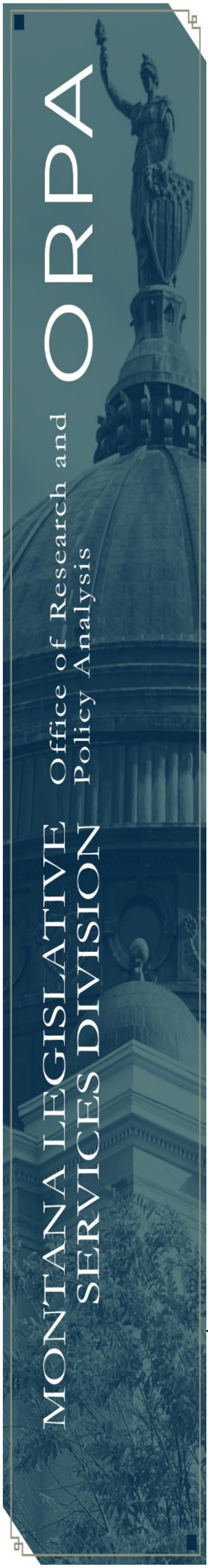


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HJ 35 Tax Study Committee
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# PROPERTY TAX LIMITS

## INTRODUCTION

In 1986, Montana voters enacted I-105 to limit to 1986 levels the amount of taxes levied on certain classes of property. Many other states also limited property taxes around this time, following California voters' approval of Proposition 13 in 1978. Today, 46 states and the District of Columbia limit property taxes in some form.[1]

## TYPES OF LIMITS

There are three main types of property tax limits: assessment limits, rate limits, and levy limits.[2]

### ASSESSMENT LIMITS

> There are three types of property tax limits: assessment limits, rate limits, and levy limits.

Limits on the assessed value of a property prevent taxes from increasing as property values increase. Even if tax rates and mill levies remain constant, taxes will increase as property values rise. Assessment limits prevent such increases. Eighteen states have assessment limits.

Assessment limits may benefit taxpayers with limited incomes and introduce a notion of ability to pay into the property tax system. On the other hand, assessment limits may introduce inequity into the property tax system to the extent that they limit assessed values for some taxpayers and not others.

States vary in the level at which the assessment limits are set and to whom assessment limits apply. California's assessment limit is the lesser of 2 percent or the rate of inflation while Minnesota's is 15 percent. Assessment limits place a larger share of the property tax burden on new construction and can result in large variations in assessed value based on the length of ownership of the property. Property taxes levied in 2016 on a median-value new residence were

[1] *Significant Features of the Property Tax*. https://www.lincolninst.edu/research-data/data-toolkits/significant-features-property-tax/topics/property-tax-limits Lincoln Institute of Land Policy and George Washington Institute of Public Policy. (Tax Limits; accessed: 12/22/2019 06:04:49 PM).
[2] Information in this section from: *Property Tax Limitation Regimes: A Primer,* https://taxfoundation.org/property-tax-limitation-regimes-primer/, Tax Foundation.

40% higher ($1,947) in Long Beach, Calif. than those paid on a median-value residence owned for the average duration. The differences in New York City and Miami were 36.5% ($2,036) and 28.5% ($1,127), respectively.[3]

In some states the assessment limit applies to the property while it is under the same ownership and, upon sale, the property is reassessed. This reset of assessed value upon sale may create a "lock-in effect" in which homeowners do not sell their homes and buy news ones because of the property tax implications. The lock-in effect may distort the housing market if taxpayers remain in their homes to avoid property tax increases.

Some states with assessment limits have policies to address the lock-in effect. California allows the transfer of a principal residence to a relative without triggering reassessment, and people 55 years old or older can transfer the assessed value of their current home to a different property of the same or lower value within the county (and outside the county if approved by the other county). Florida allows anyone to transfer the difference between the market value and assessed value to a new home within the county or another county that offers the benefit.

Assessment limits only prevent property taxes from rising to the extent that mill levies and tax rates remain constant. If mill levies or assessment ratios increase, so will property taxes even if assessed values do not change.

## RATE LIMITS

A rate limit is a limit on mill levies. The limit may apply to all levies collectively, to each taxing jurisdiction individually, or only to certain taxing jurisdictions. In addition, there may be a mechanism for voters to increase a rate cap. Thirty-six states have enacted rate limits.

Rate limits are more neutral than assessment limits because similar properties are assessed similar taxes. As with assessment limits, rate limits do not prevent property tax increases if property values increase. Policymakers wishing to skirt rate limits also could increase assessment ratios. Rate limits may result in the shifting of financial responsibilities. If rate limits do not apply to all taxing jurisdictions, the responsibility of a jurisdiction with a rate limit may shift to a jurisdiction that is not subject to a rate cap.

## LEVY LIMITS

Levy limits cap revenue growth, usually by limiting growth to a certain percentage or linking the growth to inflation. With a levy limit, total revenue is limited but the impact on individual taxpayers varies based on a property's assessed value. Adjustments to mill levies and assessment ratios under a levy limit may also have disparate effects. Thirty-six states have levy limits.

[3] 50-State Property Tax Comparison Study for Taxes Paid in 2016, Lincoln Institute of Land Policy and Minnesota Center for Fiscal Excellence, https://www.lincolninst.edu/sites/default/files/pubfiles/50-state-property-tax-comparison-for-2016-full.pdf, p. 104.

## PROPERTY TAX LIMITS BY STATE, 2018[4]

| State | Assessment Limit | Rate Limit | Levy Limit | State | Assessment Limit | Rate Limit | Levy Limit |
|---|---|---|---|---|---|---|---|
| Alabama | | ✓ | ✓ | Montana | | ✓ | ✓ |
| Alaska | | ✓ | ✓ | Nebraska | | ✓ | ✓ |
| Arizona | ✓ | ✓ | ✓ | Nevada | | ✓ | ✓ |
| Arkansas | ✓ | ✓ | ✓ | New Hampshire | No Limits | | |
| California | ✓ | ✓ | | New Jersey | | | ✓ |
| Colorado | ✓ | ✓ | ✓ | New Mexico | ✓ | ✓ | ✓ |
| Connecticut | ✓ | | | New York | ✓ | | ✓ |
| Delaware | | ✓ | ✓ | North Carolina | | ✓ | |
| D.C. | ✓ | ✓ | ✓ | North Dakota | | ✓ | ✓ |
| Florida | ✓ | ✓ | | Ohio | | ✓ | ✓ |
| Georgia | ✓ | ✓ | | Oklahoma | ✓ | ✓ | |
| Hawaii | No Limits | | | Oregon | ✓ | ✓ | |
| Idaho | | ✓ | ✓ | Pennsylvania | | ✓ | ✓ |
| Illinois | ✓ | ✓ | ✓ | Rhode Island | | | ✓ |
| Indiana | | ✓ | ✓ | South Carolina | ✓ | ✓ | |
| Iowa | ✓ | ✓ | | South Dakota | | ✓ | ✓ |
| Kansas | | | ✓ | Tennessee | No Limits | | |
| Kentucky | | ✓ | ✓ | Texas | ✓ | ✓ | ✓ |
| Louisiana | | ✓ | ✓ | Utah | | ✓ | ✓ |
| Maine | | | ✓ | Vermont | No Limits | | |
| Maryland | ✓ | | | Virginia | | | ✓ |
| Massachusetts | | ✓ | ✓ | Washington | | ✓ | ✓ |
| Michigan | ✓ | ✓ | ✓ | West Virginia | | ✓ | ✓ |
| Minnesota | | | ✓ | Wisconsin | | | ✓ |
| Mississippi | | | ✓ | Wyoming | | ✓ | |
| Missouri | | ✓ | ✓ | | | | |

[4] *Significant Features of the Property Tax*. Does not include limits that apply only to a city.

# PROPERTY TAX LIMITS IN MONTANA

Montana has a levy limit provided for in section 15-10-420, MCA. The levy limit holds the mill levy to "a mill levy sufficient to generate the amount of property taxes actually assessed in the prior year plus one-half of the average rate of inflation for the prior 3 years." The mill levy allowed under 15-10-420 is calculated excluding newly taxable property. The mill levy is then applied to existing and newly taxable property, which allows taxing jurisdictions some growth from newly taxable property in addition to the allowable inflationary adjustment. If a taxing jurisdiction does not levy the maximum authorized mills, the mills not levied may be carried forward to another tax year. Section 15-10-425, MCA, allows a taxing jurisdiction to exceed the levy limit upon an affirmative vote of the taxing jurisdiction. There are some exceptions to the levy limit, such as a judgment levy, an emergency levy, and a levy to repay taxes paid under protest.

In addition to the levy limit, Montana has a rate limit for the statewide education mill levies for state equalization, elementary equalization, high school equalization, the state university system, and vocational-technical education. Each mill levy is provided for in state law and may not be increased using the inflationary adjustment allowed for the levy limit in 15-10-420.

Montana does not have an assessment limit.

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