BRIEFING

Repeal of the Non-Homestead Exemption Cap Could Create a Huge Tax Increase and the Tax Shift Would Grow Rapidly

MAY 2018

In November 2018, Florida voters have a chance avoid a major property tax increase on owners of commercial or rental property, vacation or second homes, unimproved real estate, or any other non-homestead property. This tax increase will happen if the current 10 percent cap on non-homestead property assessments—scheduled to be repealed—is not reauthorized by the voters.

Florida constitutional amendment 1, approved by the voters in 2008, made several changes to property taxation in Florida. It created an additional $25,000 homestead exemption, a $25,000 exemption for tangible personal property, and allowed for portability of Save Our Homes (SOH) benefits when a taxpayer moves to another homestead in Florida. These changes are permanent but a fourth provision, a 10 percent cap on the growth of non-homestead assessed value, is scheduled for repeal on January 1, 2019.

However, the amendment also required the Legislature to place a proposed amendment on the 2018 General Election ballot to extend the cap. The 2017 Florida Legislature passed House Joint Resolution (HJR) 21 to abrogate the scheduled repeal of the non-homestead assessment cap.

Current Non-Homestead Property Assessment Cap

- Annual assessment may not increase by more than 10%
- Reduction in assessed value does not apply to school taxes
- No portability, change of ownership results in loss of accumulated benefit
- Recapture provision applies
- Cap is currently worth $700+ million in taxes statewide
- Cap is repealed on January 1, 2019 if voters do not approve Amendment 2

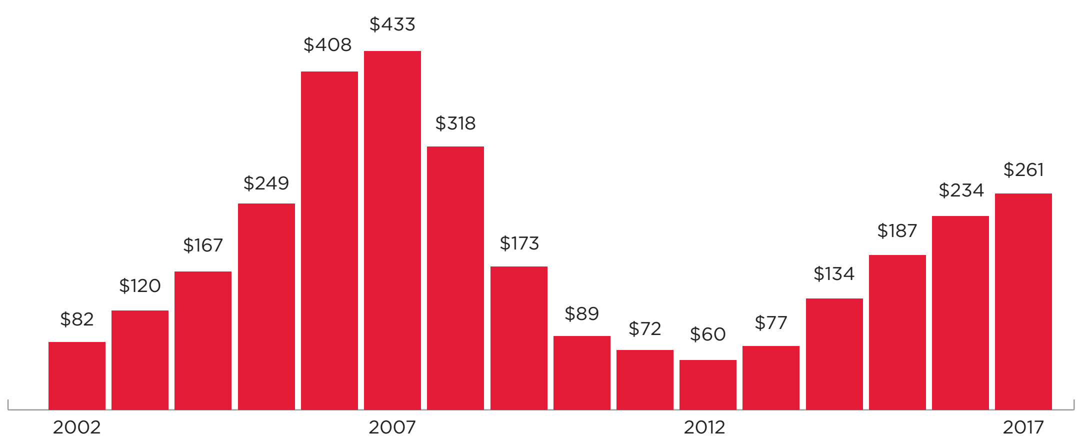
If the amendment is not approved by at least 60 percent of those voting, taxpayers will lose this important protection. This does not just mean there will no longer be a cap on future assessment growth. It means that non-homestead property will suddenly be assessed at full market value.

The difference between the just value (market value) and the assessed value under a cap is known as the differential. The non-homestead assessment cap differential is currently (2017 tax roll) worth $85.3 billion in taxable value, meaning $85.3 billion in value is shielded from property taxation (except for school taxes).[1] The state estimated that if the cap is allowed to be repealed, the resultant tax increase in 2019 could be as high as $668.1 million (at the current average statewide non-school millage rate of 10.78 mills).[2] Newer property tax forecasts by the Revenue Estimating Conference increased the estimate for the differential in both 2017 and 2018,[3] suggesting the potential tax increase in 2019 exceeds $700 million.

Loss of the non-homestead cap could have some serious impacts on Florida, decreasing disposable income, increasing rents and business costs, and exacerbating and perpetuating the existing inequities of Florida's property tax system.

Save Our Homes Differential

Taxable Value // $ in billions



1 Florida Department of Revenue, "2017 Florida Ad Valorem Valuation and Tax Data," July 2017.

2 Florida Revenue Estimating Conference, fiscal impact analysis of SJR 76/HJR 21, March 29, 2017.

3 Florida Revenue Estimating Conference, results of the Ad Valorem Estimating Conference, August 3, 2017 and January 23, 2018.

The Assessment Cap Helps Reduce the Multi-Billion Tax Shift to Non-Homestead Properties

The adoption of the non-homestead assessment was, in part, a reaction to the Save Our Homes (SOH) amendment which was passed in 1992 and was implemented in 1994. SOH limits the growth in homestead assessments to the lesser of 3 percent or inflation.

SOH has created an inequitable property tax system in Florida. Not only can similarly situated homeowners have very different tax bills, but SOH also shifted billions of dollars in taxes from homestead to non-homestead property. This is because SOH does not really limit total taxes, it only limits assessments on one segment of taxpayers. This is especially true during times of rapid property value growth, such as the period from 2002 to 2007. During this time, the total market value of homestead property in Florida nearly doubled. However, with low inflation, the SOH cap ranged from 1.6 percent to 3.0 percent, limiting the growth in assessments.[4] This resulted in a five-fold increase in the SOH taxable value differential, growing from $82 billion in 2002 to $422 billion in 2007 (see chart on previous page). Based on the statewide average total millage rate, the SOH differential was worth $7.8 billion in property taxes in 2007 and a cumulative $28.5 billion over the six years.

Did this SOH limitation reduce the property tax revenue of Florida schools and local governments? No. Total property taxes levies more than doubled from $14.3 billion in 2000 to $30.4 billion in 2007, a staggering 112.8 percent increase.[5] This property tax increase was borne almost entirely by non-homestead properties (along with new homeowners and homeowners that moved).[6] "Homesteaders are shielded from the full impact of tax increases at the expense of non-homesteaders."[7]

4 Florida Department of Revenue, Florida Property Tax Valuation and Income Limitation Rates."

5 Florida Revenue Estimating Conference, "2018 Florida Tax Handbook."

6 Save Our Homes benefits were not portable at that time, meaning that if a homeowner moved, their new home would be assessed at full market value. Portability (up to $500,000 in assessed value) was adopted by the voters in 2008.

7 Legislative Office of Economic and Demographic Research, "Florida's property Tax Study Interim Report," February 2007.

Comparing the growth in the tax burdens of a similar homestead and non-homestead property from 2000 to 2007 highlights this fact:[8]

Growth in Assessments & Tax Bills for Different Properties

All Assessed at $200,000 in 2000 // 2000-2007

	2000	2001	2002	2003	2004	2005	2006	2007	Total $ Growth	Total % Growth
Homestead Property										
Assessment	200,000	206,000	209,296	214,319	218,391	224,943	231,691	237,483	37,483	18.7%
Tax Bill	4,200	4,293	4,309	4,406	4,409	4,404	4,305	4,075	-125	-3.0%
Non-Homestead Residential										
Assessment	200,000	224,000	256,717	297,370	348,223	400,807	559,629	615,459	415,459	207.7%
Tax Bill	4,200	4,668	5,286	6,114	7,031	7,848	10,398	10,561	6,361	151.5%
Non-Homestead Commercial										
Assessment	200,000	218,000	232,929	251,165	275,343	346,671	414,063	453,888	253,888	126.9%
Tax Bill	4,200	4,543	4,796	5,164	5,559	6,788	7,693	7,789	3,589	85.4%
All Non-Homestead										
Assessment	200,000	220,778	243,941	272,555	309,082	371,732	481,451	528,685	328,685	164.3%
Tax Bill	4,200	4,601	5,023	5,604	6,240	7,279	8,945	9,072	4,872	116.0%

Homestead assessment increased by the SOH homes cap (1.6% to 3.0%). Non-Homestead assessments increase by growth in average statewide assessment for each class of property. Tax bills calculated applying average statewide millage rates to the assessments for each year before applying any exemptions that the property might qualify for, such as the $25,000 homestead exemption.

The table above shows the growth in the tax bills of two properties, both with an assessed value of $200,000 in 2000, using the Save Our Homes assessment cap (ranging from 1.6 percent to 3.0 percent) and the actual statewide average non-homestead assessment growth (ranging from 9.8 percent to 25.9 percent). Both properties had a tax bill of $4,232 in 2000.[9] The homestead tax bill decreased by $125 (3.0 percent) over the seven years, while the average non-homestead tax bill more than doubled, increasing by $4,872 (116.0 percent).[10]

The tax increase is even more pronounced for non-homestead residential properties, with the average tax bill increasing by $6,361 (151.5 percent). While the homestead property with a $4,200 tax bill in 2000 had a bill of $4,075 in 2007, the non-homestead residential property's tax bill grew from $4,200 to $10,561.

The skyrocketing property values of the housing bubble allowed local governments to reap significant revenue windfalls while maintaining or often reducing millage rates. While SOH certainly helped hold down taxes for homesteads, it is likely it did nothing to hold down total property taxes, and likely resulted in taxes rising faster than they would have without SOH. This is because SOH insulates homestead property owners from local government budget decisions.[11]

8 2007 was the year the Legislature enacted millage reduction and the year before non-homestead market values began to fall.

9 This calculation does not consider the $25,000 homestead exemption, which would have further reduced the homestead tax bill.

10 Using average statewide millage rates contained in the 2017 Florida Tax Handbook, produced by the Florida Revenue Estimating Conference.

11 Florida TaxWatch, "Amendment 1 on Property Taxes is Not True Reform and is Likely to Do More Harm than Good," January 2008.

The visibility and awareness of the taxes being paid has been reduced, potentially leading to an over-demand of services.[12] As property values rose, local governments could finance larger budgets at constant or even decreasing millage rates.[13]

This rapidly increasing property tax revenue, along with the growing objections of businesses, landlords, snowbirds and second homes owners, led to the acknowledgment of state elected officials that Florida was having a property tax crisis. While they were right that it was a crisis, the nature of the crisis was misinterpreted. Instead of focusing on the inequities caused by SOH and the rapidly increasing non-homestead tax burden, there was a focus on further reducing homesteaders (voters) taxes. This is despite SOH having "the practical effect of producing real tax bills that are lower today than they were in 1994 for those homesteads that have been protected since then, assuming adjustments for inflation."[14]

The Legislature brought Amendment 1 to the ballot in 2008 and the voters approved it, creating the 10 percent non-homestead cap. However, the amendment made the shift even worse, due to the additional provisions that further benefited homestead property. Amendment 1 also included an additional $25,000 homestead exemption, "portability" for SOH benefits, and a $25,000 exemption for tangible personal property (TPP). The homestead exemption and portability only benefit homestead property. "Portability increasingly shifts the tax burden from longer-term residents to newer, less affluent, homeowners and to non-homestead properties".[15] The TPP exemption was an added benefit for non-homestead commercial property, but not for non-homestead, non-rental residential property.

The chart below shows the value, in reduced taxable value and taxes, of the four provisions in the 2008 amendment. The 10 percent assessment cap accounts for only a quarter of the total benefit. The homestead exemption and portability has shielded 2.8 times more property value from taxation as has the non-homestead cap.

Impact of Amendment 1 (2008)

Cumulative Reductions, Inception in 2009 - 2017 // in $ billion

	Taxable Value	% of total	Taxes	% of total
$25,000 Homestead Exemption	$764.335	0.68	$8.253	0.64
Save Our Homes Portability	$13.652	0.01	$0.246	0.02
$25,000 Tangible Personal Property Tax Exemption	$70.816	0.06	$1.291	0.10
10% Non-Homestead Assessment Cap	$277.822	0.25	$3.009	0.24
Total Impact	**$1,126.625**		**$12.799**	

The homestead exemption and SOH portability apply only to homestead property. The tangible personal property exemption generally only applies to non-homestead commercial.

12 Legislative Office of Economic and Demographic Research, "Florida's Property Tax Study Interim Report," February 2007.

13 Florida Senate, Property Tax Update, September 2011.

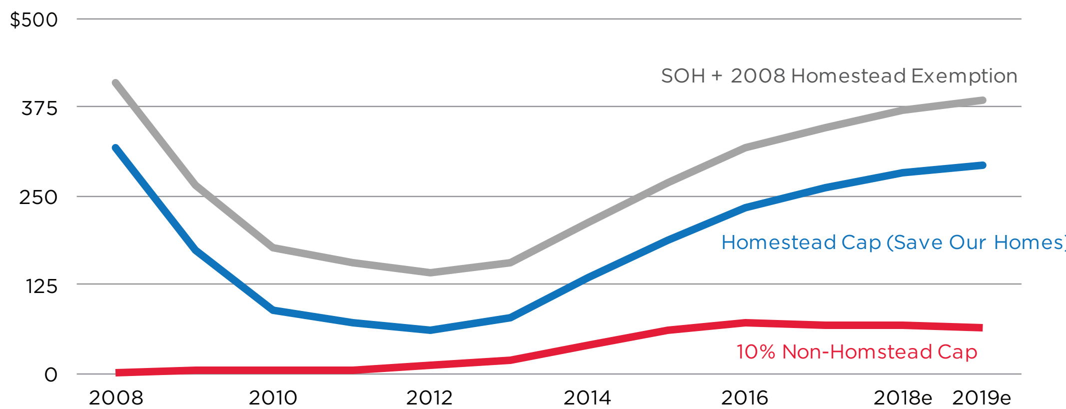
14 Legislative Office of Economic and Demographic Research, "Florida's Property Tax Study Interim Report," February 2007.

15 University of Florida, "Analytical Services Relating to Property Taxation," July 2007. Commissioned by the Florida Legislature.

The non-homestead assessment cap is far less valuable than the Save Our Homes homestead assessment cap to the taxpayers that receive them. In addition to the cap being lower for SOH (lesser of 3 percent or inflation vs. 10 percent), the non-homestead cap does not apply to school property taxes, which make up 41.5 percent of the average Florida property tax bill. Unlike SOH, the 10 percent cap is not portable, meaning that change in ownership results in a loss of the differential. And while the recapture provision applies to both caps, the higher 10 percent cap makes it much harder to build up and keep a significant benefit.

Growth in Assessment Cap Differentials

Homestead vs. Non-Homestead // in $ billions – Taxable Value



Source: Florida TaxWatch using data from the Florida Department of Revenue's Florida Ad Valorem Valuation and Tax Data annual publication.

Around the time Amendment 1 was passed, the housing bubble burst, leading to decreasing statewide property value beginning in 2008 and lasting for five years. This caused a significant reduction in the SOH differential, due to the recapture provision.[16] The differential bottomed out at $60 billion in 2012 (see chart on previous page). But then property values started rising again, and the differential grew by 335.2 percent in five years, climbing to $261.1 billion in 2017. But the falling market values also led to slow growth of the new non-homestead cap's benefit. After reaching its high of $70 billion in 2016, the differential began falling slightly in 2017 and is expected to continue to do so, showing that in periods of property value growth, the non-homestead differential grows much slower than the homestead differential.

16 The recapture provision provides that, as long as the assessed value does not exceed the just value, a homestead's assessment will go up by the Save Our homes cap, regardless on the change in market value. This resulted in increased assessments for homesteads, even though their market value was falling.

What Happens if the 10 Percent Cap is Repealed?

A large property tax increase, on top of an inequitable property tax system that disproportionately burdens renters, businesses, and non-homestead homeowners such as snowbirds and other vacation homeowners, would result in negative impacts for those taxpayers and Florida as a whole. At current millage rates, repealing the 10 percent cap would increase taxes by approximately $700 million.

Impact on the Economy. In 2007, Florida TaxWatch, collaborating with the Center for Economic Forecasting and Analysis at Florida State University, evaluated the economic impacts of property tax cuts.[17] The model found that the reduction in property taxes lowers the overall housing costs and reduces the cost of doing business, resulting in higher demand for housing at the consumer level and an increase in capital-intensive investment at the producer level. This results in an increase in gross regional product and disposable personal income. Short-term, overall employment slightly falls as the economy adjusts to less public and more private employment, but high-paying jobs in capital intensive industries will increase. The increase in real disposable income would spur investment activity in real estate. Population will increase due to the lower cost of living and business costs, further driving economic growth. If property tax reductions produce these impacts, it stands to reason property tax increases will have the opposite effects.

Impact on Renters. Increasing property taxes paid by landlords will be passed on—at least in part—to renters. These increased rents can be a significant hardship, especially on low income renters, making affordable housing an even more elusive goal. Florida could see a repeat of what happened during the period of escalating property values from 2002-2007, when some rental property owners were forced to sell their properties or raise rents because of tax increases due to huge assessment increases.[18]

Impact on Businesses. Property taxes are now by far businesses' number one tax expense nationwide, comprising 38.4 percent of total state and local taxes, far above the next largest: the sales tax (21.3 percent). This is even truer in Florida, where property taxes make up 43.1 percent of all taxes paid, due largely from the tax shift from homestead property to non-homestead property.[19] Businesses also pay property taxes on their tangible personal property. While Florida is a relatively low-taxed state, our property tax burden is higher. Florida collects the 25th largest amount of per capita property tax collections.[20] Coupled with Florida's high reliance on business taxes to fund its state and local governments (52 percent in Florida compared to 44 percent nationwide),[21] and Florida businesses have a high property tax burden compared to other states.

17 Florida TaxWatch, "Model Predicts Florida Economy Will Gain By Property Tax Cut Without Changing Sales Tax." May 2007.

18 Florida Apartment Association, "Save the Non-Homestead Property Assessment Cap."

19 State Tax Research Institute, Council on State Taxation and Ernst & Young, "Total state and local business taxes", August 2017.

20 Florida TaxWatch, "2018 How Florida Compares."

21 State Tax Research Institute, Council on State Taxation and Ernst & Young, "Total state and local business taxes", August 2017.

This burden will continue to rise from increasing tax shifting, with or without the 10 percent cap. But without the cap, the shift will skyrocket.

While some factors may carry even more weight, taxes are an important factor in business location decision. A business property tax burden that is high, and ever increasing, can hurt Florida's efforts to bring capital intensive businesses and jobs to the state.

The most important feature a of tax system to business is stability. The 10 percent non-homestead cap provides stability for property taxes, avoiding the high spikes that would occur without it.

Studies have found that property tax increases have a negative impact on businesses, especially on jobs. Examining the economic effect after new school levies, one study found that property tax increases reduce the number of local businesses due to decreased business entry and decreased survival rates.[22]

New Homestead Exemption Would Make the Impact of the Non-Homestead Cap Repeal Even Worse

Alongside the continuation of the non-homestead cap (Amendment 2) on the November 2018 ballot will be another amendment, which would create another $25,000 homestead exemption. The exemption would apply to a home's value from $100,000 to $125,000. This would be in addition to the two $25,000 homestead exemptions that currently exist—exempting the portion of home values between $0 and $25,000 and $50,000 and $75,000. The first exemption applies to all taxes, the second and proposed third exemption do not apply to school taxes.

Florida TaxWatch is concerned the new homestead exemption could be approved by voters while the proposed amendment to abrogate the repeal of the 10 percent assessment cap for non-homestead property could fail. That would make a bad situation even worse, exacerbating Florida's tax-shifting property tax system. Further reducing the taxable value of homesteads will further burden the most burdened.

Proposed Homestead Exemption

- Exempts the value between $100,000 and $125,000
- Exemption does not apply to school taxes
- Less than half (43 percent) of homesteads would benefit
- Fiscally constrained counties will be reimbursed by the state for lost revenue
- Exemption worth $644.7 million at current millage rates

22 C. Lockwood Reynolds and Shawn M. Rohlin, Department of Economics, Kent State University, March 2017.

Property tax exemptions often do not provide all the expected tax savings, since millage rates can be adjusted. When large exemptions are granted, the rolled back rate may be a "rolled up rate" to make up for lost revenue, without being characterized as a tax increase. The increase in taxable value from repeal of the non-homestead tax is larger than the taxable value reduction from the homestead exemption. Therefore, if the homestead exemption passes and Amendment 2 does not, local government taxable value (in total) would increase slightly. Generally, this would reduce the need for local governments to increase the millage rate to make up for the lost revenue from Amendment 1. Conversely, it makes it less likely governments will reduce millage rates to help taxpayers that lose the non-homestead cap.

However, the 2017 Legislature already passed a bill (HB 7107) that would implement Amendment 1, should it pass. The bill provides that the "rolled back rate" used by local governments in FY 2019-2020 must be calculated as if the tax base not had been reduced by the increased homestead exemption. This calculation of the rolled back rate would also apply to the maximum millage limitations passed by the Legislature in 2007.[23] This would make it much more difficult to make up for the lost value by adjusting the millage rate. This would help reduce the tax shift and the tax increase on non-homestead properties. However, the provision is only for the first year. The following year, the taxable value loss from the new homestead exemption would be included, resulting in higher rolled back rates.

In addition, local governments have shown that they can achieve the supermajority vote requirement to exceed the maximum millage. In the last couple of years, with property values and new construction rising, relatively few local governments exceeded the maximum millage—51 (9.9 percent) in 2015 and 74 (12.9 percent) in 2016.[24] However, in 2007 and 2008, with local governments facing large revenue reductions with even stricter millage requirements, 157 (28.4 percent) and 257 (43.9 percent) local governments voted to override the maximum millage requirements. This included 88 and 50 local governments, in 2007 and 2008, using unanimous votes to exceed the maximum by more than 10 percent.

23 Section 200.065 (5), Florida Statutes provides that counties, municipalities, special districts or municipal service taxing units may only levy a the rolled back rate (based on the maximum millage rate allowed in the prior year), adjusted for the change in per capita Florida personal income. Going above this rate requires a supermajority vote. Local governing boards may exceed this rate by up to 10 percent with consent from two-thirds of board members, or an amount greater than 10 percent with consent from all board members.

24 Florida Department of Revenue, Maximum Millage Compliance Reports.

Conclusion

The 10 percent non-homestead assessment cap, created by the voters in 2008, helped to stem the multi-billion dollar tax shift from homestead to non-homestead properties that Florida's property tax system creates. It is a relatively limited, but important, safeguard for renters, businesses, owners of vacant lands, snowbirds, and other second homeowners—and it is the only significant one they have for real property. On average, non-homestead property is taxed at 91 percent of its just value, while SOH and numerous exemptions result in homestead property being taxed on 53 percent of its value.

The Effect of Assessment Caps & Exemptions on Tax Rolls

	Homestead		Non-Homestead Residential		Non-Homestead Commercial		All Non-Homestead	
	Billion $	% of JV	Billion $	% of JV	Billion $	% of JV	Billion $	% of JV
Just Value	$1,018.1		$662.8		$498.8		$1,161.6	
Assessed Value	$757.1	74.4%	$622.9	94.0%	$453.8	91.0%	$1,076.7	92.7%
Taxable Value*	$544.3	53.5%	$620.0	93.5%	$437.6	87.7%	$1,057.6	91.0%

* "County" taxable value, which applies to all taxing jurisdictions except school districts. School taxable value is approximately 10 percent higher, since certain taxable value reductions don't apply to school taxes, such as the 10% homestead cap and the 2nd homestead exemption. Save Our Homes does apply to school taxes.

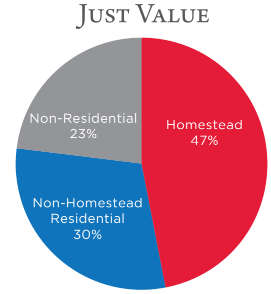
If at least 60 percent of the voters do not vote in favor Amendment 2, non-homesteads lose this protection and that property immediately becomes assessed at full value. This could result in a tax increase of as much as $700 million. The probable approval of a new homestead exemption means local governments are less likely to significantly reduce millage rates (after the first year).

While the non-homestead assessment cap does not currently *benefit* all non-homestead properties (if a property value has never had an increase of more than 10 percent), it does *protect* all non-homestead property from future spikes in assessment. If the cap had been in place during the historic property value increases of 2000 to 2006, these properties would have shielded from the massive tax increases many of them experienced.

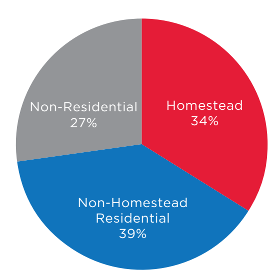
Florida has an inequitable property tax system that disproportionately burdens renters, businesses and other non-homestead property owners. As long as property values rise, those inequities will continue to grow. The non-homestead cap helps to slow that growth. Voters should approve Amendment 2.

Non-Homestead Property Makes Up Just Over Half of Statewide Just Value but Two-Thirds of Taxable Value

Just Value



Taxable Value



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