

Trends in Property Taxes

Lincoln Institute Seminar
Economic Perspectives on State and Local Taxes
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Catherine Collins
George Washington Institute of Public Policy

Two Objectives

- Depth and breadth of Significant Features
 - 10 years of Property Tax topics for each state
 - Interactive State –by–State Property Tax at a Glance
- Highlight Trends in Property Taxes
 - Focusing on challenges to tax exemptions for nonprofits, particularly universities and hospitals
 - Wider range of issues to be published in Tax Notes

Details in Current 2015 Record

State:	CALIFORNIA
Year:	2015
Type of Limit:	Assessment Limit
Limit Name:	Proposition 13 Assessment Limitation
Description of Limit:	The annual increase in assessed value of real property is limited to 2% or the rate of inflation (as shown in the consumer price index or in comparable data for the area under taxing jurisdiction), whichever is less.
Override Process:	None
Footnotes:	The inflation factor is based on the California Consumer Price Index for all items determined by the California Department of Industrial Relations. The inflation factor used in preparing the 2015 assessment roll is 1.01998 based on inflation increase of 1.998%. Proposition 8 (1978) amended Proposition 13 to recognize declines in property values. If market value declines below the Prop 13 factor value, which is the base year plus annual inflation growth, the assessed value will reflect the lower market value. Annual increases to property valued under Prop 8 are not limited to the 2% maximum. However the Prop 13 value for the property continues to increase by the annual inflation factor. At the time when the market value exceeds the Prop 13 factor value, the Prop 13 value applies. This limit went into effect in 1978.
Sources:	Cal. Revenue and Taxation Code § 51; Cal. Revenue and Taxation Code § 170 ~ 171 (in effect for 2015) Cal. Const. art. XIII A, § 2 (b) Mullins, Daniel and Kimberly Cox. 1995. Tax and Expenditures Limits on Local Governments, M-194, Washington, DC: Advisory Commission on Intergovernmental Relations. View Archived Source

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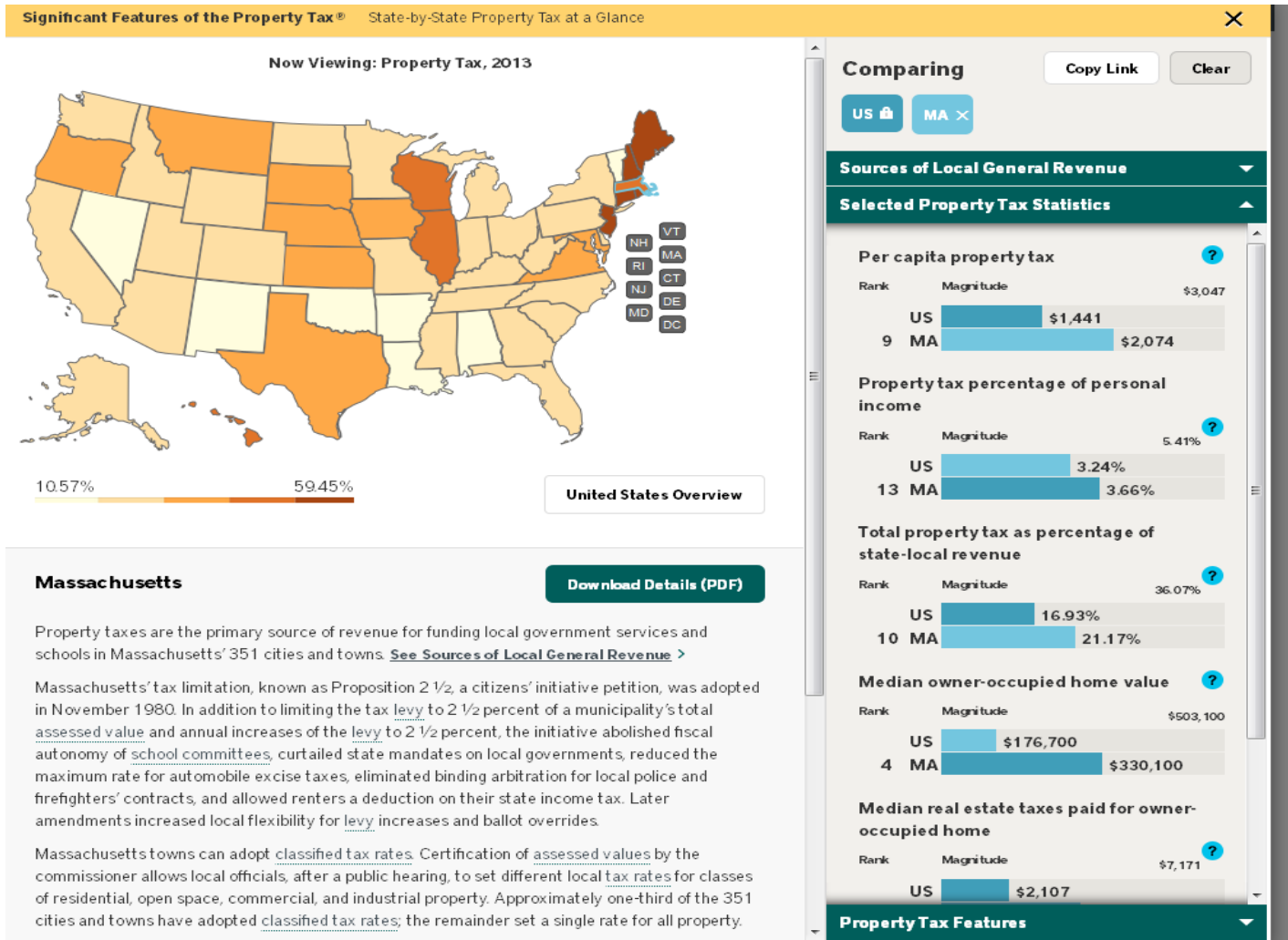
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Significant Features for Comparisons

Circuit Breaker- Range of Eligible Income and Credit 2016			
	Credit Over \$999	Credit \$200 - \$999	No Credit Maximum
Income Ceiling \$40,000 and up	Minnesota New Jersey Massachusetts Vermont Connecticut - Senior	Connecticut Non-senior California* Maine	Maryland Nebraska New Hampshire
Income Ceiling \$5,000 to \$39,999	Idaho Michigan Missouri Wisconsin West Virginia Montana Iowa	Utah Wyoming District of Columbia Kansas Illinois* Pennsylvania Colorado Arizona Nevada New York Rhode Island New Mexico Oklahoma	South Dakota

State at a Glance



State-by-State Property Tax at a Glance. <http://datatoolkits.lincolninst.edu/subcenters/significant-features-property-tax/state-by-state-property-tax-at-a-glance>. Significant Features of the Property Tax. Lincoln Institute of Land Policy and George Washington Institute of Public Policy. (Property Tax at a Glance; accessed: 5/3/2017 3:46:19 PM)

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So what is happening to Property Taxes

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New England Property Tax Bouncing Back



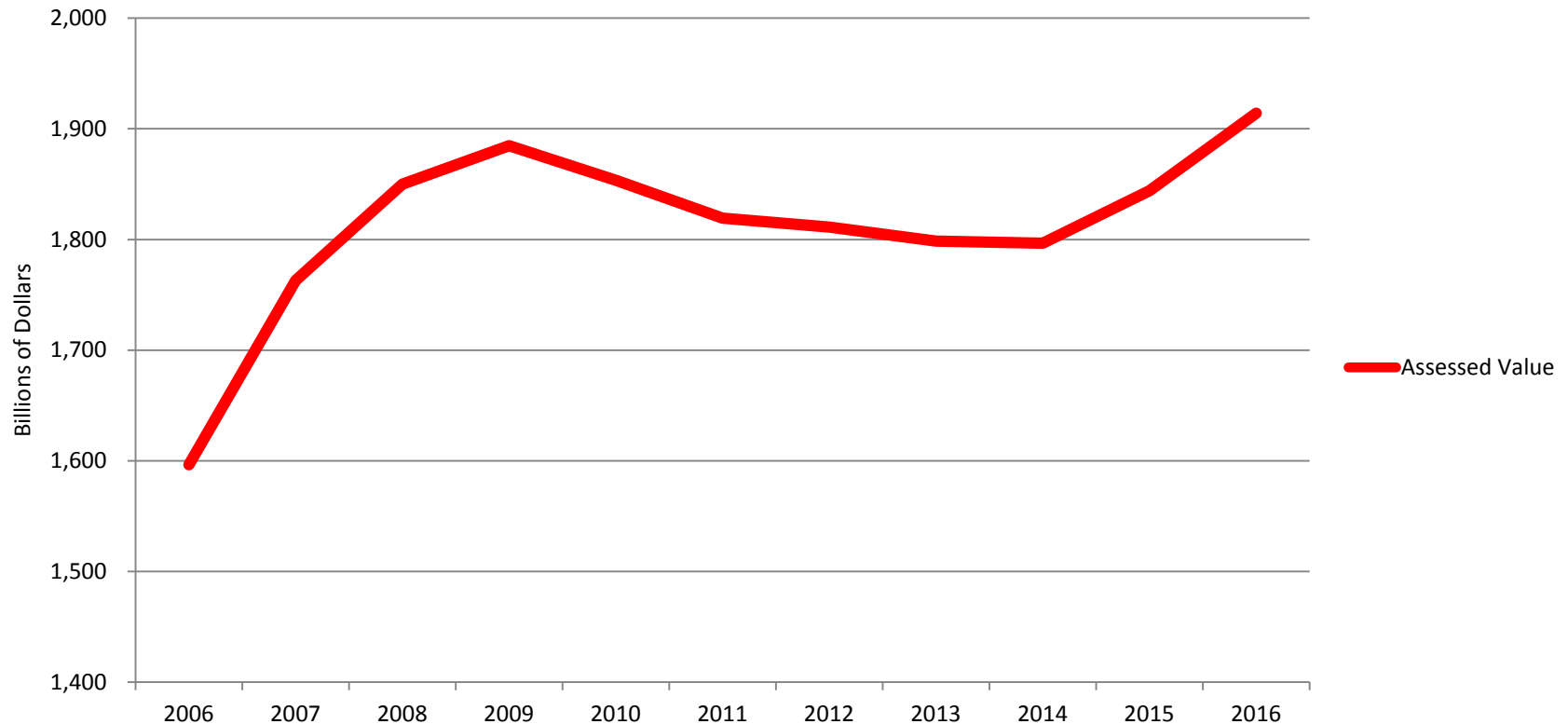
Source: U.S. Bureau of Census Governmental Finances , selected years

Tax Base Recovering...

Albeit Slowly

New England Total Assessed Value

2006-2016



Source: Significant Features of the Property Tax, Tax Base by Property Type 2006-2016
<https://datatoolkits.lincolnst.edu/subcenters/significant-features-property-tax/cms/CMS/ReportBuilder/Create.aspx>
Lincoln Institute of Land Policy and George Washington Institute of Public Policy.

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For Profit Activities of Non Profits

FOR PROFIT ACTIVITIES OF NON PROFITS

The blurring of the lines

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Modern Face of Nonprofits

- Nonprofits are engaged in “profitable” activities
 - Growth of university endowment funds and research and other income-generating activities
 - No longer stand-alone facility rather part of complex organizations and ownership structures
 - Need to replace declining government funding
 - Public-private partnerships providing public services
- Transition from nonprofit to profit organization

Why Now

- Constitutional and statutory provisions
 - Applicable statutes may be dispersed in several sections
 - May not address complexity of current arrangements
- Third-party taxpayers challenge exemption as they face higher tax burden
- Local governments scrutinize exemptions both to avoid legal challenges and to increase tax base and revenues

Qualifications for Tax Exemption

- Entity organized solely or exclusively for beneficial or charitable purposes
 - Corporation
- Property used for intent nonprofit purpose
 - Property used by owner
 - Conditions under which property is leased
- Revenues and profits used for charitable activities
 - Intent of fees, charges, financial arrangements
 - Free or sliding scale for charges
 - Use of profits, including salaries
 - Basis for split between exempt and taxable uses

What are the Issues

- Complex organizations
 - A “labyrinthine corporate structures intertwined with both non-profit and for-profit subsidiaries and unaffiliated corporate entities”
 - Must distinguish for-profit and non-profit activities and then attribute property to those activities
- Level and use of profits
 - What are the funds used for
 - Reasonable compensation or pecuniary profit
- Level of “charity service” or nonprofit-ness
 - When is charity or community benefit enough
 - When are fees and revenue too much

Recent Court Decisions

- Separate tax exemption and non-tax exempt
 - Burden of proof on tax exempt entity to identify which properties are nonprofit (*Fields, et al, v. Trustees of Princeton University, et al*, New Jersey)
- Level of charity care
 - “[b]oth the number of uninsured patients receiving free or discounted care and the dollar value of the care they received were de minimus.” (*Provena Covenant Medical Center v. Department of Revenue*, 925 N.E.2d 1131 Illinois)
 - Charity work not sole factor in determining ‘charitable’ status (*Wexford Medical Group v. City of Cadillac*, 713 N.W.2d 734 Michigan)

What Can Legislature Do

- Clarify definition of “charity”
 - All hospital activities are exempt, BUT additional fee structure, including bed fee imposed
 - New Jersey legislation passed, but vetoed by governor
 - Established a “test” expands 3-prong test to include characteristic of a charitable organization
 - Michigan legislation introduced 2016 SB960
- Measuring “charity” work
 - Charitable service exceeds property tax liability
 - Illinois 201 Public Act 97-688 enacted constitutionality challenged
 - Tax property that generates income above certain level
 - Connecticut legislation introduced 2016 SB 414
- Limit litigation
 - Freeze litigation
 - Prohibit third-party litigation

Property Tax Alternatives

- For non-profits or tax exempt property
 - Payment in lieu of taxes (PILOTs)
 - Property tax at reduced percentage
- Community-wide fees
 - Right of way assessment
 - Parcel tax

On Horizon

Federal action may drive tax-exempt status

- Tax exemption of religious organizations with eye to the pending Supreme Court decision
- Impact on hospitals of “Repeal and Replace” or “Repair” of the ACA
- Charter schools and voucher systems
- Federal taxation of endowment funds

Tax Notes: Year in Review 2016

- Continued expansion of relief for military and elderly as well as business personal property
- Restoration of some Recession-inspired cutbacks
- Grappling with Dark Stores with issue slowly spreading to states outside the Midwest
- Tax limits-expansion and impact of design interplay with state budgets
- Protection wetlands and dealing with extreme climate events
- Economic development especially increased evaluation and reporting
- Transparency

Catherine Collins
George Washington Institute of Public Policy
collins2@gwu.edu
#PropTax_SFPT

Significant Features of the Property Tax
[http://datatoolkits.lincolninst.edu/subcenter
s/significant-features-property-tax/](http://datatoolkits.lincolninst.edu/subcenters/significant-features-property-tax/)

Appendix
Selected Statutes for Tax Exemptions for
Nonprofits
New England and Illinois, Michigan,
New Jersey

Connecticut Tax Exemption

[Conn. Gen. Stat. § 12-81(7)(A), § 12-81(16), § 12-81(58), §12-88]

- Real and personal property held and used by a corporation organized for ..., educational, ...or charitable purposes exclusively for such purpose
- All property of any Connecticut hospital society or corporation
- Prohibition from any pecuniary profit from operations except reasonable compensation
- If portion of real property not used exclusively for such purposes, only that portion used for exempt purposes shall be exempt
- At local option, property leased to and used exclusively by a federal 501(C)(3) charitable, ...or nonprofit organization may be exempt

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Massachusetts Property Tax Exemption

[Mass. Gen. Laws Ch. 59, § 5 (third)]

- Real and personal property used for a ..., benevolent, charitable...institution incorporated in Massachusetts
- Exemption does not apply if any income or profits of the business of the charity is used for other than the charitable purpose
- Must be an incorporated entity, LLC is not an adequate legal form

Maine Property Taxes

[Me. Rev. Stat. Ann. Tit. 36 § 652]

- Real and personal property owned and occupied by benevolent and charitable institution and used exclusively for the purposes for which it is incorporated are exempt
- Prohibition from any pecuniary profit from operations except reasonable compensation
- Portion of building owned by nonprofit corporation which was leased...at full market rental value rendered the entire property subject to taxation
(Lewiston v. Marcotte Congregate Housing (1996) 673 A.2d 209.)
- Real property leased by nonprofit hospital is no longer exempt as of April 1, 2012

New Hampshire Property Tax Exemption

[N.H. Rev. Stat. Ann. § 72:23 IV, § 72:23 V, § 72:23 V-a]

- The real and personal property of colleges, academies and universities used and occupied by them exclusively for the purposes for which they are established
- Real property of charitable organizations used exclusively for the purposes they are established, including all profits derived from such usage
- For educational facilities, the value of dormitories, dining room and kitchens above \$150,000 is taxable; at local option, the amount of the exemption may be increased
- Federal 501(c)3 status is not in itself sufficient to establish charitable status under state law

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Rhode Island Property Exempt

[R.I. Gen. Laws § 44-3-3(a)(8)]

- Real and personal property owned by any corporation used for a school, academy, or seminary of learning, and of any incorporated public charitable institution and the land ...not exceeding one acre, so far as they are used exclusively for educational purposes
 - No exemption is provided where any part of its income or profits, or of the business carried on there, is divided among its owners or stockholders
- Property, real and personal, held by a nonprofit hospital for the sick or disabled

Vermont Property Exemptions

[Vt. Stat. Ann. Title 32 §§ 3802, 3831]

- Real property owned or leased by colleges, academies or other public schools
 - Provided that the exemption for educational facilities shall not apply to those rented for general commercial purposes
- Real and personal property owned by a federally qualified health center or a free standing, federally-designated rural health clinic
 - Provided such center or clinic is governed by a community board of directors; offers care on a sliding scale based on ability to pay; is owned and operated on a nonprofit basis; is unconditionally dedicated to public use which directly benefits an indefinite class of the public and confers a benefit on society

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Illinois

[35 ILCS 200/15-65, 200/15-86]

- A nonprofit hospital satisfies the conditions for an exemption if the value of services or activities (services that address the healthcare needs of low-income or underserved individuals) for the hospital year equals or exceeds the estimated property tax liability
 - However, any portion that is owned by a for-profit entity shall not qualify for exemption
 - If a parcel has both exempt and non-exempt uses, an exemption may be granted for the qualifying portion of that parcel
- Nonprofits providing services or facilities related to the goals of educational development
- All certified not-for-profit hospitals, when actively and exclusively used for beneficent and charitable purposes

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Michigan Exemptions

[Mich. Comp. Laws Ann. § 211.7n, § 211.7o, § 211.9(1)(a)]

- Personal property of charitable, educational, and scientific institutions
- Real estate or personal property owned and occupied by ..., educational, or scientific institutions incorporated under the laws of this state with the buildings and other property thereon while occupied by them solely for the purposes for which the institutions were incorporated purpose
- Real or personal property owned and occupied by a nonprofit charitable institution while occupied by that nonprofit charitable institution solely for the purposes for which that nonprofit charitable institution was incorporated

New Jersey Exemption of Property of Nonprofit Organization

[N.J.S.A 54:4-3.6]

- Real property used for educational or hospital purposes
- Provided that if any portion of a building is leased to profit-making organizations or otherwise used for purposes which are not themselves exempt from taxation, that portion shall be taxed
- Character, purpose, and activities three pronged test for exemption

(Paper Mill Playhouse v. Millburn Township(1984) 95 NJ 503 472 A2d 517)

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Appendix

Selected Case Citations

- Illinois
 - *Provena Covenant Medical Center v. Department of Revenue*, 925 N.E.2d 1131 (IL 2011).
 - *Carle Foundation v. Cunningham Township*, 2016 IL App (4th) 104795, 45 N.E.3d 1173 (January 5, 2016).
 - *Carle Foundation v. Cunningham Township*, 2017 IL 120427 (March 23, 2017).
- Michigan
 - *Wexford Medical Group v. City of Cadillac*, 713 N.W.2d 734 (MI 2006).
- Minnesota
 - *First Baptist Church of St. Paul vs. City of St. Paul*, 884 N.W.2d 355 (Minn. August 24, 2016).

- New Jersey

- *Morristown Memorial Hospital v. Town of Morristown*, 28 N.J. Tax 456 (2015).
- *Fields, et al, v. Trustees of Princeton University, et al*, 29 N.J. Tax 284 (2015).
- *Red Bull Arena, Inc. v. Town. of Harrison*, Dock. No. A-1616-12T2 (N.J. App. Div. May 12, 2014).
- *Paper Mill Playhouse v. Millburn Township* 95 NJ 503 472 A2d 517 (1984).

- Ohio

- *250 Shoup Mill, L.L.C. v. Testa*, 147 Ohio St. 3d 98 (2016).