

# BRIEFING

## Session Spotlight



### TRUTH IN PROPERTY TAXATION CAN BE HARD TO COME BY

*Public Notice of Important  
Property Tax Changes  
should not be Diminished*

MARCH 2019

**FLORIDA TAXPAYERS HAVE A CRITICALLY IMPORTANT PROTECTION** called the Truth in Millage Act (TRIM) that was enacted to formalize the property tax process and provide information and opportunities for input to taxpayers. The TRIM Notice informs each taxpayer of how their property tax bill would change from the present year under the proposed budget of each taxing authority and if the taxing authority made no budget changes.

Another important provision of this law requires that when setting property tax rates, local governments use as the starting point the tax rate that would bring in the same amount of tax revenues as the prior year with the increased or decreased total taxable value of current property. This millage rate—called the “rolled-back rate”—allows local governments some growth revenues by excluding new construction from the calculation.

Using the rolled-back rate as the base helps protect taxpayers when property values are rising rapidly. Conversely, during times of falling values, the rolled-back rate can be higher than the previous rate, allowing local governments to raise the millage rate without having to advertise it as a tax increase. The TRIM law directs that any proposed millage rate that exceeds the rolled-

back rate should be characterized as a tax increase, even requiring that local governments place an advertisement in a local newspaper, with the heading “Notice of Proposed Tax Increase.” This notice details the size of the tax increase and provides the time and place of the public budget hearing to adopt the proposed budget and millage rate.

These two important taxpayer safeguards are under fire, as legislation has been filed again this session to allow for their posting on the web to be sufficient notice, rather than placing the notice in a local newspaper (Notice of Proposed Tax Increase and other legal notices) or delivering by first class mail (TRIM Notice).<sup>1</sup>

### CAN TAXPAYERS COUNT ON GOVERNMENT FOR STRAIGHT ANSWERS ON TAXES?

Prior to the implementation of Save Our Homes (SOH)<sup>2</sup> in 1995, as local governments put their budgets together, set their property tax rates and advertise their intentions to taxpayers, Florida TaxWatch received many calls from citizens concerning the process.

<sup>1</sup> TRIM Notice - HB 399, SB 564 Legal Notices - HB 1235, SB 1676, SB 1710

<sup>2</sup> Save Our Homes, Article VII, Section 4(d), Florida Constitution, was approved by the voters in 1992. It limits the annual growth of the assessed value of homestead property to the lesser of 3 percent or inflation.

Many of the calls centered on the complaint that there is difficulty in getting what taxpayers perceived as straight forward answers about property taxes, particularly about tax increases.

These calls peaked in 1995, the first year of SOH. That year, Florida TaxWatch conducted an informal, non-scientific survey of local governments, asking the simple question: “Did (name of taxing authority) propose a property tax increase this year?” Almost one-half of local taxing authorities that responded and had proposed an increase in their property tax rate over their rolled-back rate gave responses that conflicted with the spirit of the TRIM law.<sup>3</sup> They said there was no proposed tax increase when they had reported proposed millage rates in excess of the rolled-back rate. Most of these had proposed a millage rate that was the same or less than last year’s rate; however, under the TRIM law, a proposed millage rate that is higher than the rolled-back rate, even if it is less than the rate levied the prior year, is a tax increase and must be characterized as such.

Some gave answers that were even further from correct. These taxing authorities said they did not propose a property tax increase when not only was the proposed millage rate higher than the rolled-back rate, but it was also higher than the millage rate levied in the previous year.

Slightly more than half of the taxing authorities that did propose tax increases accurately reported that they did. Of these, 60 showed a special knowledge and respect of the TRIM law by answering “yes” even though the proposed rate, while higher than the rolled-back rate, was the same or less than the millage rate imposed last year. However, some that correctly answered “yes” proceeded to provide erroneous information. This included significantly understating the size of the tax increase or blaming the property appraiser or the Florida Department of Revenue for the tax increase.

<sup>3</sup> Florida TaxWatch, “Truth in Property Taxation Is Often Hard to Come By: Taxpayers Don’t Always Get Answers In The Spirit of the TRIM Law,” October 1995.

With the implementation of SOH, the number of those calls diminished. SOH kept homeowners’ property taxes low, shifting the burden the non-homestead properties. Calls from non-homestead property owners greatly escalated during the housing bubble in the early 2000s, as SOH put almost the entire burden of skyrocketing property taxes on them. Calls from homestead property owners picked up again when the bubble burst, with homeowners wondering how their assessed value could rise when their market value was falling.<sup>4</sup>

## REVISITING THE SURVEY

Today, with property values back to more normal growth and the continued legislative discussion about eliminating the requirement for state and local government legal notices, including the Notice of Proposed Tax Increase, to be printed in newspapers, Florida TaxWatch revisited this issue.

Florida TaxWatch researchers called all 67 county governments<sup>5</sup> and 60 city governments, using Department of Revenue (DOR) contact information. Since these calls were made after the millage rates had been adopted, they were asked: “Did the city/county commission adopt a property tax increase for your operating levy in 2018?” Often, the call was transferred—sometimes multiple times—and the question was asked until someone answered it. Using DOR’s millage compliance report, which shows the previous year, rolled-back, and adopted current year millage rates, we compared their answers to reality.

Of the 67 counties, 60 adopted a tax increase for their operating levy. Of those, 43 kept the same millage rate as the previous year, nine adopted a lower rate than last year (but higher than the rolled-back), and eight adopted a rate that exceeded the previous year.

<sup>4</sup> Save Our Homes has a “recapture rule” that allows the assessed value of a homestead to increase by the SOH cap as long as the assessed value does not exceed the just value. When property values were falling significantly, many homeowners who had built up a significant SOH savings saw their assessments increase.

<sup>5</sup> Including Duval County/City of Jacksonville consolidated government.

Two counties exceeded the maximum allowed millage rate and required a supermajority (2/3) vote of the commission to adopt it.<sup>6</sup>

Of the seven that did not raise taxes, four adopted the rolled-back rate and three cut taxes (adopted rate was lower than the rolled-back rate).<sup>7</sup>

Of the 60 cities, all but one adopted a tax increase for their operating millage.<sup>8</sup> Most of those (39) kept the same millage rate as last year, five adopted a lower rate than last year (but higher than the rolled-back), and 16 adopted a rate that exceeded the previous year. Fifteen cities exceeded the maximum allowed millage rate and required a supermajority (2/3) vote of the commission to adopt it pursuant to state law. One city exceeded the maximum by more than 10 percent and needed an unanimous vote to adopt it.

## NEW SURVEY RESULTS

Of the 127 governments contacted, there were 43 that never responded; either they did not pick up the call after multiple attempts or transferred the call to someone who did not answer. Of the 88 that did answer the question, 30 answered correctly and 24 answered incorrectly. Another 15 were unable to give an answer and 15 would only give millage rate information. Many directed us to their website. We did check some of the sites, and even with our 40 years of property tax research experience, the relevant data was not always easy to find.

Many local governments attempted to deflect the call to the property appraiser. Unlike the previous survey, there were no attempts to directly blame the property appraiser for a tax increase, but many said the appraiser was the one to ask. In such cases, they were reminded that the commission sets the millage rates. Some then ventured an answer but others insisted

on calling the property appraiser, whose office gave generally correct millage rate information but avoided the question of whether it was a tax increase.

Some of the answers were way off base. Five of those that incorrectly stated there was not a tax increase not only adopted a rate that exceeded the rolled-back rate, but also exceeded it by enough to require a supermajority vote of the commission. Three cities even responded that cities do not levy property taxes, so we should call the county.

Then there were those who seemed to know the TRIM law but characterized the TRIM notices and legally required advertisements as misleading. Statements to the effect that “we cut taxes but the state makes us advertise a tax increase” were not uncommon.

It must be noted that many respondents were knowledgeable, polite, and eager to help, but a significant number of respondents who were quite the opposite. In addition to displaying a lack of civility, some treated this public information as if it were proprietary information and were very reluctant to provide it.

## CONCLUSION

While the Florida TRIM law is one of the most accountable and taxpayer-friendly laws in the nation, it is only as good as the extent to which taxpayers are able to understand it in a uniform and consistent manner. Moreover, if the TRIM law is to produce its intended benefits, taxpayers must avail themselves of the information it provides and take advantage of its opportunities for input. It is essential that local governments uphold the TRIM law and provide information to taxpayers in keeping with the letter and the spirit of the law.

This report is not meant to criticize local governments for raising taxes. Florida TaxWatch also acknowledges that the response of one person does not necessarily reflect the knowledge, the honesty or the dedication to serving the taxpayer of the local

<sup>6</sup> The maximum millage rate a governing body may adopt with a simple majority vote is the rolled-back rate increased by the growth in per capita Florida personal income. To exceed that maximum millage, a 2/3 vote is required; to exceed it by more than 10 percent, a unanimous vote is required.

<sup>7</sup> One of these counties, already at the 10-mill cap, had a rolled-back rate that was higher than 10 mills, but was forced to adopt 10 mills again, which constitutes a tax cut.

<sup>8</sup> Of all 390 cities in the millage compliance report, 323 (83 percent) raised taxes, 30 reduced taxes and 37 adopted the rolled-back rate.

government as a whole. But it is clear that it can be very difficult for the average taxpayer to get straight, complete answers about taxes, especially answers that are in keeping with the spirit of the TRIM law.

**That is why the “Notice of Proposed Tax Increase,” “Notice of Budget Hearing,” and the “Notice of Proposed Property Taxes (TRIM Notice)” are so important, and nothing should be done to decrease the ability of taxpayers to receive this information.**

There have been ongoing legislative efforts to delete the requirement that the Notice of Proposed Tax Increase (and other legal notices) need to be placed in newspapers, as well as the requirement that TRIM Notices be delivered to all property taxpayers by first class mail. Instead, posting these notices on a government website would be sufficient for these two notices.

Surely, uniform, conspicuous placement of these notices on the web should be encouraged, but not at the expense of the current delivery of this important information to taxpayers. Information on the web must be sought out, and for some can be difficult to find.

A survey found that 83 percent of Floridians say that state and local governments should be required to publish public notices in the newspaper and that 82 percent would not go to government websites to look for the notices.<sup>9</sup> Further 1.2 million (7.5 percent) of Floridians do

<sup>9</sup> Mason Dixon Polling & Research, 2017

not have internet access, almost one in five (19 percent) of those 65 and over and 17 percent of low-income families.<sup>10</sup> In addition, newspapers are required to post all public notices on a single dedicated website.

Removing these announcements from newspapers, eliminates the independent third-party role in providing this information.

**The TRIM process is a vital taxpayer protection tool and we should continually strive to make it better. Lessening the ability of taxpayers to access this information weakens the law. Taxpayers deserve to get concise, accurate and unvarnished information about how local government decisions affect the property taxes that they pay.**

<sup>10</sup> Nielsen Scarborough 2018

## ABOUT FLORIDA TAXWATCH

As an independent, nonpartisan, nonprofit taxpayer research institute and government watchdog, it is the mission of Florida TaxWatch to provide the citizens of Florida and public officials with high quality, independent research and analysis of issues related to state and local government taxation, expenditures, policies, and programs. Florida TaxWatch works to improve the productivity and accountability of Florida government. Its research recommends productivity enhancements and explains the statewide impact of fiscal and economic policies and practices on citizens and businesses.

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This piece written by Kurt Wenner, VP of Tax Research, with assistance by Gabriella Springer, Research Intern.

106 N. Bronough St.  
Tallahassee, FL 32301  
o: 850.222.5052  
f: 850.222.7476