichever is less, will create a situation where identical properties in the same taxing jurisdictions will pay different taxes. The amount of taxes two identical homes would pay would be determined by how they were defined when they were purchased and if they had a major improvement. It will also cause a shift in taxes to those annually appraised properties that increase in value at a greater rate than residential property. The limit on growth in residential property values could be a help to those properties receiving the protection and would not be too disruptive to the general property tax system but coupled with the 1% limit on taxes for residential properties, makes the current property tax system unworkable.

4. Increasing the value of a residential property from its 2019 base value inflated by CPI or 2% to market value when the property changes hands or is significantly improved will be a labor-intensive process for the Montana Department of Revenue. Since CI-121 does not use an acquisition value process like Prop. 13 in California, when property changes hands, the Department of Revenue will have to establish a current market value on that property.

That means they will have to continue to have a system in place that tracks market values of all residential properties as well as those properties that are not defined as residential but have the same characteristics. That system will probably have to be able to value properties on a more current basis than the mass appraisal system now in place. The current system is designed to do mass appraisal and conduct the two-year appraisals now required by law. The data it uses to establish individual property values is not up-to-date and may not reflect an individual property's real market value.

The Legislature will also have to delineate what qualifies as a significant improvement. Significant improvements will trigger an update in the value of a residential property to a new market value.

5. Capping the taxes that can be assessed against a residential property to 1% of market value is the most problematic component of this constitutional change. Currently, all properties in the same group of taxing jurisdictions pay the same mill levies. Mill levies multiplied by the value of the property and the statutory tax rate determine the amount of taxes paid. When one type of property has a limit on the amount of taxes paid, that would limit the number of mills that property could pay. Under current legal interpretations, mill levies in the same jurisdiction must be the same for all properties in that jurisdiction. CI-121 does not allow for residential property to pay more than 1% of its market value in taxes. This will limit the total number of mills applied to that property by all the taxing jurisdictions it resides in. Under current law that limit is 741 mills. There are locations in Montana where the total number of mills assessed are greater than 741, in those areas mill levies will have to be reduced to the 741-mill cap. Those are for the most part within cities. This is because properties in cities pay state mills, county mills, school district mills, special district mills, and city mills. In most places in Montana property outside of cities do not reach the 741 mills and in some low tax areas even properties in cities do not reach those mill rates. When mill levies must be reduced, a system will have to be developed to share the revenue losses across all the taxing jurisdictions. CI-121 will not protect residential properties that are in areas that are below the 741 mills and could cause the taxes to increase on those properties to offset tax savings to residential properties in high mill levy areas.

6. CI-121 allows the Legislature to change the valuation methods for other classes of property from the current methods used to acquisition value. This means that properties currently valued by depreciated cost, market value, productive value, or other methods used by the Department of Revenue, could be valued on their acquisition value. CI-121 started out to be an acquisition valuation system for residential property. Along the way that concept was dropped for the market value system, which makes the determination of value upon change of ownership more problematic. This part of CI-121 probably could best have been left out of the final proposal as none of the other classes of property are clamoring to move to acquisition value.

If CI-121 is approved to go on the November ballot and is passed by the voters, the results would be:

1. Property tax collections by all entities would be limited to 741 mills due to the 1% cap on residential property. This was estimated to be a reduction of about 150 million dollars per year using the broad definition of residential property currently in place. That cost would be less if the Legislature reduces the number of properties CI-121 applies to when it defines residential property.

2. The Legislature makes significant changes to current property tax laws and allows taxing jurisdictions to shift revenue lost from residential property to other types of property. Some of this shifting is almost certain to be allowed to keep services funded. Those shifts would increase taxes on all property not defined as residential and even on some residential properties that are outside of cities and towns.

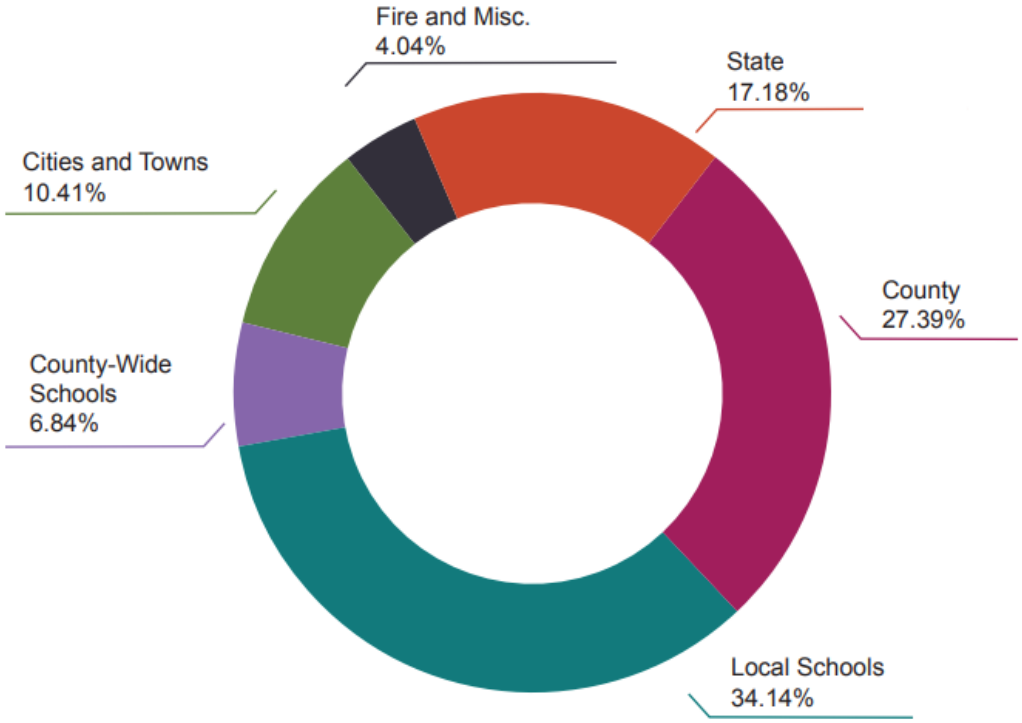
CI-121 – *continued from page 3*

3. The constitution requires the State to provide a free quality system of education. That system is defined in statute and the funding for the system is also defined in statute. This statutory language was developed after the State lost lawsuits regarding the adequacy of the educational system. The State could not reduce the funding of the current educational system without encountering similar suits that it would likely lose. Significant reductions in school funding are not likely. Reduced property tax availability to fund the K-12 school system would likely have to be backfilled by other state money.

PROPERTY TAXES IN MONTANA

As we enter the month of May, one of the major obligations of Montanans is to pay the second half of their property tax bills. Property taxes are levied by all levels of government and used to help pay for services to their constituents. Many jurisdictions levy property taxes. The State levies 40 mills for school equalization funding. Counties levy property taxes to help fund schools at all levels, fund general operations, and fund a variety of other activities. Cities also levy property taxes in a similar manner. Schools are the largest user of property tax dollars. Property taxes used to fund schools are levied by the State, the County, and the local school district. There are also a variety of special districts that levy property taxes to fund specific services like libraries, museums, weed districts, and many others. The Montana Taxpayers Association produces a Mill Levy Book annually that shows the tax levies by all jurisdictions. You will receive a copy of it with your membership.

The following pie chart presents the allocation of property tax usage by each type of taxing jurisdiction for Fiscal Year 2021.

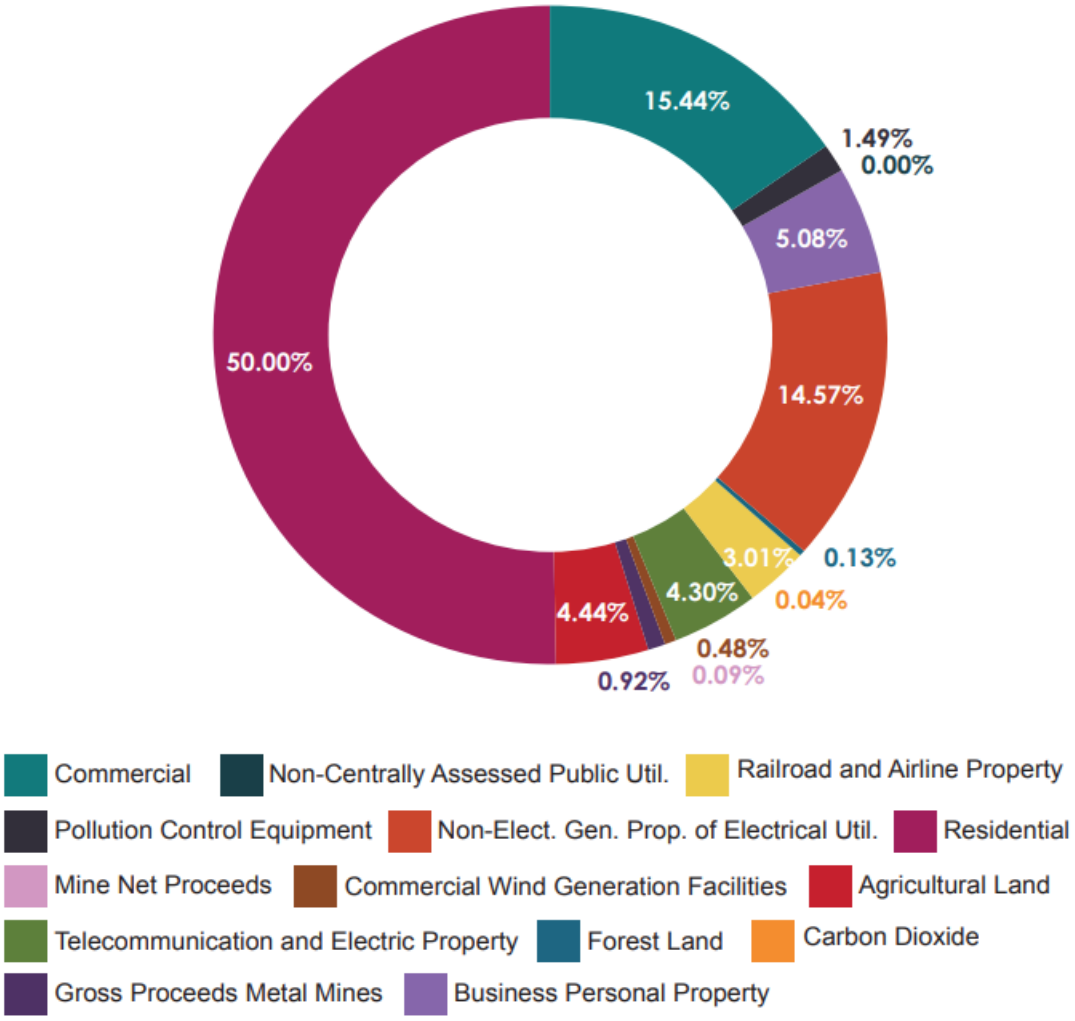


Graph Reprinted from the Department of Revenue Biennial Report

The following graph, *reprinted from the most recent Department of Revenue Biennial Report*, shows the portion of property tax dollars used by each of the taxing entities. As the graph shows, residential property pays one half of the property taxes. It makes up over one half of the property in the state but that is offset by a lower tax rate. Most residential property lies within cities, so they pay higher mill levies than properties outside cities and towns. Conversely, non-generating electrical property, the electrical distribution system, pays 14.5% of the taxes due to its much higher tax rate.

The following graph compares the percent of property tax paid for each class of property in Tax Year 2020.

Percent of Property Taxes Paid by Class Tax Year 2020



HOW ARE PROPERTY TAXES DETERMINED?

Deciphering one's property tax bill can be a challenge. This article will attempt to shed a little light on the process.

There three factors that determine the bottom line on your property tax bill. They are:

1. The value of the property.
2. The type of property.
3. The total number of Mills levied against the property.

PROPERTY VALUES

The Montana Constitution requires all property subject to taxation to be valued by the Montana Department of Revenue. They use a variety of methods depending on the type of property. Most property is valued at market value, which is what similar property has been sold at. Some property, agricultural land, and timberland are valued at a calculated productive value. Their value is determined by what income they can produce. Other properties are valued by determining the cost to build the property and then it is depreciated over time.

TYPE OF PROPERTY

Montana has a classified property tax system. That means different types of property are placed in different classes. Montana currently has 16 classes of property. Using a classification system allows the State to use different valuation methods and also allows them to collect different amounts of tax per dollar of value by setting separate tax rates for each classification. The tax classes and rates are shown in a table in an article later in this newsletter.

MILL LEVY

A mill is a part of one dollar. One mill is 1/1000 of a dollar or .1 cent. The mill levy is a calculation done by governments and schools to determine how to collect the tax revenue necessary to fund their allowable budget. All property tax funded budgets are limited by state statute or local voted levies. Cities and counties and many special districts budget growth is limited to ½ the rate of inflation plus revenue from new property. Any other growth in revenue must be voted with a few exceptions. School levies are limited by state funding laws and are largely driven by number of students.

The mill levy assessed against any individual property is the total of State levies, county levies, city levies, school district levies, and special district levies that the property lies in.

TAX CALCULATIONS

Property taxes are calculated in the following way:

Value x Tax Rate x Total Mill Levy = Taxes owed.

In the following example a residential property is valued at $250,000:

The tax rate is 1.35% (which converts to .01335 in the formula. If the tax rate was 12% it would convert to .12)
The Mill levy for all jurisdictions is 825 mills (which converts to .825, 825/1000)

$250,000 x .0135 x .825 = $2,784.37

The total of $2,784.37 is then divided into two payments - one due in November, and the second due in May.

EVERY TAX BURDEN IS NOT THE SAME

Many people assume that every taxpayer's tax burden is the same if they own the same amount of property. This is not the case in Montana with its multi class system. Montana classifies property in 16 classes. Most classes have a different tax rate. Some classes have more than one tax rate. Class 4 property has a class rate for most residential property of 1.35% but commercial property is 1.4 times that or 1.89%. Class 8 business equipment has an exemption for the first $300,000 and the next 6 million dollars has a tax rate of 1.5% and everything over that has a tax rate of 3%.

The following table shows how many dollars in tax $100,000 of property in each class would pay if the total mill levy was 500 mills.

TAXES PAID PER $100,000 OF PROPERTY BY CLASS

Property Class		Tax Rate	Ratio to 4/R	Taxes / $100,000 Market Value@500 mills	
3	Agricultural Land	2.16%	1.60	$1,080.00	
4	Residential	1.35%	1.00	$675.00	
4	Commercial and Industrial	1.89%	1.40	$945.00	
5	Pollution Control Equipment, Independent and rural Electric and Telephone Cooperatives, New and Expanding Industry, Electrolytic Reduction Facilities, Research and Development Firms, and gasohol Production Property	3.00%	2.22	$1,500.00	
7	Noncentrally Assessed Utilities	8.00%	5.93	$4,000.00	
8	Business Equipment - First $300,000 in market value is tax exempt; next six million dollars of market value is taxed at:	1.50%	1.11	$750.00	
8	Business Equipment/any property above $6.3 million	3.00%	2.22	$1,500.00	
9	Pipelines and Nonelectric Generating Property of Electric Utilities	12.00%	8.89	$6,000.00	
10	Forest Land	0.37%	0.27	$185.00	
12	Airlines and Railroads	3.04%	2.25	$1,520.00	
13	Telecommunication Utilities and Electric Generating Property of Electric Utilities	6.00%	4.44	$3,000.00	
14	Renewable Energy Production and Transmission Property	3.00%	2.22	$1,500.00	
15	Carbon Dioxide and Liquid Pipeline Property	3.00%	2.22	$1,500.00	
16	High Voltage DC Converter Property	2.25%	1.67	$1,125.00	
17	Qualified Data Center	0.9	0.67	$450.00	
18	"Green Hydrogen"	1.50%	1.11	$750.00	

POTENTIAL BALLOT ISSUES

Prior to any general election there appear a number of proposals to either amend the Montana Constitution or implement a voter approved statute. This election cycle is not different. As of this time, there two ballot proposals forwarded by the Legislature that will appear on the November ballot. They are:

1. C-48 an act to explicitly include electronic data and communications in search and seizure protections.
2. LR-131 adopting the Born-Alive Infant Protection Act.

Two citizen proposals have been approved for signature gathering.

1. CI-121 to limit the taxes on residential property
2. I-191 which would make portions of the Gallatin and Madison Rivers Outstanding Resource Waters. Such a designation would limit or eliminate activities that would impact the quality of the water in the streams.

There is a trove of other proposals that are in the process of achieving authorization to gather signatures or have been withdrawn by their sponsors. A complete list of ballot proposals can be found on the Montana Secretary of State's website at https://sosmt.gov/elections/ballot_issues/proposed-2022-ballot-issues/

REAPPRAISAL COMING IN 2023

Montana revalues all residential, commercial, and agricultural property every two years. The Department of Revenue has started the process for the next cycle. Montana values most residential and commercial properties using a comparable sales methodology. The Department of Revenue uses a computer assisted mass appraisal system to value residential and commercial properties.

For residential property, the Department develops computer models that take information from past sales of properties, the location of those properties, and the characteristics of the properties. They then develop neighborhoods which are areas of varying size containing enough recent sales to be statistically significant. The Department maintains records that show every residential property and its characteristics. Properties within a neighborhood that are similar to recently sold properties are then valued. Property owners are notified of their new values in June 2023 and have time to appeal those new values.

Commercial properties are valued much the same way. Some commercial property is valued on an income method instead of a comparable sales method if information from the owner is available and that information produces a more accurate value.

Agricultural properties are valued on productive value. A capitalized net rental income method is used. The values of most agricultural properties are largely driven by the prices of wheat, hay, and grazing rental rates.

The new values for all residential, commercial, and agricultural property will be used to calculate the tax bills that will go out in November 2023.

UPCOMING MEETINGS

- May 9-10 ..... Law and Justice
- May 11 ..... Criminal Justice Oversight
- May 12 ..... Children, Families, Health, and Human Services
- May 17-18 .... Local Government
- May 18-19 .... Education
- May 19 ..... Transportation
- May 19-20 .... Energy and Telecommunications
- May 24-25 .... Environmental Quality Council
- May 25-26 .... State Administration and Veterans' Affairs
- June 14-15 .... Economic Affairs
- June 16-17 .... Revenue

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