

ALTERNATIVES TO EXPRESSING PROPERTY TAX LEVIES IN MILLS - BACKGROUND MEMORANDUM

During the 2005-06 interim, the interim Finance and Taxation Committee was assigned Senate Concurrent Resolution No. 4010. This resolution directed a study of alternatives to the current method of expressing property tax levies in mills per dollar of taxable valuation. The text of the resolution states that converting mills per dollar of taxable valuation into actual property taxes is difficult and confusing and converting property tax levies into an understandable measure would allow citizens to understand property tax levies and judge how property taxes will impact them. The following information was provided to the Finance and Taxation Committee in 2005.

PROPERTY TAX LIABILITY DETERMINATION AND COLLECTION

Property tax liability is determined by multiplying the mill rate for the taxable year of each taxing district in which property is located times the taxable valuation of the property. The mill rate for a taxing district is established through the budget process. Property taxes are collected by each county and distributed among appropriate taxing districts according to their interests in the revenues, based upon their respective mill rates.

Final budgets of taxing districts must be submitted to the county auditor by October 10. The amount budgeted for an authorized purpose must be within the statutory levy limitation for that purpose or the county auditor must reduce that amount to the levy limitation amount. The county auditor prepares tax lists, which must be delivered to the county treasurer by December 10, and tax statements must be mailed to property owners by December 26. Property taxes are due January 1 following the year of assessment and are payable without penalty until March 1 of that year. If property taxes are paid in full by February 15, the taxpayer is entitled to a 5 percent discount. Penalties begin to accrue if property taxes are not paid by March 1. Taxpayers have the option of paying property taxes in installments.

MILL LEVY LIMITATIONS

The taxing authority of political subdivisions is limited by mill levy limitations established by statute. Statutory limits of a specific number of mills per dollar of taxable valuation exist for most property tax levies by political subdivisions. The first taxes imposed in Dakota Territory (Laws of Dakota 1862, Chapter 69) were imposed in mills. Property tax levies and limitations have been expressed in mills since that time.

Although mills are not a unit of value people use often, calculations in mills are understandable with some guidance. A mill is equal to one-tenth of one cent. To determine the mill rate for a taxing district, the county auditor determines whether the amount budgeted is within statutory limitations and, if it is, the county auditor divides the total property taxes to be collected by the taxing district by the taxing district's total taxable valuation. This computation yields a percentage that is the mill rate for the district.

ASSESSMENT

Real property must be assessed with reference to its value on February 1 of each year. All property must be valued at true and full value which is defined as the value determined by considering any earning capacity, the market value, and all other matters that affect the actual value of the property. For agricultural property, this value is determined by operation of a productivity formula based on the capitalized average annual gross return of the land.

DETERMINATION OF TAXABLE VALUATION

The assessed value of property is 50 percent of the true and full value of the property. The most significant use of assessed valuation occurs because constitutional debt limitations of political subdivisions are expressed in terms of assessed valuation. Taxable valuation is a percentage of assessed valuation, which is 9 percent for residential and 10 percent for agricultural, commercial, and centrally assessed property, except wind turbine electric generation units, which are valued at 3 percent or 1.5 percent of assessed value. The taxable valuation is the amount against which the mill rate for a taxing district is applied to determine the tax liability for individual parcels of property.

EXAMPLES

For residential property, a tax of one mill equals one dollar tax liability for each \$22,222 true and full valuation. For agricultural, and most centrally assessed property, a tax of one mill equals one dollar tax liability for each \$20,000 of true and full valuation.

Another way of expressing the impact of a one mill tax is that a tax of one mill equals \$4.50 tax liability on \$100,000 true and full value of residential property. A tax of one mill equals a tax liability of \$5 per \$100,000 of true and full value of agricultural, commercial, and most centrally assessed property.

The statewide average mill rate for 2004 is 402.70 mills. Applying this statewide average mill rate

to \$100,000 of true and full value for residential property yields a property tax liability of \$1,812.15. Applying this statewide average mill rate to \$100,000 true and full value of agricultural, commercial, and most centrally assessed property yields a property tax liability of \$2,013.50.

STATUTORY REFERENCES

Because statutory references to property tax levies and limitations in North Dakota have always been expressed in mills, statutory and constitutional references to mills in expressing levies and limitations are pervasive. The word "mill" (referring to levies) appears 186 times in 113 sections of the North Dakota Century Code (NDCC). The word "mills" (referring to levies) appears 197 times in 80 sections of the North Dakota Century Code. In addition, references to "true and full" value appear in 21 sections, references to "assessed" value appear in 43 sections, and references to "taxable" value appear in 99 sections. To change these statutory references to valuation determinations and levies and limitations would require a large bill and careful scrutiny to make sure that the conversion does not make unintended changes to valuation or taxing authority provisions. In addition, the Constitution of North Dakota may need to be amended to be certain that any statutory changes that are made do not result in unintended consequences.

ALTERNATIVE TO STATUTORY REVISION

Taxpayers' primary exposure to levies in mills and taxable valuation of property comes from trying to understand the property tax statement from the county treasurer. For this reason, an alternative to statutory revision worthy of consideration would be to require more taxpayer-friendly information on property tax statements or in accompanying documents.

PROVISIONS IN OTHER STATES

In several states a "taxpayer bill of rights" has been adopted or is being considered. In some states, this phrase refers to efforts to freeze or roll back property taxes. In several states--New York, Nevada, Maryland, Arkansas, and Florida--the "taxpayer bill of rights" requires access of understandable information to taxpayers regarding assessments, tax levies, and the right to protest or appeal tax administration decisions. A common provision in these legislative provisions is a requirement for expressing tax rates in understandable amounts. For example, the New York law requires the taxpayer to be furnished various information on taxes due, including an expression of the tax rate in dollars per thousand dollars of "taxable assessed valuation."

NORTH DAKOTA PROPERTY TAX STATEMENTS

Under NDCC Section 57-20-07.1, county treasurers are required to send real estate tax statements to property owners which must include dollar valuations of the true and full value of the property and the total mill levies applicable. In practice, most property tax statements provided by counties provide more information than required by the statutory provision. However, information provided on property tax statements is not uniform among counties and generally does not indicate the amount of taxes levied by each taxing district levying against the property and does not provide explanatory material to indicate to the taxpayers how the number of mills levied is applied against the taxable value of the property to determine the property tax liability for the year.

The North Dakota Association of Counties surveyed the methods of property tax statement preparation among counties. Each of the 53 counties has computerized the property tax statement preparation process. There are five commercial software applications currently in use among counties plus four counties that have developed their own software applications for property tax statement preparation.

COMMITTEE CONSIDERATION

The 2005-06 interim Finance and Taxation Committee considered a bill draft to expand the information that must be included in annual property tax statements or provided in additional printed material accompanying property tax statements. The bill draft would have required a statement of the true and full value of the property for the immediately preceding taxable year and the taxable year to which the tax statement applies. The bill draft would have also required the tax statement or accompanying materials to show, for each taxing district levying taxes against the property and the consolidated levy for all tax districts levying against the property, the taxes levied in dollars for the preceding year, the taxes levied in dollars for the taxable year for which the tax statement applies, the taxes expressed in dollars of taxes per \$1,000 true and full value of the property for the preceding taxable year, and the taxes expressed in dollars of taxes per 1,000 of true and full valuation of the property for the taxable year for which the tax statement applies.

County officials raised questions relating to the entity responsible for paying the cost of computer software programming changes, whether all 15 taxing entities must be shown on tax statements, how to handle statements for property that has been subdivided since the previous taxable year, and how to maintain the savings counties have achieved by consolidating parcels for the same taxpayer on tax statements. After reviewing the bill draft with county

officials and county software vendors, the North Dakota Association of Counties reported that it appeared the bill draft would not create major programming problems or costs if adequate lead time was allowed for developing updated software. Software vendors believed the new information required by the bill draft could be incorporated during annual software updates without additional programming costs.

2007 LEGISLATION

The 2005-06 interim Finance and Taxation Committee recommended Senate Bill No. 2033 to require property tax statements to include, or be accompanied by, information showing for the taxable

year for which each tax statement applies for each taxing district levying taxes against the property taxes levied in dollars and taxes expressed in dollars per \$1,000 of true and full valuation of the property. Senate Bill No. 2033 failed to pass the Senate.

The legislative history reveals the main reason for the failure of the bill was that it was an unfunded mandate. It was argued that the bill would increase printing, postage, and computer programming costs while removing flexibility. The opinion was also expressed that the bill may have provided too much information for the taxpayer, thereby making the statement more confusing. If wanted by a taxpayer, the information may be accessed online in most counties.