COST
COUNCIL ON STATE TAXATION

Testimony to the Ohio Joint Committee on Property Tax Review and Reform

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February 28, 2024

Co-Chairs Senator Blessing and Representative Roemer and Members of the Joint Committee, I appreciate the opportunity to testify today to assist this Committee in making recommendations to improve Ohio's property tax structure and business climate. My presentation will primarily focus on a property tax scorecard the Council On State Taxation (COST) issued in 2019 that graded the states (and other countries) on property tax administrative practices. Before that, however, I will explain COST's interest in the states' property tax systems. I will also highlight several areas where we recommend improvements to foster a better property tax system and business environment in Ohio.

About COST

COST is a nonprofit trade association based in Washington, DC. COST was formed in 1969 as an advisory committee to the Council of State Chambers of Commerce and today has an independent membership of approximately 500 major corporations engaged in interstate and international business. COST's objective is to preserve and promote the equitable and nondiscriminatory state and local taxation of multijurisdictional business entities. Many COST members do business in Ohio and are impacted by Ohio's property tax structure.

COST Engagement/Perspective with Property Tax Issues

Similar to the other state and local taxes we cover for our membership, our efforts are geared toward improving the administrative practices states use to collect and remit all state and local taxes. Our concerns are focused on ensuring the equitable and efficient administration of taxes, and not the level of taxes imposed by state and local governments. COST increased its focus on property tax issues and the states' administrative practices related to property taxes in 2008 based on input from our membership. With respect to property taxes, our Board of Directors has adopted a policy position on "Fair and Equitable Property Tax Administration Systems"[1] We also issue periodic Property Tax Scorecards (addressed below); provide our membership with legislative updates and education on property taxes; comment on property tax legislation; and file *amicus* briefs on cases dealing with property tax issues. Our policy position highlights the need for property tax systems to include: 1) *uniform tax base and rates* (tax should not disproportionally fall upon business); 2) *efficient filing procedures* (reasonable and uniform due date and valuation methods); 3) *centralized review and uniform appeal procedures* (a central

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[1] COST's "Fair and Equitable Property Tax Systems" policy position is available at: www.cost.org/globalassets/cost/state-tax-resources-pdf-pages/cost-policy-positions/fair-and-equitable-property-tax-systems.pdf.

agency should have oversight over local agencies valuations and appeal processes should be uniform); and 4) *no pre-payments on contested portions of valuations*.

Since 2002, addressing comments from various interested parties (including state legislators) that businesses are not paying their fair share of state and local taxes, COST, in conjunction with EY, has annually published a "State and Local Business Tax Burden Study."[2] For fiscal year 2022, property taxes in the U.S. accounted for almost 35% of the taxes paid by business ($373.1 billion) – more than the next two combined highest taxes on business, which are sales taxes on business inputs (21% - $225 billion) and corporate income taxes (13% - $141.4 billion). Ohio's property tax on business is similar, accounting for 32.7% ($9.9 billion) of the total taxes paid by business at the state and local level. Ohio's sales taxes on business are 23.1% ($6.5 billion) of the total and corporate income taxes (which includes Ohio's CAT and municipal income tax on net profits) are 8.8% ($2.7 billion) of the total.

Property taxes offer an interesting dynamic as compared to other taxes imposed on both businesses and households (total of $2.407 trillion). Households (end user consumers) on average pay about 55% ($1.333 trillion) of the total U.S. state and local tax burden, and businesses pay around 45% ($1.075 trillion). *However, the business share of property taxes is much higher; total U.S. state and local property taxes paid by business is 54% ($373.1 billion) as compared to 46% (317.6 billion) paid by households.* This is likely because property tax rates and assessment rates are often higher on business property (both real and personal), and most states still tax business personal property (while most household property is excluded). Thus, while many state legislators (and the general public) are justifiably concerned with the increase in property taxes paid by homeowners due to valuation increases, nationally, the overall property tax burden is still greater on business properties.

The Good and Bad of Property Taxes

The property tax is often identified as "the most hated tax," even more so than income taxes and sales taxes. This is likely because understanding how property taxes are imposed is often confusing, and unlike income taxes, the property tax is not based on the ability to pay the tax from current income streams. That said, property taxes are a stable source of revenue, and, on average, they fund 70% of public education at the primary and secondary school levels. [3] Additionally, property tax levies are often overseen by voters at the local level – those voters often control the imposition, continuation, increase, or decreasing of many property tax levies.

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[2] The "State and Local Business Taxes" study is available at: www.cost.org/globalassets/cost/state-tax-resources-pdf-pages/cost-studies-articles-reports/fy-2022-ey-cost-50-state-bus-tax-study_optimized.pdf.

[3] The Lincoln Institute of Land Policy and Minnesota Center for Fiscal Excellence publishes a "50-State Property Tax Comparison Study," which is a valuable resource for understanding the states' property tax systems. That study is available at: https://go.lincolninst.edu/50-state-property-tax-comparison-for-2022.pdf?_gl=1*1jk84ap*_ga*MzYzNDcwMjQ3LjE3MDg5NTc1MjQ.*_ga_26NECLE3MM*MTcwODk1NzUyNC4xLjEuMTcwODk1NzU1NS4wLjAuMA..&_ga=2.7127861.66216670.1708957524-363470247.1708957524.

Here are four good points and counterpoints to property taxes:

The Good	**The Bad**
Stable source of revenue	*Not based on the ability to pay*
Mass appraisal valuation data	*Valuations can still be subjective*
Fairly easy to administer	*Complex appeals and battle over appraisals*
Funds many local government operations	*Refunds create budget issues*

Property taxes, like many other taxes, are not perfect, but neither are they going away – all 50 states and the District of Columbia currently impose real property taxes. Additionally, over 35 states impose personal property taxes, and over 12,000 different county, city, and other local jurisdictions assess and/or collect those taxes in the U.S. COST tracks hundreds of state and local tax bills every year, including over 110 bills related to property tax last year. Property tax issues are clearly on the radar not just in Ohio, but in all 50 states, where legislatures are considering revisions to their property tax systems.

COST/IPTI Property Tax Scorecard

COST has issued three property tax administrative scorecards (2011, 2014, and 2019), with the last two done in conjunction with the International Property Tax Institute (IPTI), an international property tax association comprising government assessors, businesses, and academics. As with our administrative scorecard, "The Best and Worst of State Tax Administration" in 2001,[4] our goal with the property tax scorecards is to improve the overall administration of state and local taxes by objectively evaluating the statutory framework that drives state administrative tax practices – it is not a subjective review of the personalities of those in charge of administering state and local taxes. We currently evaluate the states with a letter grade format (A to F) because that evaluation makes it easier for state tax policy makers (state legislators and certain executive branch personnel) to better understand where the business community stands with a state's administrative practice regarding state and local taxation.

Our latest 2019 Scorecard of the "Best and Worst of International Property Tax Administration"[5] delves into many facets of property tax administration. It looks at three key principles in evaluating the states' (and several other countries' subnational jurisdictions) property tax practices: 1) *transparency* of the property tax system; 2) *consistency* (central oversight); and 3) *procedural fairness*. Each of those three key principles has three subcategories, each with an additional three factors that are evaluated (total of 27 evaluation criterion). A map of the U.S.

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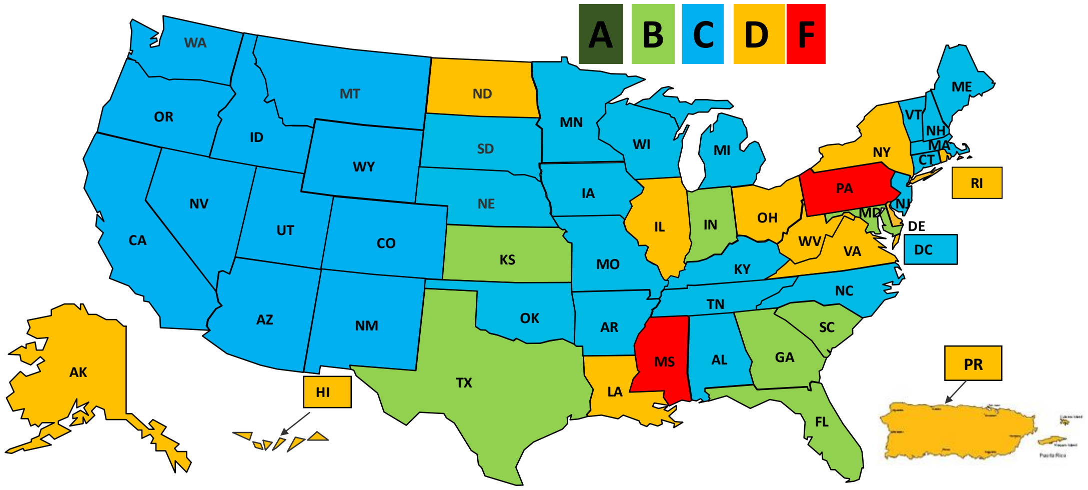
[4] The most current version of COST's "Best and Worst of State Tax Administration," 8th edition (December 2023), is available at: www.cost.org/globalassets/cost/state-tax-resources-pdf-pages/cost-studies-articles-reports/cost-2023-admin-scorecard---final-draft-combined.pdf. Ohio's overall score was a "B+".

[5] COST/IPTI Scorecard on "The Best (and Worst) of International Property Tax Administration," is available at: www.cost.org/globalassets/cost/state-tax-resources-pdf-pages/cost-studies-articles-reports/2019-international-property-tax-scorecard---final-june-20.pdf.

with results is provided below, showing Ohio received an overall score of "D+" – indicating there is much room for improvement.

Overall Property Tax Grades for U.S. States and Puerto Rico



Source: The Best (and Worst) of International Property Tax Administration, COST & IPTI, June 2019

Transparency Category – Ohio scored an overall D grade in this category (practices based on review of Ohio's 2018 procedures). This category addressed 1) centralized information on a state's property tax system, 2) valuation notices, and 3) valuation practices.

Our concerns with this category are the following:

Ohio (like several other states) has a practice of using assessment ratios that do not reflect the "true value" (*i.e.* market value) of the assessed property, which complicates the understanding of the tax applied to the actual valuation of a property. For example, the property owner (taxpayer) is presented with a "true value" of its property and a corresponding "taxable value" (also known as the "assessed value") for the levying of an authorized property tax. Ohio's taxable value is based on 35% of the true "market" value of real property. The application of an assessment ratio to reduce the taxable value of property only serves to further complicate the understanding of the impact of levied taxes when applied to real property valuations. Transparency dictates that valuations should be based on the actual valuation of a property (100% of its valuation) and any tax increase/decrease based on that valuation should be expressed by $X dollars of tax increase/decrease per $1,000 dollars of valuation (or a substantially similar format). Additionally, the use of a millage rate on assessed value only frustrates property taxpayers from understanding the tax impact from a property tax rate change. This is an easy fix; taxing property taxpayers at "true value" rather than an "assessed valuation" can be accomplished by automatically decreasing those tax rates based on a change from using an "assessment rate" applied to such properties to using a property's market valuation (true value) – for both homeowner and business owned properties.

Ohio's reduction of effective tax rates based on increases in valuation does a fair, but not great, job in controlling property tax increases. Ohio should avoid the practice used in some other states, such as California, that use the "Welcome Stranger" approach to limit property tax increases by artificially reducing valuation increases of property based on the date of purchase. This inequitably forces new owners of a property to pay more property tax on similarly valued properties that have not changed ownership for several years. It would also likely run afoul of Ohio's uniformity clause in the State's Constitution. Improvements should be made to the reduction factors put in place in 1976 (H.B. 920) and should consider applying the same reduction of tax rates to all classes of property (not separate for residential/ag property and all other property), and new construction should be part of the overall formula to reduce the tax rates to account for growth in the property tax valuation base.[6]

Properties also need to be revalued on a regular basis to make adjustments in valuations based on market conditions. Ohio requires these adjustments every three years, with a more detailed review (*e.g.*, physical inspection) every six years. In a perfect world, adjustments should be made annually and in periods of strong growth of property valuation, this reduces the "sticker shock" of valuation increases that are made less frequently. This Committee should consider requiring more detailed review by the county assessors at least every two years, instead of the three-year review process that is currently utilized.

Consistency Category – Ohio scored an overall C grade in this category (based on Ohio's 2018 procedures). This category addressed 1) central agency oversight of local assessors and uniform statewide property tax forms, 2) equal assessment practices for all properties, and 3) assessor training and public outreach.

Our concerns with this category are the following:

Presently, Ohio's Tax Commissioner is charged to verify that county assessors (in general the county auditors) are valuing property at its true value (market value). The Tax Commissioner's central oversight of verifying and requiring county assessors to make valuation adjustments to ensure properties are valued at their true market value in each county should not be diminished (and if anything, strengthened). The State should also review its qualifications and mandatory training standards imposed on county assessors (such as courses offered by the International Association of Assessing Officers) to assist the county assessors in determining the valuation of properties located in their jurisdictions.[7]

While an assessment rate of 35% is used to ascertain taxable value of real properties in Ohio, the assessment rates on certain public utility property are higher. In 2005, the Ohio Legislature

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[6] Any changes to the rate reductions would need to comply with Article XII, Section 2a of Ohio's Constitution.

[7] Texas is state that is known to have good property tax training requirements; those requirements are available at: https://comptroller.texas.gov/taxes/property-tax/arb/training.php.

enacted a major tax reform package to reduce taxes imposed on businesses making capital investments in the State. Part of accomplishing that goal was phasing out the State's personal property tax imposed on general businesses.[8] However, the personal property tax on certain public utilities, such as electric companies and pipelines, was not phased out. The assessment rates on certain electric company property (transmission and distribution equipment) is 85%, and heating and pipelines property is assessed at 88%, with an assessment rate of 24% to 25% for other property. For taxes payable in 2022, this amounted to a tax on $27 billion of assessed value, which amounted to $2.2 billion in tax.[9] These are taxes on capital investment in the state, and while it can be argued that property such as transmission and distribution equipment is not going to leave the State, it imposes an increased cost on all businesses conducting operations in Ohio when businesses purchase utility services from a utility that is still required to pay a personal property tax (with that cost passed on to its customers). Just as businesses evaluate wage, construction, and other costs when seeking to locate in a state, utility bills are also a factor. This Committee should seriously consider the ramifications of continued taxation of certain personal property and make recommendations for the elimination, or at least a significant reduction in those assessment rates.

Stability of the property tax base is also important. While it is understood there is a push by several states to increase homestead exemptions for residential properties, caution is warranted in this area to not increase a shift of the property tax burden to fall greater on business properties. Post-Covid, the value of many commercial properties is in flux with more employees working at home and the declining need for commercial office space.

Procedural Fairness Category – Ohio scored an overall D grade in this category (based on Ohio's 2018 procedures). This category addressed 1) the initial review of a proposed valuation, 2) fair and independent tribunal, and 3) other procedural fairness issues.

We have several concerns in this category. First, while many county assessors offer an informal review for a property owner to dispute a valuation after it is finalized, there should be a legal right for a property owner to have a proposed valuation reviewed prior to a value being established by a county assessor. This will assist in reducing property tax appeals and give property owners (especially more complex business property owners) the ability to explain a valuation concern prior to a valuation being finalized.

The burden of proof is also important. While the initial burden of proof is often on a taxpayer for most taxes because the taxpayer has control over most of the information for determining the tax owed; however, real property valuations are different. The county assessors make the initial value determination of real property and are in a better position of knowing the valuation trends in their jurisdictions; thus, the initial burden of proof for protesting a property tax valuation

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[8] Several other states have followed this trend with Michigan enacting legislation reducing its personal property tax on certain business properties, Wisconsin eliminating its personal property tax last year (effective this year), and West Virgina has proposed legislation to reduce/eliminate its personal property tax.
[9] This information was derived from the Ohio Department of Taxation's 2022 Annual Report; available at: https://tax.ohio.gov/static/communications/publications/annual_reports/2022annualreport.pdf.

should accordingly be on the county assessor.[10] Alternatively, the county assessor's valuation should not be given greater deference than a property owner's requested valuation.

Lastly, an improvement Ohio recently made was imposing restrictions on school boards filing valuation complaints with the enactment of H.B. 126 (2022). In general, the State's county auditors are the entities vested with determining the fair market value of real property. Allowing school districts and other governmental entities to independently dispute property owners' valuations, primarily targeted towards business properties, is unfair. The vast majority of the states do not allow this practice and it should be eliminated in Ohio. H.B. 126 is a step in the right direction, and some adjustments may be necessary to further improve the restrictions imposed on school boards filing property tax valuation complaints. In addition, while Ohio does not require full payment of a disputed property valuation for a property owner to appeal a valuation, in some instances the imposition of penalties and interest practically require a property owner to pay the disputed portion of a valuation. Instead, which also prevents local government authorities from relying on (and spending) property tax revenue that may be refunded, a property owner should not have to pay the disputed tax portion (or it should at least be held in escrow).

Conclusion

I appreciate the opportunity to testify today. COST shares the same goal as this Committee to improve Ohio's property tax structure, and to grow Ohio's economy and create jobs in Ohio. I would be pleased to answer any questions.

Respectfully,

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cc: COST Board of Directors
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[10] Several states put the initial burden on the assessor, such as Georgia (OCGA § 48-5-311(g)(3)), Kansas (only residential property – KSA § 79-2426(c)(4)(B)), Missouri (MRS § 138.060), and Texas (TTC § 41.43).