

State Notes

TOPICS OF LEGISLATIVE INTEREST

Spring 2016



Property Tax Millage Limitations in Michigan **By Elizabeth Pratt, Fiscal Analyst**

Property tax rates in Michigan have no single limitation, but several limits have been established in the Michigan Constitution, the Property Tax Limitation Act, and other statutes. Statutes set millage limits for various types of local governments and require local charters to include millage limits. Some of these limits can be changed by local voters. The Constitution and statutes provide exemptions from millage limitations, such as an exemption for millage levied to retire voter-approved general obligation debt. The interaction of these laws makes property tax millage limitations a complex topic, and one that is relevant because bills currently before the Michigan Senate would change the way that property tax limitations apply to certain types of millage.

Background on Property Taxation

In Michigan, property taxes can be levied by the State, cities, villages, townships, counties, school districts, intermediate school districts, special districts, community colleges, and authorities (for example, the County Art Institute Authority millage in Wayne, Oakland, and Macomb Counties and the Huron-Clinton Metroparks millage levied in Livingston, Macomb, Oakland, Washtenaw, and Wayne Counties).

Property taxes are determined by applying the tax rate to the tax base, which is the taxable value of taxable property as defined by State law. Property tax rates are expressed in mills. A mill is one-tenth of a cent (\$0.001) or one-thousandth of a dollar. A tax rate of one mill raises \$1 per \$1,000 of taxable value. The taxable value cannot be higher than 50% of the State equalized value (true cash value) of the property. The taxable value may be less than 50% of the true cash value of the property due to the impact of the constitutional limitation in Article IX, Section 3 adopted as part of Proposal A in 1994, which limits the annual growth in taxable value of property to the lesser of 5.0% per year or the rate of inflation, until ownership is transferred, as defined in statute. The tax revenue also depends on the definition of the tax base, and there are many exemptions from property taxes. Property tax exemptions may completely exempt property from the tax base or rate, exempt only a portion of the taxable value, or exempt the property from select mills. Examples of exemptions include the exemption of principal residence property from 18.0 mills of local school operating taxes, exemptions for property in renaissance zones, the exemption of eligible manufacturing personal property (which is being phased in), and tax abatements granted by local governments under Public Act 198 of 1974 (for property in a plant rehabilitation or industrial development district).

Property taxes can be levied for general operations, special projects, or the retirement of debt. The discussion of millage limitations is typically about limits on operating millage. A judgment levy imposed by a court to pay the cost of a legal settlement is outside of millage limitations, as are special assessments. Debt mills levied to raise funds to pay principal and interest on general obligation bonds approved by the voters are exempt from property tax limitations. Special provisions apply, however, to local school districts with qualified school bonds that participate in the School Bond Loan Program established in Article IX, Section 16 of the Constitution and implemented by the School Bond Qualification, Approval, and Loan Act. For these districts, the Constitution establishes a maximum millage and statute establishes the minimum millage that must be levied to repay qualified school bonds and loans. Under the State Constitution, local school districts with qualified bonds that are participating in the School Bond Loan Program are limited to levying a maximum millage raised by 13 mills for debt service on qualified bonds. For qualified

bonds that are part of the School Bond Loan Program, the State will make loans to cover the cost of debt service in excess of the revenue raised by 13 mills, or a lower level (currently the higher of seven mills or the computed millage needed to repay the qualified bonds and related loans by the final mandatory repayment date) set by the School Bond Qualification, Approval, and Loan Act.

Property tax levies totaled approximately \$13.0 billion statewide in 2014 based on data in the "2014 Ad Valorem Property Tax Report" published by the Department of Treasury. This represented a statewide average millage rate of 40.79 mills; however, millage rates vary greatly among local communities and, in some cases, by type of property. The level of millage reflects the demand for public services in an area (the revenue required) and the size of the local tax base. A local government with a comparatively high taxable value will be able to raise a given amount of revenue by levying a lower millage rate than a local government with a lower taxable value. Countywide average millage rates in 2014 ranged from a high of 55.27 mills in Ingham County to a low of 26.42 mills in Leelanau County, with greater differences among individual tax units.

The 15-, 18-, and 50-Mill Limits

The Michigan Constitution of 1963 has several provisions regarding general ad valorem property taxes, which are taxes levied based on valuation of property that is not specifically exempted from property taxation. Article IX, Section 6 limits the rate of general ad valorem taxes to 15 mills. The 15-mill limit is fairly narrow in its application; many types of millage are excluded from this limit, as are many types of local units. The 15-mill limit applies to the so-called "allocated mills", which can be levied without a vote of the people by certain townships within a county, by general law counties, and by intermediate school districts (ISDs) for operations. Part of the 15-mill limit also applies statewide for the six-mill State Education Tax. Where it has been approved by local voters, ISD regional enhancement millage also must fall under the 15-mill limit. Historically, allocated millage was allocated annually by a county allocation board among the county, schools (for local school district and intermediate school district operating millage), and general law townships based on the requested budgets for those entities. Allocated mills are frequently contrasted with "extra voted millage", which is millage levied with voter approval. The seemingly simple 15-mill limit varies and is adjusted by county and can be increased or decreased by actions of voters or automatically due to requirements of State law, such as the adjustments made due to the implementation of Proposal A school finance reforms, as discussed below.

The Constitution provides for an increase to the 15-mill cap with voter approval. The 15-mill limit can be increased by the voters to not more than 18 mills, with fixed allocations for covered governments within the county (as opposed to annual allocations by a county allocation board). The Constitution also provides that if additional millage for a jurisdiction is approved by the voters, the 15- and 18-mill limits may be exceeded up to a limit of 50 mills. Individual local governments may ask local voters to approve millage subject to the 50-mill limit for up to 20 years. Although voters may approve millage in excess of 50 mills, the millage in excess of 50 mills cannot be levied. The county commission is responsible for seeing that the tax limit is not exceeded. If total voter-approved millage subject to the 50-mill limit exceeds 50 mills, then the most recently approved millage must be reduced to a level that complies with the 50-mill limit.

The 15-, 18-, and 50-mill limits all exclude taxes for debt service payments on bonds or other debts approved by the voters. These limits also exclude "...taxes imposed for any other purpose by a city, village, charter county, charter township, charter authority or other authority, the tax limitations of which are provided by charter or by general law" (Michigan Constitution, Article IX, Section 6).



These exclusions are shown in Table 1. An authority without a mill limit in charter or general law, including the Regional Transit Authority (the subject of Senate Bill 739), remains subject to the 50-mill limit. The types of jurisdictions and taxes that remain subject to the 50-mill limit are shown in Table 2.

Table 1

Millage Excluded from the 15-, 18-, and 50-Mill Limits
<ul style="list-style-type: none"> • City and village millage • Mills levied pursuant to a charter (including a township charter and county charter) • Intermediate School District millage for special education and career and technical education • Community college millage • Authority millage • Judgment levies • Special assessments • Debt service millage approved by the voters
<p>Note: The listed taxing units are excluded from the 50-mill limit only if they have a millage limit in their charters or in general law.</p>

Table 2

Millage Included under the 50-Mill Limit
<ul style="list-style-type: none"> • General law township millage¹⁾ • ISD operating mills • ISD regional enhancement mills • Local school district operating millage • County (non-charter) millage • Local school district sinking fund millage • State Education Tax
<p>¹⁾ Also included under the 50-mill limit is charter township millage for townships incorporated by resolution and without a vote of the people after adoption of the Headlee Amendment in 1978.</p>
<p>Note: A taxing unit that does not have a millage limit in charter or general law remains subject to the 50-mill unit.</p>

Net Limitation Tax Rate - The Adjusted 15- and 18-Mill Limits

The Property Tax Limitation Act provides for the calculation of a "net limitation tax rate". The net limitation tax rate is the 15-mill limit (or 18-mill limit, as applicable for each county) adjusted according to statute. Some of these changes are related to the school finance reforms implemented by Proposal A while others are due to the switch of a local unit to a chartered form of government.

The net limitation tax rate is reduced by six mills due to the levy of the State Education Tax, a six-mill statewide property tax that raises revenue for the School Aid Fund. The method of the reduction depends on the situation in the county before the adoption of Proposal A:

- If there was a separate 18-mill tax limitation approved by the voters before 1994, then the number of mills allocated to the school district within the 18-mill limit is reduced by the State six-mill levy.

- If a county voted a separate tax limitation after 1993, no mills within that limit can be allocated to a local school district and instead of an 18-mill limit, the limit that can go to the voters is reduced by the greater of the number of mills levied by the State (six mills) or the number of mills allocated to a local school districts for operating purposes in 1993.

Other adjustments are made for counties that adopted a charter (Wayne and Macomb). Pursuant to Section 4(3) of the Property Tax Limitation Act, for counties that adopt a charter, the net limitation tax rate is reduced by the number of mills allocated to the county in the year immediately before the year in which the county adopted the charter.

Headlee Amendment

Article IX, Sections 25 to 34 of the Michigan Constitution are often referred to as the "Headlee amendment". These provisions, adopted by the voters in 1978, constrain growth in property taxes. The Headlee amendment does the following:

1. Requires that, if the base of a tax is broadened, the tax rate be reduced to levy the same amount of tax revenue as was received on the prior base.
2. Prohibits a local government from levying any new tax (one not authorized by law or charter in 1978) or increasing the rate of a current tax without voter approval.
3. Limits the annual growth in property tax revenue due to increases in taxable value (excluding new construction and improvements) to the rate of inflation in the prior year. Under the "Headlee rollback", if the increase in taxable value would cause the tax revenue to grow by more than the rate of inflation, then the millage rate must be reduced to a level that results in revenue growth of not more than the rate of inflation.

These limits do not apply to millage levied for the repayment of voter-approved bonds.

Millage Authorized by State Law Before the Headlee Amendment

On October 21, 2015, the Attorney General issued Opinion Number 7287 to address the question of whether millages authorized by State law that predate the Headlee amendment and thus do not require a vote of the people, also must fit under the applicable 15- or 18-mill limit. The Attorney General opined that these millages (levied pursuant to the limits of the Veterans' Relief Fund Act, the Advertisement of Agricultural Advantages Act, or the Public Highways and Private Roads Act) can be levied by a county without a vote of the people only to the extent that the millage fits within the county's allocated mills under the 15-mill limit or the county's fixed millage allocation under the 18-mill limit. If the millage would exceed the applicable limit, then the county can levy the millage only with voter approval under the 50-mill limit for up to 20 years.

Limits from Proposal A School Finance Reforms

Since Proposal A was approved, the Michigan Constitution provides that an increase in the statutory limits for school operating mills above those in effect on February 1, 1994, must be approved by three-fourths of the members elected to and serving in the Senate and the House of Representatives. This requirement for a supermajority vote to increase limits on school operating millage sets a high bar for such an increase. The property tax limits in effect for school operating millage since Proposal A are the limit of 18 mills of school operating tax levied on nonhomestead property and the exemption of homestead property and qualified agricultural property from school

operating millage (except for hold harmless millage pursuant to Section 1211 of the Revised School Code). The language is found in Article IX, Section 3.

Proposal A also limited the annual growth in the taxable value of a parcel to the lesser of 5.0% or the rate of inflation in the prior year, until the property is transferred as defined by statute. This provision tends to restrain the growth in property tax revenue.

Statutory Limits on Millage Rates

There are many statutes that set millage rate limits for specific types of local governments or for special purpose millage. For example, charter cities and villages are limited by statute to operating millage of not more than 20 mills. A local school district can levy up to five mills with voter approval for a sinking fund to be used for purchasing sites for school buildings and construction or repair of school buildings.

Tax-Exempt Property

Other restrictions on the amount of property taxes raised include limits on the size and scope of the tax base. Constraints on the growth in taxable value due to Proposal A have been mentioned above. Exemptions from property taxation are extensive and include laws such as the Michigan Renaissance Zone Act and the statute that phases-in the exemption of eligible manufacturing personal property from the property tax. The "Executive Budget Appendix on Tax Credits, Deductions, and Exemptions for Fiscal Years 2015 and 2016" published by the Michigan Department of Treasury, Office of Revenue and Tax Analysis, details many exemptions from property taxation that together reduce property tax collections by an estimated \$7.6 billion statewide in fiscal year 2015-16. The largest of these exemptions is the principal residence exemption from most school operating mills, which results in foregone revenue of approximately \$3.2 billion.

Pending Legislation Related to Property Tax Rate Limits

Bills introduced in the Michigan Senate would alter the application of property tax rate limitations in two different areas: millage for the Regional Transit Authority (RTA) in southeastern Michigan and judgment levies used to pay a court judgment.

Senate Bill 739 (reported on February 23, 2016, from the Senate Committee on Transportation) would impose a specific millage rate limitation for the RTA. Currently, the RTA is authorized to levy an assessment with voter approval, but the law does not contain a specific millage limitation. Any millage levied by the RTA under current law would be levied within the 50-mill limit. The bill would set a fixed millage limit of 2.0 mills for the RTA. As a result, the millage for the RTA would no longer be subject to the 50-mill limit. This illustrates the trade-off between the constitutional millage limits that apply to a subset of millages as shown in [Table 2](#) and separate millage limitations, which are outside the constitutional limits but provide a specific limit on millage rates levied by covered local governments.

Senate Bill 630 and Senate Bill 631 (introduced December 2, 2015, and referred to the Senate Committee on Local Government) would change the way that property tax revenue can be used to pay a judgment levy (an assessment resulting from a court order against a county, township, city, or village). Currently, a judgment levy may be assessed by a local unit of government in addition to other approved property taxes and tax limitations. Under the bills, a judgment levy would be the



first use of property tax revenue levied under the General Property Tax Act. In other words, local units of governments would have to pay a judgement levy from within current revenue unless voters approved a millage to pay a court judgment. The bills also contain provisions that would grant a judge discretion to reduce an award or set a fixed amount of the award to be paid in a given tax year. In addition, the bills would prohibit the issuance of bonds to repay a judgment, if the bonds would increase the total taxes levied by the municipality, unless approved by local voters.

Conclusion

Under Michigan law, there are property tax rate limitations by type of millage and type of local government. There also are constitutional and statutory provisions that limit the growth in property taxes. However, there is no single statewide property tax limit. Each county has a net limitation tax rate that is computed according the Property Tax Limitation Act. The net limitation tax rate is the adjusted 15- or 18-mill limit in effect for that county. The property tax limitations are calculated at the local level. Many types of local governments levy millage to which the net limitation tax rate does not apply. Bills that would revise parts of this complicated system have been introduced this session and may be considered further by the Legislature.