



Our Newsletter below reviews an Initiative that would change California's rules for taxing commercial and industrial properties. The Initiative has qualified for the November 3, 2020 ballot.

Please contact us if you have any comments or questions with which we can assist.

Regards,

Norma

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Initiative Changing Property Taxation of Commercial and Industrial Properties Qualifies For November 3, 2020 Ballot

Our [March Newsletter on 2020 Legislative Developments Affecting California Commercial Real Property](#) mentioned a ballot initiative to partially repeal California's Prop 13 (the "Initiative") as an item to watch. If adopted, the Initiative would result in a major change to California real property taxation, requiring commercial and industrial properties, except those zoned as commercial agriculture, to be taxed at their current fair market value rather than at base value (usually purchase price), as adjusted.

Split Roll Initiative

On May 29, 2020, the Initiative, called "The California Schools and Local Communities Act of 2020,"[1] qualified for the November 3, 2020 ballot. If voted in, the Initiative would amend the California Constitution to require that, starting on January 1, 2022, commercial and industrial properties, except those zoned as commercial agriculture, be reassessed at their current fair market value at least once every three years and taxed annually on that basis. The current rule under Proposition 13, passed by California voters in 1978, is that all California real property is taxed at 1% of base value (usually its purchase price) with annual adjustments equal to the lower of the rate of inflation or 2% unless there has been a change in ownership or new construction.

The Initiative would have no effect on residential property (both single and multi-family) and the land on which it is situated – these remain subject to the Proposition 13 rules. Thus,

the Initiative, if passed, would split the tax roll as between residential property on the one hand and commercial and industrial property except agricultural on the other.

For mixed use properties on which both residential and commercial or industrial uses are permitted, only the non-residential portion would be subject to reassessment. If 75% or more of the mixed use property is residential, the property can be excluded from reassessment. Limited use of a residence for commercial use (e.g. a home office) is classified as residential.

Allocations of Increased Revenues

The Initiative provides that the annual additional tax revenue generated by the taxation of commercial and industrial properties would go to local governments, special districts, school districts and community college districts after deducting the costs of implementing the measure and amounts to supplement decreases in personal income taxes and corporate taxes caused by the Initiative. The state estimates the net additional revenue to be distributed to the recipient entities will be between \$6.5 and \$11.5 billion, depending on the real estate market.

Exemption-Real Property Worth \$3,000,000 or Less

Exempt from the Initiative's provisions would be commercial and industrial real property with a fair market value of Three Million Dollars (\$3,000,000) or less unless any direct or indirect beneficial owner of such real property owns a direct or indirect interest in other real property in California. If that is the case, the Initiative's provisions would apply if the aggregate holdings are greater than \$3,000,000. The \$3,000,000 amount is to be adjusted for inflation beginning in 2025.

Delayed Effective Date-Small Business Occupancy

While the split roll provisions would take effect on January 1, 2022, a delayed effective date would apply to the taxation of commercial and industrial properties where 50% or more of the square footage is occupied by a small business. If that is the case, the change will not be effective until the 2025-2026 fiscal year or such later date as is determined by the Legislature. A small business is one that has fewer than 50 annual full time equivalent employees, owns real property in California, is independently owned and operated and not subject to control, restriction, modification or limitation by an outside source.

Personal Property Tax Exemptions

Effective January 1, 2024, the Initiative also provides for exemptions from

(a) all property taxes on tangible personal property and fixtures owned by small businesses,

as defined above and used for business purposes; and
(b) taxes on up to \$500,000 of tangible personal property and fixtures for all other taxpayers. Aircraft and vessels are not subject to the exemptions. The Legislature may not decrease the personal property exemption amounts but may increase them.

Phase-In

While the split roll provisions of the Initiative would become effective on January 1, 2022, the Initiative provides for a phase-in over two or more years to ensure a reasonable workload & implementation period for county assessors, including provision for processing and timing of assessment appeals. The owner of the reassessed commercial or industrial property would be obligated to pay taxes based on the new assessed value beginning on the lien date (January 1) for the fiscal year when the assessor has completed the reassessment. The Initiative also requires the Legislature to enact provisions that would provide affected taxpayers a reasonable time frame to pay any increase in taxes.

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[1] The title given by the California Attorney General is "INCREASES FUNDING FOR PUBLIC SCHOOLS, COMMUNITY COLLEGES, AND LOCAL GOVERNMENT SERVICES BY CHANGING TAX ASSESSMENT OF COMMERCIAL AND INDUSTRIAL PROPERTY. INITIATIVE CONSTITUTIONAL AMENDMENT."

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