

THE OTHER PROPERTY TAX

An Overview of Parcel Taxes in California

POLICY BRIEF | MARCH 2013

KEY FACTS

- **Parcel Taxes Are Regressive.** The very nature of the parcel tax is regressive: It has the largest impact on low-income, middle-class, and small-business taxpayers.
- **Structural Inconsistencies.** Parcel taxes are a free-for-all. The state has not provided local governments any guidance or structural framework to follow when imposing a parcel tax. As a result, parcel tax rates vary significantly, and there are many inconsistencies in how the tax is imposed.
- **Transparency Issues.** When taxpayers pay their parcel taxes, many don't know how their money is used. Further, some taxpayers are told during elections that they will be exempt, but later may find that it is difficult to obtain the exemption.
- **Two-Thirds Vote Threshold Not a Barrier.** While a two-thirds vote of the public is required to approve parcel taxes, this has not been a significant barrier for local governments. Of the more than 600 parcel tax measures placed before voters from 1983 to 2012 by K-12 schools, more than 55 percent were approved. The two-thirds vote requirement provides fairness for property owners, since not all voters pay parcel taxes.

A parcel tax is different than a traditional *ad valorem* property tax, in that it is imposed by local government on a per-parcel basis. Local governments that may impose parcel taxes include cities, counties and special districts, such as schools, hospitals and public safety districts.

State law authorizes local governments to impose parcel taxes, as long as the tax is not based on the value of a property. Additionally, parcel taxes must be approved by a two-thirds vote of the electorate.

While there is no consistent definition, the Board of Equalization defines a parcel as “an area of land in one ownership and one general use.” For tax purposes, a “parcel” is a property, or part of a property, that is entirely located within the invisible boundaries of a local government (this is known as a tax rate area). These invisible boundaries may divide a taxpayer's property, thus creating multiple parcels out of a single property.

Voters have approved many parcel taxes since 1983, when the first parcel tax appeared on the ballot. Between 1983 and 2012, there have been 607 parcel taxes submitted to voters by K-12 school districts (see the table on the following page). With each of these parcel taxes requiring a two-thirds vote, 335 taxes were approved – a passage rate of 55.18 percent. In some years, K-12 parcel taxes did extremely well, with 100 percent of all measures on the ballot being approved. Fire protection districts, hospital districts and other local governments also have successfully imposed parcel taxes; however, data regarding passage rates in these jurisdictions is not readily available.



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SUCCESS RATE OF PARCEL TAXES PROPOSED BY K-12 SCHOOL DISTRICTS

YEAR	PASS	FAIL	SUCCESS RATE
1983	1	4	20.00%
1984	5	8	38.46%
1985	3	11	21.43%
1986	1	9	10.00%
1987	7	7	50.00%
1988	5	4	55.56%
1989	10	8	55.56%
1990	4	8	33.33%
1991	12	20	37.50%
1992	5	11	31.25%
1993	14	13	51.85%
1994	10	6	62.50%
1995	7	7	50.00%
1996	4	1	80.00%
1997	12	4	75.00%
1998	11	0	100.00%
1999	11	2	84.62%
2000	6	2	75.00%
2001	14	5	73.68%
2002	6	7	46.15%
2003	17	17	50.00%
2004	23	20	53.49%
2005	18	17	51.43%
2006	4	9	30.77%
2007	9	6	60.00%
2008	30	11	73.17%
2009	23	10	69.70%
2010	17	22	43.59%
2011	18	11	62.07%
2012	28	12	70.00%
TOTAL	335	272	55.18%

Source: EdData. Compiled by CalTax.

Types of Parcel Taxes

The two most common types of parcel taxes are “fixed amount flat rate” and “fixed amount square-footage” parcel taxes. However, other types of parcel taxes are currently being levied throughout California. Generally, state law requires that special district parcel taxes apply uniformly to all types of property, but some districts are levying taxes that violate this requirement. Some parcel taxes also include exemptions for parcels owned by seniors and taxpayers with disabilities. Below are several types of parcel taxes:

- **Age.** Levies tax based on the age of a property, with rates varying depending on the property’s age.
- **Flat Rate.** Levies tax of a specified dollar amount on each property.
- **Frontage.** Levies tax based on the size of the frontage of a parcel. To determine frontage, a property is measured by how much space it takes up on a street. Frontage taxes can be found in California; however, they are more typical of 17th century Amsterdam.
- **Property Usage.** Levies various tax rates based on the use of a parcel.
- **Per-Room.** Levies various rates based on the number of rooms located on a parcel.
- **Square-Footage.** Levies tax of a specified percentage or dollar amount based on square-footage.

Origins of the Parcel Tax

Local governments sought alternative means of taxing real estate after passage of Proposition 13, which prohibits local governments from imposing ad valorem property taxes. The courts reasoned that a parcel tax was legal under Proposition 13 because such taxes are not imposed on an ad valorem basis. The courts determined that under Article XIII A, Section 4 of the state constitution (added to the

constitution by Proposition 13 of 1978), parcel taxes are considered special taxes and require a two-thirds vote of the local electorate to be imposed.

Ways to Improve the Parcel Tax

The parcel tax is wrong in theory, and it doesn't work in practice. Parcel taxes are regressive, and compliance is difficult at best. Local governments devise their own parcel tax structures, choose their own base and impose their own rates, resulting in a highly complex form of taxation. If taxpayers have a question about their parcel tax billing, they often are left in the dark with an unresponsive and unaccountable government.

The burden of parcel taxes falls mostly upon lower-income, middle-class and small-business taxpayers. Two parcels located within the boundaries of the same district often pay the same fixed-rate amount, regardless of whether the parcel includes a multimillion-dollar home or if it is so small that it cannot be utilized.

As the body responsible for shaping California's state and local tax structure, the Legislature has the opportunity to significantly improve parcel tax administration by adopting much-needed reforms. Some taxpayers have voiced support for repealing the parcel tax. This is an option the Legislature should pursue due to the deficiencies of the tax. However, if the parcel tax is to remain in effect, several comprehensive reforms are necessary to improve the overall structure of the tax.

Improve Transparency

Parcel taxes lack sufficient transparency. Taxpayers should understand how the taxes are assessed, collected, and how the funds are used. When a property owner receives his or her annual property tax bill, there is no uniform method or requirement for how a parcel tax must be identified. If a parcel tax is listed on the tax bill, it may appear under "direct levies." However, even that doesn't guarantee that a taxpayer will know what the parcel tax is for. It also can be difficult for some taxpayers to determine if they are exempt from paying a

parcel tax. Some local governments exempt seniors and disabled individuals. If a taxpayer is exempt, applying for an exemption is unnecessarily complicated.

The Legislature could require that property tax bills include information about the amount of the tax, what ballot measure approved the tax, when the tax expires (if applicable), and what program or programs are being funded by the parcel tax. The tax bill also should include what local governmental entity should be contacted if a taxpayer has a question.

Increase Oversight and Accountability

Little data currently exists about parcel taxes. The state provides oversight of local property taxes by analyzing county assessment practices and reviewing data on collections. Unlike ad valorem property taxes, however, no statewide data exists on parcel taxes, nor is there any oversight.

The state could increase oversight of parcel taxes by requiring annual reporting on the taxes being levied in each county, city and special district. Such a report should include:

- Name and Location of Taxing Entity
- Type of Parcel Tax
- Rate of Parcel Tax
- Number of Parcels Subject to Tax
- Number of Parcels Exempt From Tax
- Number of Parcels Eligible for Exemption, But Did Not Apply
- Sunset Date of Parcel Tax
- Amount of Revenue Received
- Data on Accounts Receivable

Provide Structural Consistency

There are no limits on what rates local governments can levy. The Legislature should equalize parcel tax rates by adopting a uniform rate structure. The state should look to the Bradley-Burns Uniform Local Sales and Use Tax Law for a successful model of uniformity.

Further, parcel tax rates should be equalized among local governments, particularly in terms of school finance. Parcel taxes have the potential to

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generate wide funding disparities among school districts, raising a number of equal protection issues. The California Supreme Court ruled in 1971 that California's previous system of funding public schools through local property taxes was unconstitutional because it unfairly discriminated against children who live in low-wealth school districts.

Standardize How Parcel Taxes Are Imposed

Property owners may find that a parcel tax is calculated based on a number of factors, ranging from square feet, property use, or a mere flat rate. The Legislature should consider requiring local governments to adopt standards requiring parcel taxes to be based on a fixed flat rate or square-footage, to tax all parcels in a similar and consistent manner. While fixed rates are regressive, adopting a progressive parcel tax that is based on a taxpayer's ability to pay is currently not legal.

Maintain Two-Thirds Vote Requirement

Limits on power through checks and balances reduce the possibility that a numerical majority might impose its opinions, interests and passions on a smaller group.

When it comes to parcel taxes, a two-thirds vote protects parcel owners, since not all voters own parcels or pay parcel taxes. Requiring two-thirds of the electorate to increase taxes means that communities will have to come together to decide what type of government services they want to pay for. As noted earlier, statistics show that of the K-12 parcel taxes put before voters since 1983, 55.18 percent were approved.

Improve Equity for Small and Nonfunctional Parcels

Local governments often divide a single property into multiple parcels for tax purposes. While no one really knows that the invisible boundaries of a district have divided up a property, property owners may receive multiple parcel tax assessments for a single property. This makes parcel tax compliance unnecessarily difficult.

Further, owners of properties that are small or are

not functional still pay parcel taxes. For example, a property that has less than 75 square feet and cannot be built upon still may be subject to parcel taxes.

The Legislature should consider requiring local governments to exempt small parcels from paying parcel taxes, when a parcel cannot be utilized or has a *de minimis* value. A *de minimis* exemption applied to low-value properties would be consistent with how acquisition-value property taxes are applied.

Require an Independent Body to Write Local Ballot Titles and Summaries

The ballot titles and summaries for local measures should be written by an independent body, not the local entity placing the measure on the ballot. For example, if a county's board of supervisors is proposing a parcel tax, the ballot title and summary should be written by the county's district attorney or registrar of voters, not the board itself. Language describing a measure on the ballot should be objective and independent.

About CalTax

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