

Ballot Measure 50's Impact on Oregon's Property Tax System

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I have been asked to present my thoughts on Ballot Measure 50 and how it has impacted Oregon's property tax system. I will try to provide you with information that is pertinent to your charge under HB 2530 while still leaving plenty of time for questions.

Property Tax Systems

It may be instructive to begin the discussion with an explanation of the differences between a "levy based" and a "rate based" property tax system. Although it should be kept in mind that none of the three recent property tax systems that Oregon has used (pre Measure 5, Measure 5 and Measure 50) is purely one or the other but rather hybrid systems. See Exhibit 1.

Levy Based System:

- Jurisdictions levy a dollar amount
- Rate is calculated annually, fluctuating as value goes up or down
- Jurisdiction is assured of receiving entire amount (less uncollectables), regardless of changes in total value
- Tax on property depends on change in individual property value relative to total value

Rate Based System:

- Jurisdictions levy a rate per thousand of value
- Rate stays the same from year to year.
- Jurisdiction's revenue fluctuates from year to year based on changes in total value
- Tax on property directly tied to change in property value

The pre-Measure 5 property tax system was almost exclusively a levy based system. However, it must be noted that most dollar based levies (tax bases) could be increased 6% every year and voters could approve a higher tax base.

Measure 5 created a rate based system for education districts (since most areas exceeded the \$5 per \$1,000 limit) while retaining a levy based system for non-education or general government districts (since most areas were well below the \$10 limit).

And then there is Measure 50.

Ballot Measure 50:

Measure 50 is primarily a rate based system while retaining some dollar based levies such as for GO bonds. But the imposition of assessed value limits make it significantly different than a purely rate based system.

Measure 50 was necessary because Ballot Measure 47 was so poorly written, posed so many unanswered questions and probably would have ended up in court. It was "easier" to replace it than try to make it work.

But rather than just replace Measure 47, key legislative leaders decided to take the opportunity to completely revamp the property tax system. In just a little over 4 months those involved conceived the basic structure, wrote the constitutional language (in six days), convinced voters they weren't pulling a fast one on them and passed a 250 plus page implementation bill. Because of the urgency and short time frame, legislators and stakeholders were forced to come together through literally thousands of compromises.

Measure 50 had a number of overriding goals:

1. Replicate, as much as possible, Measure 47 (to assure voters that the affect on them would be the same)
 - Retained double majority voting standards
 - Incorporated 3% annual increases
 - Cut values (as opposed to taxes) by 10% from 1995-96
 - Reduced tax collections in 1997-98 state-wide by 17%
2. Simplify the property tax system and make it less expensive to administer
 - Reduce importance of market value so less time spent reappraising
 - Eliminated requirement of six year reappraisal cycle
 - Value limits would reduce the number of appeals
3. Make the system more predictable for property owners
 - Maximum three percent increase in assessed value and fixed tax rates (protection against both levy based and rate based "down side risks"
 - "Minor construction" could not be added to assessed value
 - Permanent tax rates could not be increased by voters

For the most part these goals were met. Of course as the measure worked its way through the process changes made to address stakeholders concerns that did not necessarily meet the above goals. This was especially true with simplifying the property tax system. While it is true that the number of appeals is less than one-third of the pre-Measure 50 numbers, most other areas of the system are essentially the same.

Where Are We Today?

There are a number of questions and concerns that have been raised concerning how the property tax system is working ten plus years after the adoption of Measure 50. These are:

1. How the permanent tax rates were determined
2. Interactions with Measure 5
3. How the Changed Property Ratio (CPR) works
4. Horizontal equity as assessment ratios diverge
5. Feasibility of solutions (such as rebasing assessed values to market value when property is transferred)

Permanent Rates

Computing the permanent tax rates was probably the most technically difficult yet least understood component of Measure 50. County assessors essentially had to run three tax rolls in 1997-98: Measure 5, Measure 47 and Measure 50. Because the measure called for a state-wide average tax cut of 17%, counties compiled detailed data on Measure 47 taxes and Measure 50's new assessed values and sent that data to the Oregon Department of Revenue. The Department fed the data from all 36 counties into what became known affectionately as the "Black Box". It was a mystery then and it remains a mystery today as to exactly how it worked. But it did, sort of.

What may not be well known is that the permanent rate calculations had to be re-run a second time in Spring 2008 due to serious errors in the original data supplied by a couple of counties. Fortunately, the drafters of Measure 50 had anticipated this and had provide authority in the implementing bill for just such a recalculation.

One of the most common questions is why temporary levies that jurisdictions levied in 1997-98 under the old system were allowed to be included in the permanent rates. The simple answer is that under Measure 47 they effectively would have been included. Again, referring back to the basic goal of Measure 50 of replicating Measure 47.

Measure 5 Interaction

How to integrate the \$5 per \$1,000 for education and \$10 per \$1,000 for general government limits from Measure 5 into the new Measure 50 scheme was perhaps the most difficult and contentious aspect of the entire process. Originally it was thought that the limits were not needed at all and later the limits were retained to gain the support of Measure 5's author Don McIntire (which didn't happen).

What might not be well known is that the constitutional provisions for Measure 5 limits and the ultimate statutory limits within the implementation

bill are vastly different. The Constitution requires the real market value limits to be calculated on "property taxes imposed in each geographic area taxed by the same local taxing districts" or each code area as opposed to SB 1215 which went back to a "property by property" limitation.

Separating values and using one value to calculate taxes (assessed value) and a different value to calculate the Measure 5 limits (real market value) has complicated the system somewhat. Not the least of which is that it is much more difficult to estimate how much compression loss there might be for new levies or even existing levies. Under the old Measure 5 system the limits applied to every property the same. Now, Measure 5 limits can theoretically be applied differently for each and every property, given the difference between real market value and assessed value. See Exhibit 2.

The result is that most residential and commercial property, with wide gaps between market and assessed values, suffer very little Measure 5 compression. Tax rates well above the \$5 and \$10 limits are fully imposed. For industrial and utility property whose market and assessed values are much closer or even the same, there can be substantial compression.

How the Changed Property Ratio Works

It was very clear during the process that the intent was to give new property the same relative tax break as property that existed in 1995-96, the base year for determining the new, lower assessed value. The method is fairly straightforward and conformed to the goal of making the property tax system simpler to administer. The changed property ratio, or CPR, would simply be the ratio of assessed value to market value of all existing property within the same "property class" and "in the area". Implementation language in SB 1215 defined area to be "the county". The only exception is for utility property where area means "the state".

So for most counties there are only a few different CPR calculations: residential, commercial, industrial and multi-family. What that means is that a new condominium in the Pearl District in Portland and a single family dwelling in Corbett would have the same CPR applied to the respective market values to arrive at an assessed value the first year the property went on the assessment and tax roll.

There was some discussion, mostly amongst assessors, as to whether the CPR should be calculated and applied by neighborhoods rather than county-wide. In retrospect, that might have been the more fair method of doing it.

Horizontal Equity

When Measure 50 was going through the Legislative process it was generally understood that there were some inherent features that would create

inequities. In fact, the constitutional measure included a specific exclusion to other constitutional provisions requiring "uniformity of taxation". Although I suspect that concerns over equity come more from policy makers and the media than from property owners.

Measure 50 creates inequities in four ways:

1. Base Year (1995-96) Inequity
2. Neighborhood to Neighborhood Inequity
3. Existing Versus New Construction Inequity
4. Commercial Versus Industrial Property Inequity

1. Base Year. By establishing the new, lower assessed value limits as the 1995-96 real market value, less 10% (to mimic Measure 47), and then setting strict limits on how that assessed value can change going forward, Measure 50 basically locked in what ever inequity existed in that base year. If market values from 1995-96 were too low or too high then the 1997-98 assessed values were too low or too high and would remain so "forever".

Prior to Measure 50 county assessors were required to reappraise property once every six years, what was referred to as the six year reappraisal cycle. The county was divided up into six geographic areas and appraisers would appraise one area a year. Once all six areas had been appraised the county would start the cycle over.

Generally the more recently an area had been reappraised the more accurate the market values. So in 1995-96 those areas that had just been reappraised would have market values that were closer to actual values than properties in areas that had not been reappraised for four or five years. These discrepancies (inequities) were then transferred into the calculations of Measure 50 assessed values in 1997-98.

2. Neighborhood to Neighborhood. Measure 50 limits increases in assessed value to a maximum of three percent (3%) each year. This is regardless of what is happening to the market value. That was the whole point of the limitation, to "protect" property owners from having to pay higher property taxes simply because, through no fault of their own, the value of their property had increased. Of course no one in 1997 predicted the "irrational exuberance" of the real estate market that we have seen the past eight years.

So if one neighborhood has seen market values increased by 10 percent per year since 1997 and another neighborhood in the same county has only appreciated 5 percent (5%), then the ratio between market value and assessed value (which has only grown by 3% per year in both neighborhoods) is going to be vastly different. Think West Salem versus Stayton.

3. Existing Versus New Construction. Property that did not exist in 1995-96 is brought on to the assessment roll at "the average ratio of assessed value to real market value as all other similar property in the county", or the market value times the CPR. Because the CPR is calculated on a county wide basis, rather than neighborhood by neighborhood, it can result in inequities.

In the example above where one neighborhood's values were increasing 10 percent and another neighborhood's values were increasing five percent, the CPR for new property would be calculated using the average increases, or 7½ percent. So a new property in the faster growing neighborhood would have an assessed value that was higher than the assessed value of an existing house. And in the neighborhood that was growing more slowly, the new property's assessed value would be lower. See Exhibit 3.

This tends to hurt taxing districts that primarily levy in the slower growing (rural) areas of the county since new properties generally have lower market values to start with and the CPR is lower thanks to the faster growing (urban) areas of the county. This results in lower assessed values for new property than if the CPR were calculated by neighborhood.

4. Commercial Versus Industrial. The CPR is calculated for each different type of property so that there is one CPR for commercial property and a different CPR for industrial. Commercial property has seen rapid increases in market value since 1995-96 so the CPR can be quite low, in some counties lower than residential. Industrial property on the other hand, since it includes machinery and equipment that depreciates over time, generally has a CPR of 100 (market value and assessed value are the same).

When a new property is brought on to the assessment roll it is assigned a "property class" designating what type of property it is. Some properties are part commercial and part industrial. A building can be suitable for either commercial or industrial use. What property class the assessor assigns can have a dramatic difference in the assessed value given the vast difference in the CPR. A \$1 million dollar building can have an assessed value of \$500,000 as commercial or \$1 million as industrial.

Feasibility of Solutions

Fortunately or unfortunately, depending on your point of view, Measure 50 is working as it was intended: it replicated the affects of Measure 47 (at least enough to convince voters to approve it), it simplified the property tax system (sort of) and it certainly has made the system more predictable for the average property owner. Generally speaking property tax bills for the vast majority of property owners have increased three percent (3%) a year since 1997-98. From that standpoint there is little argument to "fix" Measure 50.

On the revenue side for local governments the story is quite different. Rather than annual six percent (6%) increases with the ability to ask voters to increase the base amount, counties, cities, school districts and special districts have had to contend with three to four percent (3% - 4%) increases with no provision for asking voters for increases in the base amount.

If you are talking of "minor tweaks" to the system as opposed to wholesale changes, then there are only a few things that might accomplish generating more revenue for local jurisdictions:

1. Re-setting assessed value when property is sold
 - Creates a new inequity
 - May stifle real estate sales
2. Change CPR Calculations from county-wide to by neighborhood
 - Would be more complicated to administer
 - Neighborhoods for assessment purposes change over time
 - Only affects newly constructed property
3. Set a "floor" for the assessed value to real market value ratio of say .50 (50%)
 - Question of whether this would apply to existing property or only to new property (CPR)
 - If applies to existing property would it be only going forward or would assessed values that are currently below 50% of RMV be increased
4. Revert Measure 5 limit calculations to a code area basis rather than a property by property basis
 - No affect on areas that are currently below the \$5 and \$10 limits
 - Would increase State revenues more directly than local school district revenues due to how State School Fund works
 - Would increase property taxes for industrial and utility property more than residential and commercial

All but the last suggestion would require changing the Constitution by a vote of the people. Not an easy prospect.

I hope this has all been helpful. I would certainly be willing to answer any questions Task Force members might have.

EXHIBIT 1

LEVY BASED:

Year 1; \$1,000,000 Levy/\$1,000,000,000 Value = \$1.00 per \$1,000
\$1.00 per \$1,000 x \$1,000,000,000 Value = **\$1,000,000 Tax**

Year 2; \$1,060,000 Levy/\$2,000,000,000 Value = \$.53 per \$1,000
\$.53 per \$1,000 x \$2,000,000,000 Value = **\$1,060,000 Tax**

OR

\$1,060,000 Levy/\$500,000,000 Value = \$2.12 per \$1,000
\$2.12 per \$1,000 x \$500,000,000 Value = **\$1,060,000 Tax**

Rate Based:

Year 1; \$1.00 per \$1,000 x \$1,000,000,000 Value = **\$1,000,000 Tax**

Year 2; \$1.00 per \$1,000 x \$2,000,000,000 Value = **\$2,000,000 Tax**

OR

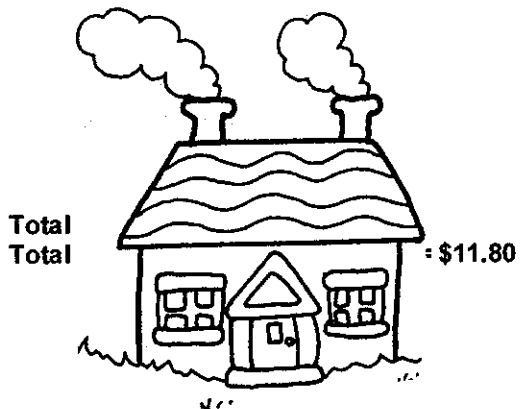
\$1.00 per \$1,000 x \$500,000,000 Value = **\$500,000 Tax**

Underline = variable, **Bold** = amount to be collected

MEASURE 5 COMPRESSION ILLUSTRATIONS

House A

\$200,000 RMV - \$155,000 AV



Total Education Rate = \$5.45
 Total General Government Rate = \$11.80

\$200,000 RMV

M5 Education Tax Limit = \$ 5 x 200,000 = \$1,000
 M5 General Government Limit = \$ 10 x 200,000 = \$2,000

\$155,000 AV

Education Taxes (\$ 5.45 x 155,000) = \$ 845
 Measure 5 Compression Loss = \$ 0

Gen Govt Taxes (\$11.80 x 155,000) = \$ 1,892
 Measure 5 Compression Loss = \$ 0

\$200,000 RMV

M5 Education Tax Limit = \$ 5 x 200,000 = \$1,000
 M5 General Government Limit = \$ 10 x 200,000 = \$2,000

\$170,000 AV

Education Taxes (\$5.45 x 170,000) = \$ 926
 Measure 5 Compression Loss = \$ 0

Gen Govt Taxes (\$11.80 x 170,000) = \$ 2,006 = \$ 2,000
 Measure 5 Compression Loss (2,006 - 2,000) = \$ 6

House B

\$200,000 RMV - \$170,000 AV



Total Education Rate = \$5.45
 Total General Government Rate = \$11.80

\$200,000 RMV

M5 Education Tax Limit = \$ 5 x 200,000 = \$1,000
 M5 General Government Limit = \$ 10 x 200,000 = \$2,000

\$190,000 AV

Education Taxes (\$5.45 x 190,000) = \$ 1,035 = \$ 1,000
 Measure 5 Compression Loss (1,035 - 1,000) = \$ 35

Gen Govt Taxes (\$10.80 x 190,000) = \$ 2,052 = \$ 2,000
 Measure 5 Compression Loss (2,052 - 2,000) = \$ 52

House C

\$200,000 RMV - \$190,000 AV



**ILLUSTRATION OF CPR CALCULATIONS CREATING
 INEQUITY BETWEEN NEW PROPERTY AND EXISTING PROPERTY**

		Neighborhood No. 1 Appreciation @ 10% per Year		Neighborhood No. 2 Appreciation @ 5% per Year	
		Existing House	New House	Existing House	New House
1995-96	RMV	180,000		90,000	
	AV	180,000		90,000	
1997-98	RMV	217,800		99,225	
	AV	174,600		87,300	
2007-08	RMV	564,917	564,917	161,627	161,627
	AV	234,648	268,435	110,589	76,801
Ratio		0.4154	0.4752	0.6842	0.4752
			33,788 14.40%		(33,788) -30.55%
CPR Calculation					
	Ave. RMV	363,272			
	Ave. AV	172,618			
	Ratio	0.4752			

Article XI, Section II, Oregon Constitution:

"(New) property shall be valued at the ratio of average maximum assessed value to average real market value of property in the area in which the property is located that is within the same property class."

ORS 308.149:

- (1) "Property class" means the classification of property adopted by the Department of Revenue by rule..."
- (2) "Area" means the county,,"

