

PROPERTY TAX LIMITS

REVENUE INTERIM COMMITTEE
MEGAN MOORE - SEPTEMBER 2023

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.

ASSESSMENT 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. Seventeen states and the District of Columbia 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 cause inequity to the extent that they limit assessed values for some taxpayers and not others.

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

LIMITS VARY ACROSS STATES

States vary in the level at which the assessment limits are set and the property types and tax levies to which the assessment limits apply.² Some states use different limits for different property types with lower rates favoring residential property or owner-occupied residential property.

In 2021, the lowest limits were those tied to inflation: 1.04% in California, 1.3% for owner-occupied residential (homestead) property in Florida, and 1.4% in Michigan.³ The 29% limit for non-residential properties in Colorado was an outlier.

¹*Significant Features of the Property Tax.* <https://www.lincolnst.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: 8/4/23).

² *Significant Features of the Property Tax.*

³ The limits in these states are the lesser of inflation or a set percentage: 2% in California, 3% in Florida, and 5% in Michigan.

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The 10% assessment limits used in other states represents the second-highest assessment limit. The District of Columbia, Maryland, and Texas use a 10% limit for residential property as does Florida for non-homestead property. South Carolina takes a novel approach of limiting the growth in value to 15% over 5 years.

LIMITS MAY SHIFT BURDEN TO NEW CONSTRUCTION

Assessment limits may 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.

"LOCK-IN EFFECT" MAY DISTORT HOUSING MARKET

In some states the assessment limit applies to the property while it is under the same ownership and, upon sale, the property is reassessed.⁴ This reset of assessed value upon sale may create a “lock-in effect” in which homeowners do not sell their homes and buy new 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.

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-five states and the District of Columbia have rate limits.

Rate limits are more neutral than assessment limits because similar properties are assessed similar taxes. Rate limits do not prevent property tax increases if property values increase. Policymakers wishing to skirt rate limits also could increase tax rates.

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 tax rates under a levy limit may also have disparate effects. Thirty-seven states and the District of Columbia have levy limits.

⁴ Information in this section from: *Property Tax Limitation Regimes: A Primer*, <https://taxfoundation.org/property-tax-limitation-regimes-primer/>, Tax Foundation.

PROPERTY TAX LIMITS IN MONTANA

NO MONTANA ASSESSMENT LIMIT

Montana does not have an assessment limit.

STATE EDUCATION MILLS ARE RATE LIMITS

The statewide education mill levies for state equalization, elementary equalization, high school equalization, the state university system, and vocational-technical education function as rate limits. State law sets each mill levy, and the Legislature may not levy mills above the number specified.

CITIES AND COUNTIES SUBJECT TO LEVY LIMIT

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.

ASSESSMENT LIMITS PROPOSED IN RECENT YEARS

Recent attempts at amending the state constitution show interest in an assessment limit. Because of the constitutional requirement to equalize property values, these take the form of a constitutional amendment.

In 2021, [Constitutional Initiative 121](#) (CI-121) did not gather enough signatures to qualify for the ballot. The initiative would have amended the constitution to limit annual valuation changes for most residential property to the lesser of 2% or the rate of inflation. Other CI-121 provisions included establishing 2019 as the base year for residential property valuation and limiting ad valorem taxes on a residential property to 1% of the assessed value.

During the 2023 Legislative session, [Senate Bill 542](#) (SB 542) failed to pass the Senate State Administration Committee. The bill would have submitted a constitutional amendment to voters to limit increases in the assessed value of most real property to 2% per year. The constitutional amendment also established 2019 as the base year for real property valuation and limited ad valorem taxes on real property to 1% of the assessed value.

The Supreme Court is currently considering [Ballot Issue #2](#), which is identical to SB 542. The attorney general found the ballot issue to be legally insufficient during the office's statutorily required review. The sponsor of the ballot issue appealed the ruling to the Supreme Court.

PROPERTY TAX LIMITS BY STATE, 2021⁵

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		✓	✓				

⁵ Significant Features of the Property Tax. Does not include limits that apply only to a city.