

Property Tax Trends 2020–2021

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The year 2020 saw many property tax developments. Numerous ballot measures expanded or modified existing relief programs. Efforts to reduce the burden of personal property taxes, continued. Long-term efforts to undo the effects of two of the most “famous” tax and expenditure limits—California’s Proposition 13 and Colorado’s Gallagher Amendment—were put on the 2020 ballot long before the Covid-19 virus hit the United States. Even in Delaware, where each of the three counties had not reassessed since before 1990, the Chancery Court held that the state’s property tax systems were unconstitutional.¹ While the court did not prescribe a solution, it is likely that new assessments are in order.²

2020 was itself an extraordinary year. The pandemic brought widespread disruption to many areas of the economy, from commuting patterns to commercial operations and real estate markets. These changes have brought about some administrative adjustments, such as the term of residency for homestead exemptions as families “camp out” in their weekend cottage, or minimum income, investment, and employment commitments to qualify for economic development tax incentives.³

Changes in the economy also upended property tax trends in 2020, making for a glass half-full/half-empty situation. Half full? A booming housing market, in part because foreclosure moratoriums and families looking for more space without the worry of a lengthy commute have led to residential property values skyrocketing in many places.⁴ Half empty? Overall, the value of commercial real estate has plummeted.

This report addresses the headline ballot measures that sought to undo tax limits, specifically the two measures in California dealing with Proposition 13 and the Colorado measure to repeal one of that state’s limits, known as the Gallagher Amendment. More standard ballot measures are

¹ *In Re Delaware Public Schools Litigation*, C.A. No. 2018-0029-JTL County Track, Decided May 8, 2020. <https://courts.delaware.gov/opinions/download.aspx?id=305260>.

² The last assessments were conducted in 1974 in Sussex, 1983 in New Castle, and 1987 in Kent.

³ Nebraska Department of Revenue, GIL 29-20-1 Tax Incentives: Effect of the Covid-19 National Emergency on Recapture Under the Nebraska Advantage Act. https://revenue.nebraska.gov/sites/revenue.nebraska.gov/files/doc/legal/gil/GIL-29-20-1_Force_Majeure.pdf.

⁴ For example, see Lyons, David. 2021. “Home Prices are Surging in South Florida-and There’s no End in Sight.” *South Florida Sun Sentinel*, February 23; Collins, Jeff. 2021. “Southern California’s Home Prices Rise 15% to an All-Time High.” *Orange County Register*, March 23. Some of the hardest hit markets are finding buyers. See Hughes, C.J. 2021. “It’s a Buyer’s Bonanza in Manhattan.” *New York Times*, April 4.

then discussed. In response to the impact of Covid-19 on public transportation and the potential federal infrastructure bill, we have expanded discussion of ballot measures beyond those directly related to property taxes and included some of the local measures that deal with transportation funding.

Next, we consider how the economy has affected property tax assessments. Specifically, we look at the shifting pattern of the tax base in several cities where recent conditions have had differential effects on residential and commercial property values. Because the recovery of major business districts will likely rely on the return of workers and a strong commercial sector, we have begun to explore the connection between local public transit systems and local government, including their dependence on one another for a successful local economy.

Finally, we review several recent state actions to reduce the business personal property tax.

Limits on limits: California and Colorado

Continuing to Change California's Proposition 13

Some tax limits are either not aging well or are experiencing growing pains. No limit is more illustrative of this than **California's** Proposition 13, passed in 1978. Since then, 25 ballot measures directly related to property tax assessments have sought to revise, limit, or expand Proposition 13's basic framework, succeeding 18 times.⁵ The major thrust of Proposition 13 was to move from taxing all properties at market value to assessing properties on the purchase price and using this as the base for increasing value each year by the rate of inflation, not to exceed 2 percent.⁶ This base value would be reset when the property was sold or transferred. In 2020, voters faced two dramatically different ballot measures to amend the original framework: Proposition 15, which failed, and Proposition 19, which passed.⁷

Proposition 15, entitled "The California Schools and Communities Funding Act of 2020," sought to increase funding sources for local governments by changing tax assessment of commercial and industrial property. The proposed change would have introduced a "split roll" because commercial and industrial properties would be taxed on current market value while residential properties would continue to be taxed under the limits imposed by Proposition 13.

Part of the rationale for the change was that over time, the commercial and industrial share of the tax base shrank since such property changed ownership infrequently. For example, in 1975 in Los Angeles County commercial and industrial properties accounted for just under half of the tax roll with single-family property values totaling 40 percent of the tax roll. By 2020, the commercial/industrial sector's share accounted for a little more than one-quarter of the tax roll

⁵ Ballot measures seeking to amend elements of Proposition 13 not related to property tax assessments, such as supermajority vote requirements, are not included in this count. The details as to what activities trigger either a reassessment or an increase in taxable value are set out in the table in the appendix.

⁶ In addition, Proposition 13 imposed a levy limit of 1 percent.

⁷ For a detailed comparison of Proposition 19 with the propositions that previously applied to transfers, see the chart prepared by the Board of Equalization on its website: <https://www.boe.ca.gov/prop19/#Charts>.

while homes accounted for nearly 60 percent of the value.⁸ As one would imagine, there was strong support both for adopting and rejecting the measure.

The Legislative Analyst's Office estimated that going forward, adoption of the split roll would increase revenues by an estimated \$12.5 billion, with the increased revenues split 60 percent for cities, counties, and special districts and 40 percent for school districts.⁹ Although there was a carve-out for small businesses in addition to exempting their personal property, there was uneasiness among small business tenants who were concerned that rents would increase. Especially concerned were those bound by leases requiring that the tenants be responsible for their share of the property taxes. The measure was narrowly defeated with only 52 percent of voters opposed to the split roll.

Proposition 19, entitled "The Home Protection for Seniors, Severely Disabled, Families and Victims of Wildfires or Natural Disasters Act," was narrowly approved, with 51 percent voting in favor of the measure. This measure is yet another adaptation to the original Proposition 13 framework and makes it easier for homeowners to transfer their "base year value" from their old home to a new home. Under the original Proposition 13, all properties were to be reassessed upon sale. Subsequent amendments allowed those over 55 or severely disabled or whose property had been damaged by a natural disaster to keep the tax savings when they moved.¹⁰ There were certain conditions; specifically, the new home had to be in the same county and of equal or lesser market value, or in another California county if allowed by that county.¹¹ The benefit allowed homeowners to transfer the "protected value" only once, with an exception for damaged property in which case two such transfers were allowed.¹²

With the adoption of Proposition 19, these limitations were modified, effective April 1, 2021. Currently seniors, the disabled, and those whose property was damaged can move anywhere in the state, and the elderly and disabled can transfer the tax saving up to three times in their lifetime.¹³ Another change that will make moving easier is that the new home could be more expensive. The homeowner can still transfer the base value, but it will be increased by the difference in market value between the two homes. The revenue impact for local governments is hard to determine. The receiving community no longer has the option to prohibit the transfer of the base and therefore cannot reset the values to market value. On the other hand, if this new measure increases household mobility, some jurisdictions may benefit from higher property tax

⁸ Los Angeles County Assessor. "2020 Annual Report." (See page 24). <https://irp-cdn.multiscreensite.com/98a7f42f/files/uploaded/LA%20County%20Annual-Report-2020.pdf>.

⁹ Before the revenues were split 60–40, the state would receive revenues to offset the lost corporate and personal income taxes due to higher property taxes and counties would receive funds to address the increased administrative costs because of the split roll.

¹⁰ See Appendix for a summary of the amendments, specifically Propositions 50 (1986), 60 (1986), 90 (1988), 110 (1990), 171 (1993).

¹¹ Specifically, the receiving county needed to authorize such a transfer by ordinance, and the number of allowed counties was limited to 10 for those 55 and over and 13 for those affected by a disaster. Separate regulations applied for disaster relief. https://www.boe.ca.gov/proptaxes/prop60-90_55over.htm#Description

¹² A special condition exception applies to homeowners receiving the age 55 base year value transfer benefit who subsequently become physically and permanently disabled and must move because of the disability. In that case, the homeowner is allowed a second transfer of base year value. <https://www.boe.ca.gov/legdiv/pdf/0011aca062020grs.pdf>.

¹³ For properties damaged by disaster, only two transfers are permitted, as provided in previous amendments.

revenues. If new homeowners who are not covered by Proposition 19 move into the community, their property assessments will be reset to acquisition price.

While Proposition 19 expanded specific conditions for certain homeowners to maintain base savings, as made clear in the title, it also narrowed the regulations concerning intergenerational transfer of property.¹⁴ That aspect of Proposition 19, effective February 16, 2021, continues to allow for the transfer of the family home or family farm without incurring a reassessment but under two conditions. First, the home must be the primary residence of the child and be eligible for the homestead exemption. This provision was added to close “unfair tax loopholes used by East Coast investors, celebrities, wealthy non-California residents, and trust fund heirs to avoid paying a fair share of property taxes on vacation homes, income properties, and beachfront rentals they own in California.”¹⁵ The principal residence requirement does not apply to intergenerational transfers of farm property. The second condition relates to the value of the property. If the base value plus \$1 million is less than market value, then the original assessed value would be retained and there would be no reassessment.¹⁶ If the market value is greater than the assessed value plus \$1 million, the amount in excess is added to the transferred base value.

Impact of Pandemic Only Compounds the Limit Imposed by the Gallagher Amendment

The shifting of the tax burden due to differential patterns of property value growth may have been exaggerated by tax limits and could have contributed to the repeal of Colorado’s Gallagher Amendment. The mechanics of this restriction have over the years shifted the property tax burden from the residential sector to non-residential properties. The economic impact of the pandemic exacerbated this shift as commercial real estate values plummet while home values are appreciating, or at least holding steady. Hoping to stem shifting of the burden and address the potential of further property tax revenue loss, voters repealed the Gallagher Amendment, voting 58 percent in favor of Amendment B on November 3, 2020.

The Gallagher Amendment,¹⁷ a constitutional amendment passed in 1982, required that residential¹⁸ properties make up 45 percent of the statewide property tax base and that non-residential (i.e., commercial and industrial) properties make up the other 55 percent. The amendment set the assessment rate for non-residential properties at 29 percent, with the rate for residential properties adjusted biennially to assure the targeted split. By repealing the amendment, the residential values are set at 7.15 percent and will no longer be adjusted to maintain the split and the non-residential rate will remain at 29 percent.

When the Gallagher Amendment was initially adopted, residential market values accounted for just over 50 percent of statewide values, but as the growth in housing values outpaced commercial and industrial properties, by 2019 residential values accounted for 80 percent of the

¹⁴ Transfer of homes between parent-child and grandparent-grandchild were excluded under Propositions 58 (1986) and 193 (1996).

¹⁵ California Board of Equalization, Legal Department. 2021. “Proposition 19 – Initial Interpretational Questions and Answers.” Memorandum. January 8. <https://www.boe.ca.gov/meetings/pdf/2021/011421-M1a1-Legal-Analysis.pdf>.

¹⁶ The \$1 million limit is to be adjusted every two years by the same rate used for adjusting the base values.

¹⁷ Colorado Constitution Article X §3(1)(b).

¹⁸ Residential properties include those parcels of land that have residential improvements, such as a house, garage or shed and includes condominiums, single family residences, townhouses, and apartments.

tax base. As a result of this divergent growth, the residential assessment rate dropped steadily. Initially it was set at 21 percent and declined over the years, so for tax years 2019 and 2020 the rate was 7.15 percent and would have dropped dramatically for tax years 2021 and 2022 to 5.62 percent.¹⁹ If the assessment rate were to drop as projected, school districts, which receive the bulk of property tax revenues, would be adversely affected, experiencing about a \$500 million revenue loss. In those communities, particularly in rural areas, where home values did not appreciate as rapidly as the statewide average, the impact of the lower assessment rate would result in a revenue loss. In areas where housing prices continued to appreciate, the lower assessment rate would be a boon to homeowners, while local governments and schools would be hampered as the community did not benefit from the increased housing values.²⁰

For the 2021 property tax year (taxes paid in 2022 and 2023), values reflect the impact of the early pandemic and other market conditions. Specifically, residential and commercial properties will be based on June 30, 2020 values, and oil and gas properties on production and 2020 prices. Home prices continued to appreciate during the pandemic while commercial values declined with business closures and the trend toward remote working resulting in high office vacancies and a decline in brick-and-mortar retail shopping. Oil and gas production and prices declined throughout 2020 due to reduced demand, causing an oil glut. Under Gallagher, the assessment rate for residential properties was projected to drop 20 percent. It is this precipitous decline that spurred support for the repeal of Gallagher. And yet, repeal of the amendment may not be enough for the citizens of Colorado. As many as four initiatives proposing further reductions in assessment rates for both residential and non-residential properties are under various stages of review by the secretary of state and the legislature. Since the proponents of all four are the same, it is likely that only one would be circulated for signatures with the goal of including it on the ballot in 2022.²¹

Under the Gallagher Amendment, if assessed value in a jurisdiction declined because the growth in residential assessments was below the statewide average, the Taxpayers Bill of Rights²² (TABOR) required the local government to seek voter approval for a rate increase just to maintain the same level of revenues. While Gallagher has been repealed, both TABOR and its 5.5 percent statutory revenue limit²³ remain. Therefore, if a local government seeks to increase tax rates, the revenues resulting from the rate increase cannot exceed the 5.5 percent limit.²⁴

¹⁹ Colorado Legislative Council Staff. 2020. "Assessed Value Projections." *Economic & Revenue Forecast*. December 18, 49–53. <https://leg.colorado.gov/sites/default/files/decemberforecast.pdf>.

²⁰ "Covid-19 Impact of RAR [residential assessment rate] and Local Government Revenues." Memorandum to Colorado General Assembly's Joint Budget Committee, May 11, 2020. https://leg.colorado.gov/sites/default/files/property_tax_05-12-20.pdf.

²¹ Colorado General Assembly, Department of Local Affairs. "Property Tax Assessment Rate Reduction and Voter-Approved Revenue Change." Colorado Ballot Proposal 2021-2022 #28. <http://leg.colorado.gov/content/property-tax-assessment-rate-reduction-and-voter-approved-revenue-change-1>.

²² For a review of TABOR and its application to both state and local revenues, see Building a Better Colorado. 2019. "TABOR Whitepaper." January. <https://buildingabettercolorado.org/wp-content/uploads/2019/04/TABOR-Whitepaper-V2.pdf>.

²³ Colo. Rev. Stat §29-1-301. The limitation on revenue growth, enacted in 1921, applies to all non-home rule counties, cities, and towns, and exempt revenue raised for capital expenditures.

²⁴ *Ibid*, p. 20.

Other Ballot Measures

Property tax issues are common features on voters' ballots. This section will summarize property tax issues that have appeared on state ballots since 2019.

Ballot measures designed to increase benefits for members of the armed forces or law enforcement and first responders have been common and popular with voters.²⁵ Indeed, since 2010 no ballot measure expanding benefits for these groups has been rejected by voters. In **New Jersey**, voters approved two such measures—first in 2019 and then in 2020. The first measure, Public Question 1 (2019), extends the eligibility requirements for the \$250 property tax deduction for veterans. As a result, eligible veterans living in continuing care retirement communities would be entitled to receive the benefit, the value of which would be passed on by the retirement community. Eligible veterans living in already tax-exempt communities would not receive the benefit, however. A year later, New Jersey voters returned to the polls to approve Public Question 2, which extends eligibility for the \$250 property tax deduction to peacetime veterans.

In 2020, three additional states passed legislation increasing or expanding benefits for veterans. **Florida** voters passed Amendment 6, which extends the homestead property tax deduction to the surviving spouse of a deceased veteran. A ballot measure approved in **Louisiana**, also titled Amendment 6, raises the income eligibility threshold for special assessment of residential property from \$50,000 to \$100,000. The change will take place in 2026 and will be annually adjusted for inflation. The program is available to certain armed forces members as well as persons 65 year or older and totally disabled persons. A final measure, Amendment 2 in **Virginia**, completely exempts from property taxes an automobile or truck owned by a veteran with a 100 percent service-related, permanent, and total disability.

While not connected to veterans, another measure related to residential property has been approved by voters. In **Florida**, voters approved a measure affecting the Save Our Homes tax limit. Save Our Homes, which itself originated as a ballot measure in 1992, limits the annual increase in assessed value of homestead property to the change in Consumer Price Index (CPI), not to exceed 3 percent. Homeowners may transfer this assessed value to a new homestead, provided they do so within a certain period. Passage of Amendment 5 extends this period from two years to three years.

In 2019, **Texas** voters approved two ballot measures. Proposition 9 allows the legislature to exempt precious metal held in a depository from the property tax. The measure was prompted by ambiguity in the implementation of the prior law, which allowed precious metals to be exempt at local option if they were determined to not be income producing.²⁶ A second measure, Proposition 3, gave the legislature the authority to provide a property tax exemption for property located in a disaster area as declared by the governor. The enabling legislation defined eligible

²⁵ Collins, Catherine et al. 2019. "Vox Populi: Voters Weigh in on School Finance and Property Taxes." *State Tax Notes*. https://www.lincolnst.edu/sites/default/files/sources/events/collins-kenyon_-_vox_populi_voters_weigh_in_on_school_finance_and_property_taxes.pdf.

²⁶ Analyses of Proposed Constitutional Amendments. Texas Legislative Council. August, 2019. <https://tlc.texas.gov/docs/amendments/analyses19.pdf>.

property as improvements to real property, manufactured homes, and tangible personal property used for income production.²⁷ Furthermore, the exemption was set at 15, 30, 60, or 100 percent of the assessed value of the property, depending on the damage to the property as determined by the appraiser. Significantly, the exemption would need to be adopted by the local government if the governor's declaration comes after the local government has set its tax rate, which usually occurs between August and September.²⁸ While the ballot measure was intended to provide relief for Texans affected by disasters, including recent hurricanes, this provision might prove contentious, especially in the case of late-season hurricanes.

While ballot measures relating to residential relief were all approved, those relating to incentives for businesses proved to be more complicated. In **Louisiana**, two measures were rejected by voters. The first, Amendment 1 in 2019, would have exempted raw materials, goods, commodities, and personal property stored in Louisiana but destined for the Outer Continental Shelf. A 2020 ballot measure, Amendment 5, would have permitted local governments to enter into payment in lieu of taxes (PILOT) agreements with new or expanding businesses engaged in manufacturing. Louisiana voters did approve Amendment 2, which allowed assessors to account for both the presence and production of oil or gas in the methodology used to determine the fair market value of oil or gas wells. Previously, oil and gas production was subject to a severance tax but the value of the resources themselves were not included in the assessment. **Nebraska** voters were more favorable to economic development incentives, electing to pass Amendment 2 and thereby extending the maximum period of indebtedness of tax increment financing (TIF) districts from 15 years to 20 years. However, the change will only affect TIF districts in which more than half of the properties have been designated as extremely blighted.

Finally, in **Georgia**, single-family homes owned by tax-exempt charities will be exempt as of January 1, 2021 due to Referendum A.²⁹ **Washington** voters voiced their opinions on an advisory measure by advising the legislature to repeal SB 5998, which increased the real estate transfer tax. The question was on the ballot because of Initiative 960 of 2007, which requires that tax increases be subjected to a statewide advisory vote, unless the increases were voter approved.

While the aforementioned measures were considered by voters statewide, many ballot measures are concerned with local issues and are limited to voters within local governments such as counties, cities, and school districts. Many of these local ballot measures are related to transportation issues, particularly in terms of project financing. These measures are in turn dominated by the property tax and sales tax, with sales tax-related measures making up 10 out of a total of 18 transportation measures on local ballots in 2020. Property taxes and transportation amounted to a further five measures, two of which were approved by voters in **Austin, Texas**. The first of these measures, Proposition A, increased the property tax by .875 mills for one year in order to pay for capital and maintenance and operations costs associated with Project Connect, a planned transit system that will include light and heavy rail as well as expanded bus service.

²⁷ 2019 Tex. Gen. Laws. Ch. 1034 (HB 492).

²⁸ Texas Comptroller. Property Tax System Basics. <https://comptroller.texas.gov/taxes/property-tax/basics.php>.

²⁹ The ballot summary states, "This proposal authorizes a new exemption from ad valorem taxes for all real property owned by a purely public charity, if such charity is exempt from federal taxation and such property is used only for building or repairing single-family homes to be financed by such charity to individuals using zero interest loans." [https://ballotpedia.org/Georgia_Referendum_A_Property_Tax_Exemption_for_Certain_Charity_Measure_\(2020\)](https://ballotpedia.org/Georgia_Referendum_A_Property_Tax_Exemption_for_Certain_Charity_Measure_(2020))

The second measure, Proposition B, provided for \$460 million in property tax supported general obligation bonds intended to be used for transportation-related projects including sidewalks, urban trails, bikeways, and others.

In **Missoula, Montana**, voters approved a measure that increases the property tax levy by 20 mills in order to increase the frequency of buses on popular routes, expanding weekend service, and converting the bus fleet to energy efficient, electric models. Similarly, both **Bend, Oregon** and **Mesa, Arizona** voters approved levy increases of .18 mills and .47 mills, respectively, in order to fund transportation projects designed to improve streets, highways, bridges, and general traffic flow.

Tax Base Shifts

Shifts in the tax base could be considered to have both positive and adverse effects. From a glass half full perspective, residential property values have increased, in part because of foreclosure moratoriums and families looking for more space without the worry of a lengthy commute. On the other hand, the value of commercial real estate has plummeted.³⁰ Yet because of the variation in property tax calendars across the states, some cities will not see a sharp decline immediately.

Some of the immediate accommodations local governments made at the onset of the pandemic were to remove penalties and fees for late payments and to handle administrative matters, including payments and appeals, remotely. The City of **Philadelphia** went one step further—it skipped reassessment altogether, leaving property values flat for not only tax year 2021 but for 2022. This delay was triggered by the installation of a new appraisal system that was launched just before the City began to work remotely.³¹ This delay has raised some concerns that the new assessments may increase taxes on homes and shift the tax burden. Increases in residential property assessments are likely caused by the tight housing market, which has led to higher prices, and by gentrification. As in other cities, commercial activity in Philadelphia has slowed.

In Cook County, Illinois, reassessments are made on a three-year cycle for the whole county—northern suburbs, southern suburbs, and Chicago.³² **Chicago** properties will not be reassessed until 2021, and property owners will see that value reflected in their 2022 tax bill. However, the Cook County Assessor’s Office did make some adjustments to mitigate the effects of the pandemic recession. The adjustments for residential properties were based on data from real estate investment trusts, unemployment within the particular area, and historic housing price index trends. The estimated reduction for single-family homes and condominiums was on average 9.9 percent, and 12.3 percent for apartment (2–6 unit) buildings.³³ However, the picture

³⁰ Rappeport, Alan. 2021. “Empty Office Buildings Squeeze City Budgets as Property Values Fall.” *New York Times*, March 3.

³¹ Rose, Kennedy. 2020. “Philadelphia Will Skip Citywide Property Tax Assessments for 2022.” *Philadelphia Business Journal*, September 9.

³² Cook County Assessor. “Your Assessment Notice and Tax Bill.” <https://www.cookcountyassessor.com/your-assessment-notice-and-tax-bill>.

³³ Cook County Assessor’s Office. 2021. “Cook County Assessor’s COVID-19 Adjustments to 2020 Property Assessments in the North Suburbs and City of Chicago.” (See page 5).

is decidedly different for commercial properties. Analysis of the 2018 assessment of commercial values determined that many properties were already under assessed and that no adjustment was needed because of the pandemic.³⁴ Chicago’s 2020 budget was adversely affected by the pandemic. To address not only the revenue shortfall but also increases in health-related costs, the 2021 budget did include a property tax increase.³⁵ In addition, the new budget also includes annual automatic increases in the levy based on CPI starting in 2021.

The tentative assessment rolls for New York City and Washington, DC have been prepared and already take into account the impact of the pandemic. California counties, where 2021 assessments have already been prepared, are likely to see a decline in taxable values as property owners seek “temporary Proposition 8 reductions” for 2021–2022 if market values fall below Proposition 13 levels.³⁶

In **New York City**, for the 2021–2022 tentative roll, housing values remained stable with less than a 1 percent increase in market value, yet the commercial sector declined overall by 16 percent.³⁷ Stores and luxury hotels were hit particularly hard—down 20 and 25 percent, respectively. The effects of the market fluctuations, however, are somewhat moderated because of New York City’s byzantine property tax system. Under the state law S7000A, the City’s property base is divided into four classes, each subject to a different assessment rate and tax rate³⁸ In addition, there is a limit as to how much assessed values can increase in any one year. Increases in Class 1 residential property cannot rise more than 6 percent in one year or 20 percent over five years, no matter how much or how quickly the market value of a home increases.³⁹ Because of these constraints, citywide Class 1 properties account for only 3.5 percent of the tax base. And yet, because of the phasing in of the increases over six years, the growth in Class 1 taxable value is five times the growth of its market value. As a result of the caps, a homeowner may find that assessed value continues to increase even as market value declines. These incongruities are perhaps not the most egregious fallout of the City’s system.

The low assessment of residential properties shifts the burden to the other classes, particularly Class 4. While Class 1 residential property accounts for over half the City’s market value, its share of the taxable base is less than 10 percent, only 8.9 percent, of the 2021–2022 tentative roll. The market value of commercial and industrial properties, Class 4, on the other hand, makes up only 21 percent of citywide market value. These properties, however, account for 44 percent the citywide assessment.

https://prodassets.cookcountyassessor.com/s3fs-public/form_documents/COVIDNorthCityTris.pdf?a5GWzQItRiC7CSjYU6lOorVX1SkYIBCE.

³⁴ Ibid, p.8

³⁵ Chicago Office of the Mayor. 2020., “Mayor Lightfoot’s 2021 Budget Receives Approval by Chicago City Council.” Press release, November 24.

³⁶ Under Proposition 8, adopted in 1978, a property owner may seek a reduction in assessment if the market value as of the January 1 lien date is lower than the Proposition 13 value.

³⁷ New York City Department of Finance. 2021. “2021/22 Tentative Assessment Roll.” January 15.

<https://www1.nyc.gov/assets/finance/downloads/pdf/21pdf/fy22-tentative-roll-statistical-summary.pdf>

³⁸ Class 1: residential, 1-3 family homes, and condominiums; Class 2: rentals, cooperatives, and certain condominiums; Class 3: utilities; and Class 4: commercial and industrial and those not in any other class.

³⁹ Growth of certain types of Class 2 properties is also phased in, albeit at 8 percent or 30 percent over five years. While a substantial component of New York City’s property tax environment, Class 2 also experiences a higher tax burden, but it will not be discussed here.

The problems with New York City’s property tax have long been documented.⁴⁰ More recently, the issues have focused beyond the shift of the burden between classes. In 2018, the mayor and council speaker formed an advisory commission to undertake a comprehensive examination of the City’s property tax. The preliminary report was released in January 2020 and has become yet another casualty of the pandemic as public hearings had to be postponed.

Washington, DC also makes a distinction between residential properties (Class 1) and commercial properties (Class 2). The distinction relates only to the application of tax rates and not to assessments. As a result, any shifting of the burden would be the result of market growth differentials and changes in the tax rates. The District’s assessments for tax year 2022 begin to show the economic impact of Covid-19. Residential property in the District held its value, increasing 1.7 percent, with single family home values increasing almost twice that rate—3.3 percent, just slightly below the growth in the prior year.⁴¹ However, the values for commercial property, Class 2, declined 7.7 percent compared to a 4 percent growth in the prior year. All neighborhoods experienced some decline in commercial values, but it was particularly steep in neighborhoods with significant retail and office presence.⁴² As a result, the residential share of the tax base increased. Because the rates on commercial properties are tiered—with rates for properties below \$5 million between \$5 and \$10 million, and no rate increases for properties over \$10 million—revenues from the commercial sector may decline by more than just the decline in property value.

In California, the 2 percent annual ceiling on assessment increases applies to all properties and increases in market value are not captured until the property is sold or transferred. Nonetheless, the property tax burden continues to shift to residential properties, particularly single-family homes.

Reduced Assessments Under Proposition 13

Proposition 13 does not necessarily prevent reductions in assessments. Under Proposition 8, which passed in the November election the same year as Proposition 13 and by a more favorable vote, property owners can get a “temporary reduction” in their assessment when market value falls below the Proposition 13 value.⁴³ In **California**, many residential property owners sought

⁴⁰ For the timeline of calls for reform, see Cholakovska, Jana. 2020. “All the Times Politicians Called for Fixing NYC’s Property Tax System.” *City and State New York*, February 5; and New York City Independent Budget Office. 2006. “Twenty-Five Years After S7000A: How Property Tax Burdens Have Shifted in New York City.” December 5. <https://ibo.nyc.ny.us/iboreports/propertytax120506.pdf>.

⁴¹ Office of Tax and Revenue. 2021. “District of Columbia Tax Assessments Indicate Real Estate Market Decline.” March 8. <https://otr.cfo.dc.gov/release/district-columbia-tax-assessments-indicate-real-estate-market-decline>.

⁴² Areas along Connecticut Avenue (identified as neighborhood 010-Central) and in the Capitol Hill area (neighborhood 009 Capital Hill) were among the neighborhoods that experienced the steepest decline in commercial value. https://otr.cfo.dc.gov/sites/default/files/dc/sites/otr/release_content/attachments/TY_2022_Commercial_Base_Statistics_Data.pdf.

⁴³ It is called temporary relief because under Proposition 8, market value becomes the assessed value when it is lower than the Proposition 13 base value. The base value is not reset at this lower level; rather, market value will continue to be the assessed value as long it remains below the base value. The increase in market value is not

temporary relief during the Great Recession when house prices declined substantially. Because of the housing market collapse between 2009 and 2016, numerous California counties had reduced assessments because of “decline in value” provisions. In Los Angeles County, in 2009 over 333,870 properties were valued under Proposition 8 and assessments were reduced by over \$44 billion, representing about 4 percent of the total tax roll. This decline in value reflects, in part, a 30 percent decline in the median value of single-family homes.⁴⁴ Other counties experienced similar declines during the housing crisis and many are now bracing for similar requests from commercial property owners. Assessors are proactively surveying commercial property owners to determine the extent to which the pandemic has eroded values for commercial properties—specifically apartment, hotel, office, and retail properties. In Santa Clara County, the Office of the Assessor is accepting applications for temporary relief from commercial property owners and has published on its website a list of required documents that applicants would need in order to support their claim for a reduced assessment.⁴⁵

While California has a process for adjusting assessments due to the impact of Covid-19, other states do not have such clear procedures. The **Texas** attorney general issued an opinion stating that property damaged by Covid-19 is not eligible for relief under the exemption for damaged property caused by a disaster declared by the governor.⁴⁶ The provisions that allow for an adjustment in assessment following a disaster speak to the physical damage that has occurred to the property and do not account for economic losses.

Hopes for a Quick Recovery Depend in Part on Public Transportation

While the pandemic ravaged certain property values, especially in large cities, it also had a widespread effect on public transportation. Facing a double-edged sword—the drop in revenues, both from rider fares and in some cases, in property tax and property-related taxes, and the need for a sound system to help with economic recovery—transit systems appeared to be on the verge of “running off the rails.” With revenues down and transit systems operating in the red, repairs and other major capital investments would have been unobtainable had it not been for the influx of federal support both under the 2020 CARES Act and the 2021 American Rescue Plan.

There is perhaps no public service that straddles sustainability, economic recovery, and social equity more than public transportation. Economic recovery, especially for central business districts, relies on people returning to the city. According to a survey by the Partnership for New York City, recovery will be slow. Their survey estimates that only 45 percent of office employees will return to Manhattan by September 2021. But the good news is that 81 percent of

constrained by the inflation factor and once market value is above the base value, the assessment reverts to the base value.

⁴⁴ Los Angeles County Office of the Assessor. “2009 Annual Report.” (See page 22).

https://res.cloudinary.com/los-angeles-county-assessor/image/upload/v1622823279/AnnualReport/Annual_Report_2019.pdf

⁴⁵ See the Santa Clara Office of the Assessor’s Proposition 8 information page:

<https://www.sccassessor.org/index.php/online-services/decline-in-value/prop-8-important-point#commercial-owners>.

⁴⁶ Ken Paxton, Attorney General of Texas, Opinion No. KP-0299, Application of the temporary tax exemption for qualified property damaged by a disaster set forth in section 11.35(g) of the Tax Code.

those returning are expected to rely on public transportation.⁴⁷ On the other hand, the New York Transit Authority expects ridership to return slowly, with only about 80 percent returning by 2024.⁴⁸

Returning to public transit is critical, not only for the systems themselves, but for the health of the region. If transit systems and ridership are not restored, workers must commute in their own cars and traffic would become a bigger problem than it was before the pandemic. A research group from Vanderbilt University found that eight of the ten cities with the largest predicted increases in travel time are also in the top ten cities in terms of transit use.⁴⁹ Restoring systems and ridership are considered critical to economic recovery of both the hub and the system.

Many public transit authorities rely on farebox revenues to fund their operating expenses. For example, in Boston the farebox from all modes of “T” service—bus, subway, rail, and ferry—accounts for 86 percent of general operating revenues.⁵⁰ But as ridership declined so did revenues—about 20 percent in fiscal year 2020—after only about four months of the pandemic. New York City, which has a similar mix of transit modes, experienced a steep decline in farebox revenues. Ridership declined dramatically, especially services to suburban areas. Typical weekday ridership on Metro-North, which primarily serves Westchester County and Connecticut as far north as New Haven, and the Long Island Railroad, declined over 70 percent and overall the farebox revenue declined from 38 percent to 10 percent of total operating expenses. Perhaps the system that has experienced the steepest decline is the Washington, DC Metro system. Ridership has declined 88 percent. One reason for this decline, however, may be that many rides were not recorded when the buses were loading from the back door for health and safety reasons. Therefore, no fare was collected (nor riders counted). While some systems, such as the one in Boston, have local sales taxes to help fund them, others such as the MTA in NYC and the CTA in Chicago rely on property taxes and real estate transfer taxes, which have not been performing well during the pandemic. Regardless of local revenues supporting these systems, each one ran large deficits. However, both the CARES and the American Recovery Act provided resources to help plug the gap. Going forward, system operators are considering how to bring back services. The way in which services are restored could have a lasting effect not only on a city’s ability to provide a more equitable transit system but also on property values and the health of central business districts.

⁴⁷ Partnership for New York City. 2021. “Return to Office Survey Results Released-March 2021.” Press release, March 11. <https://pnyc.org/news/return-to-office-survey-results-released-march-2021/>.

⁴⁸ MTA 2021 Final Proposed Budget: November Financial Plan 2021-2024. Board presentation (See page 13). <https://new.mta.info/document/24121>.

⁴⁹ Hu, Yue, Will Barbour, Samitha Samaranyake, and Dan Work. “The Rebound: How Covid-19 could lead to Worse Traffic: A Rush to Single Occupancy Vehicles Could Result in Large Travel Time Increases in Transit Heavy Communities.” Work Research Group, Vanderbilt University. <https://lab-work.github.io/therebound/>. The seven cities with the highest risk for increased cost if transit ridership declines are San Francisco, New York, Los Angeles, Boston, Chicago, Seattle, and San Jose.

⁵⁰ Massachusetts Bay Transportation Authority. 2019. “FY20 Final Itemized Operating Budget.” April 8. <https://cdn.mbta.com/sites/default/files/fmcb-meeting-docs/2019/04-april/2018-04-08-fmcb-k-fy20-final-itemized-operating-budget-presentation-accessible.pdf>.

Business Personal Property Tax Continues to Trend Downward

The tax on business personal property tax has often been controversial.⁵¹ While most states have moved away from taxing personal property owned by households, business personal property taxes, including those levied on inventories, machinery and equipment, or both categories, are still collected in many states.⁵² The business community argues that such taxes are equivalent to an annual sales tax on inventories and machinery and equipment.⁵³ Moreover, business personal property taxes, and personal property taxes more generally, have tended to be difficult for governments to administer given the movable nature of personal property and so personal property is typically self-declared by businesses.⁵⁴ The result is an assessment and filing process that is often burdensome for businesses and government alike.

Efforts to reduce or eliminate business personal property taxes are therefore frequently considered by state legislatures. These efforts can take various forms. Some expand existing programs by increasing the total value of personal property exempted, or by exempting new types of personal property. Other approaches include reducing the assessment ratio applied to business personal property or offering credits against other taxes for business personal property taxes paid. Because local governments rely so heavily on property taxes, legislation reducing or eliminating business personal property taxes is often accompanied by measures intended to protect local governments. These can take the form of direct reimbursement by the state to local governments or the authority to increase other taxes to compensate. The following section will summarize recent legislative activity, describing the mechanism by which the business personal property tax burden would be reduced as well as how local governments would be compensated for lost revenues.

In 2018, the **Kentucky** legislature passed Ky. Acts Ch. 207 (HB 487), which allowed a nonrefundable and nontransferable credit against individual income tax, corporate income tax, and limited liability entity tax for businesses that have paid personal property taxes on inventory on time. The credit was phased in over four years in 25 percent increments, beginning on January 1, 2018 and becoming fully implemented on January 1, 2021. Because the credit would be applied against state taxes, local governments do not require reimbursement by the state; however, only businesses with tax liabilities for the aforementioned taxes are eligible to receive a benefit from the credit. Moreover, the filing process for businesses is onerous, with each applicant required to submit returns filed with each relevant county and the Kentucky Department of Revenue. While the credit phase-in period has only ended this year, advocates are

⁵¹ Youngman, Joan. 2016. *A Good Tax: Legal and Policy Issues for the Property Tax in the United States*. Cambridge, MA: Lincoln Institute of Land Policy.

⁵² Watson, Garrett. 2019. "States Should Continue to Reform Taxes on Tangible Personal Property." *Fiscal Fact No. 668*. Tax Foundation. <https://taxfoundation.org/tangible-personal-property-tax/>.

⁵³ Collins, Catherine. 2015. "The Shrinking Personal Property Tax: State Approaches to Exempting Business Personal Property from Local Property Taxes." *Tax Management Weekly State Tax Report*. Bloomberg BNA. (See pages 1–6).

⁵⁴ *Ibid*

already calling for a more straightforward elimination of the personal property tax on inventory.⁵⁵

More recent changes to the business personal property tax have been less broad. In **Idaho**, an existing exemption for agricultural machinery and equipment was modified to ensure that machinery and equipment used in the harvest of crops, livestock, and other agricultural products received an exemption.⁵⁶ As the bill was intended to clarify rather than expand the existing legislation, no provisions to backfill local governments were included. Also in 2019, **Indiana** increased the existing *de minimis* business personal property tax exemption on machinery and equipment from \$20,000 to \$40,000 per county while preventing counties from charging a filing fee on businesses that otherwise qualified for the exemption.⁵⁷ *De minimis* exemptions, which are intended to benefit smaller businesses by reducing tax liability and by occasionally eliminating filing procedures, have become increasingly popular amongst states, with Utah, Colorado, Idaho, and Indiana having created or expanded such programs.⁵⁸

More recent efforts in 2020 to change how business personal property is taxed have been less successful. In **West Virginia**, the failed SB 837 would have phased in an exemption for property taxes on manufacturing machinery, equipment, and inventory, as well as for motor vehicles and retail inventory. Local taxing districts, including TIF districts, would have been backfilled by the state for lost revenue to an amount equal to the highest assessed value of the exempted personal property over a four-year period. In **Wisconsin**, legislation in 2017 exempted non-manufacturing machinery, tools, and patterns from the personal property tax.⁵⁹ However, the legislature chose not to pass a 2020 bill that would have expanded this exemption to include all other machinery, tools, and patterns while reimbursing local governments for the exempted property's 2019 assessed value.⁶⁰

Efforts to eliminate, or at least reduce, the business personal property tax appear likely to continue. In his 2021 State of the State address, **Colorado** Governor Jared Polis asked lawmakers to eliminate business personal property taxes on machinery and equipment.⁶¹ Currently, Colorado exempts business inventories, meaning that such a proposal would significantly reduce the tax burden associated with the business personal property tax. With significant changes to Colorado's property tax system already underway through separate reform of the Gallagher Amendment, the impact of eliminating business personal property taxes on local governments remains to be seen.

At the time of writing, several bills are progressing through state legislatures. In **Montana**, HB 303 would increase the exemption for Class 8 business equipment from \$100,000 to \$200,000

⁵⁵ Hiller, Kristin. 2020. "The Terrible T's of Inventory: Timing and Taxes." *Rebusiness Online*. January 7. <https://rebusinessonline.com/the-terrible-ts-of-inventory-timing-and-taxes/>.

⁵⁶ 2019 Idaho Sess. Laws Ch. 53 (HB 87)

⁵⁷ 2019 Ind. Acts no. 273 (SB 233)

⁵⁸ Watson, Garrett. 2019. "States Should Continue to Reform Taxes on Tangible Personal Property." *Fiscal Fact No. 668*. Tax Foundation. August. <https://taxfoundation.org/tangible-personal-property-tax/>.

⁵⁹ 2017 Wis. Sess. Laws no. 59

⁶⁰ Wisconsin, SB 821

⁶¹ Quynh, Jacqueline. 2021. "Under Polis' Proposal, Personal Business Property Tax to be Abolished." 4CBS Denver. February 17. <https://denver.cbslocal.com/2021/02/17/polis-business-property-tax/>.

for tax years beginning after December 31, 2022.⁶² Property in excess of the exempt amount is taxed at graduated rates, with the highest rate imposed on property valued above \$6.1 million. Other types of personal property not included in this class would be unaffected by the change, including personal property used in data centers (Class 17) and personal property used by new industry, electrolytic reduction facilities, research and development firms, and the gasohol production facilities (Class 5). According to the state fiscal analysis service, the bill would have saved taxpayers an additional \$7.3 million in tax year 2020, for a total of \$154 million. Local governments would be reimbursed through increases to the state's Entitlement Share Payment program, designed to refund local governments for certain revenues lost as a result of legislative changes and funded through a combination of property taxes and licensing fees collected from counties, and state taxes and fees.⁶³

The **Missouri** legislature is considering a bill that would effectively eliminate taxes on a broad category of personal property. Under current Missouri law, most personal property is assessed at 33.3 percent of its full market value.⁶⁴ The bill, SB 24, would impose a phased in reduction to the assessment ratio beginning in calendar year 2022. By calendar year 2026, personal property would be assessed at 0.001 percent of its full market value. Personal property with different assessment ratios is not affected by the legislation—such property includes grain and agricultural crops in an unmanufactured condition, livestock, farm machinery, motor vehicles, poultry, and tools and equipment used in pollution control or used for making improvements to existing products in specific industries by a company in a state enterprise zone. Revenue lost by local governments as a result of the legislation would not be backfilled by the state.

In **Idaho**, HB 218 would phase out personal property taxes on business machinery, tools, furnishings, and equipment.⁶⁵ Idaho already exempts the first \$100,000 of personal property as a result of legislation passed in 2013.⁶⁶ The new bill would exempt all personal property acquired by businesses on and after January 1, 2022, while the tax on personal property listed on the tax rolls before that date would be phased out in 10 percent increments, with 100 percent of taxes on personal property exempted by 2031. The state would be required to reimburse local governments for revenue lost due to the phase-out.

While most legislation targeting business personal property taxes involves a reduction in the tax, **Nebraska** has bucked the trend by doing away with the Personal Property Tax Relief Act, under which the first \$10,000 of personal property assessed value was exempt. The move came as part of a package of legislation included in LB 1107. Small businesses may still be able to access a personal property tax exemption as part of the ImagiNE Nebraska Act, which provides tax incentives to businesses satisfying varying tiers of qualifying incentives. For the personal property tax exemption, businesses must create at least 30 new jobs and invest at least \$5

⁶² Class 8 property is business personal property valued in excess of \$100,000.

⁶³ Montana Association of Counties. Entitlement Share. <https://www.mtcounties.org/resources-data/entitlement-share/>.

⁶⁴ Mo. Rev. Stat. § 137.115.

⁶⁵ Inventory is not taxed in Idaho.

⁶⁶ 2013 Idaho Sess. Laws Ch. 243.

million. More broadly, LB 1107 created a refundable income tax credit for a portion of school district taxes, beginning in tax year 2020.⁶⁷

Moving forward, it remains to be seen how the economic fallout from Covid-19 might affect efforts to eliminate business personal property taxes. Many states acted quickly to offer property tax relief, including by postponing the filing deadlines for business personal property taxes or by eliminating late fees.⁶⁸ The **Maryland** legislature, however, is considering a bill that would reimburse business owners affected by Covid-19 restrictions for the full amount of business personal property taxes paid in calendar year 2020.⁶⁹ The future of the bill, and the possibility of similar bills in other states, may indicate the nature of future efforts to reform the business personal property tax.

⁶⁷ 2021 Neb. Laws LB 1107.

⁶⁸ Collins, Catherine. 2020. "Property Tax Trends 2019 and 2020." Cambridge, MA: Lincoln institute of Land Policy. April 28.

⁶⁹ Maryland HB 1257 (2021).

Appendix

California Ballot Measures Related to Assessments Under Article XIII A <i>(Shaded propositions were unsuccessful)</i>			
Year	Proposition	Description	Favorable Vote (%)
1978	13	Limited growth of assessed value and 1% rate limit	64.8
1978	8	Temporary reduction in assessment to market value when property has been substantially damaged or its value has been reduced by "other factors" such as economic conditions; following natural disaster, reconstruction does not increase assessed value if reconstructed property is comparable in value to the one being replaced	78.5
1980	5	<i>Exclusion of improvements to comply with seismic safety laws (subsequently passed in 1984 Prop 23, 1990 Prop 127, and 2010 Prop 13)</i>	42.3
1980	7	Exclusion of construction of or additions to active solar energy system; improvement not considered new construction	65.5
1982	3	Transfer of base value when property was taken by eminent domain	56.5
1982	7	<i>Exclusion of fire sprinkler or alarm system not required by law (subsequently passed in 1984 Prop 31)</i>	41.3
1984	23	Exclusion of unreinforced masonry bearing wall reconstruction or improvement in order to comply with seismic safety law. Exclusion expires in 15 years	53.3x
1984	31	Construction of fire protection systems not considered new construction and is excluded from value	50.8
1984	34	<i>Cost of improving historic structures exempt from added value assessment</i>	47.4
1984	36	Eliminated some existing property taxes and benefit assessments by limiting them to a 1% tax rate limit; revised procedures for reappraising new construction and changes in ownership	45.2
1986	50	After a disaster, assessed value for comparable replacement property can be transferred within same county without triggering reassessment	70.5
1986	58	Transfer of residential property between spouses or principal residence and first \$1 million of other property between parents and children does not trigger reassessment	75.7
1986	60	Homeowners over 55 allowed a single transfer of base value to new home of equal or lesser value within the same county	77.0
1988	90	Homeowners over 55 allowed a single transfer of base value to new home of equal or lesser value in a different participating county	69.1
1990	110	Severely disabled can transfer base value to new home of equal or lesser value without triggering reassessment; accessibility construction not considered improvement	80.2
1990	127	Exclusion of earthquake safety modification in existing buildings	61.7
1993	171	Homeowners whose primary residence is more than 50% destroyed by a natural disaster may transfer existing assessed value to comparable replacement property in another county	52.0
1994	178	<i>Installation of water conservation equipment for agricultural use not considered an improvement</i>	45.0
1994	177	Exclusion of construction for access for disabled; improvement not considered new construction	60.7
1996	193	Transfer of residential property or first \$1 million of other property between grandparents and grandchildren whose parents are deceased at the time of transfer does not trigger reassessment	63.7
1998	1	Transfer of base value from environmentally contaminated property to one of comparable use	71.1
2010	13	All seismic retrofitting not considered new construction and is excluded from value (overrides 1984 Prop 23 and 1990 Prop 127)	85.0
2018	72	Exclusion of rainwater captures systems designed for on-site use	84.6
2018	5	<i>Property Tax Transfer Initiative to change transfer requirements for certain property owners</i>	42.2
2020	15	<i>Differential taxation of commercial property (Split roll)</i>	48.0
2020	19	Changes to certain property tax rules for elderly and disabled and for properties damaged by natural disaster	51.0

Source: Compiled by author from California Secretary of State, UC Hastings Scholarship Repository <https://www.uchastings.edu/academics/library/ca-ballots/>; Legislative Analyst's Office. 2012. Understanding California Property Taxes.