

Initiative 2023-2024 #260: Supplemental Luxury Residential Real Property Tax
--

Received Legislative Council Staff 3/15/2024, 2:58 PM

Be it Enacted by the People of the State of Colorado:

Section 1. Legislative declaration. We, the voters of the state of Colorado, hereby find and declare that:

1. Placement of limitations upon the growth or amount of revenue that may be assessed, collected, retained, or spent on a statewide basis from the levy of taxes upon real and personal property throughout the state creates a disproportionate and inequitable impact upon local governments and taxing authorities, as well as the residents and businesses in those local communities.

2. These impacts affect not only the local government services – to include schools, fire protection, flood control, transportation, housing, and other services of critical importance to residents and businesses in communities throughout the state – but they inevitably create inequitable spillover impacts upon neighboring communities.

3. These spillover impacts are magnified by the uneven distribution of luxury residential real property in the state, and the effects of such properties upon local and neighboring community property values and available local property tax revenue.

4. The health, welfare, and sustainability of Colorado’s local communities is of critical importance to the welfare of the state of Colorado as a whole.

5. The people of the state of Colorado therefore find and declare that adoption of a conditional and supplemental statewide real property tax upon luxury residential real properties throughout the state – such tax to be exempt from any otherwise applicable limitation upon the amount of revenue that may be assessed, collected, retained or spent from the levy of taxes upon real and personal property throughout the state – and the redistribution by the state of such supplemental revenue to local communities on an equitable basis to support their local services – is necessary to preserve and assure the health and welfare of Colorado’s local communities.

Section 2. In the constitution of the state of Colorado, section 3 of article X, **add** (1)(e) as follows:

(1)(e). ANY STATEWIDE AND STATE ADMINISTERED PROPERTY TAX LEVIED FOR THE PRIMARY PURPOSE OF ASSISTING LOCAL TAXING AUTHORITIES AND COMMUNITIES TO ADDRESS INEQUITIES IN THE AVAILABILITY OR DISTRIBUTION OF LOCAL PROPERTY TAX REVENUE RESULTING FROM THE IMPOSITION OF ANY STATEWIDE LIMITATION UPON THE AMOUNT OR GROWTH OF THAT REVENUE SHALL BE EXEMPT FROM ANY OTHERWISE APPLICABLE STATEWIDE LIMITATION UPON THE AMOUNT OR GROWTH OF PROPERTY TAX REVENUE.

Section 3. In the constitution of the state of Colorado, section 20 of article X, **amend** (8)(a) as follows:

(8) **Revenue limits.** (a) New or increased transfer tax rates on real property are prohibited. No ~~new state real property tax~~ or local district income tax shall be imposed. Neither an income tax rate increase nor a new state definition of taxable income shall apply before the next tax year. Any income tax law change after July 1, 1992 shall also require all taxable net income to be taxed at one rate, excluding refund tax credits or voter-approved tax credits, with no added tax or surcharge.

Section 4. In Colorado Revised Statutes, **add** section 39-1-104.8 as follows:

39-1-104.8. Supplemental tax on luxury residential real property.

(1) Definitions. As used in this section:

(a) “APARTMENT PROPERTY” MEANS ANY RESIDENTIAL REAL PROPERTY, OTHER THAN MULTI-FAMILY RESIDENTIAL REAL PROPERTY, PRIMARILY LEASED OR RENTED BY THE OWNER OR OWNERS TO THIRD PARTIES FOR RESIDENTIAL USE.

(b) “LUXURY RESIDENTIAL REAL PROPERTY” MEANS RESIDENTIAL REAL PROPERTY, EXCLUDING MULTI-FAMILY RESIDENTIAL REAL PROPERTY AND APARTMENT PROPERTY, WITH ACTUAL VALUE, AS DETERMINED BY THE ASSESSOR AND THE ADMINISTRATOR IN THE MANNER PRESCRIBED BY LAW, OF AT LEAST FIVE MILLION DOLLARS, ADJUSTED AT THE TIME OF ASSESSMENT FOR INFLATION SINCE THE LAST ASSESSMENT AS DETERMINED BY THE UNITED STATES BUREAU OF LABOR STATISTICS CONSUMER PRICE INDEX FOR DENVER- AURORA-LAKEWOOD AREA, ALL ITEMS, ALL URBAN CONSUMERS, OR ITS SUCCESSOR INDEX.

(c) “MULTI-FAMILY RESIDENTIAL REAL PROPERTY” HAS THE SAME MEANING AS SET FORTH IN SECTION 39-1-104.2 (1)(a).

(2) Supplemental luxury residential real property tax. FOR ANY PROPERTY TAX YEAR COMMENCING ON OR AFTER JANUARY 1, 2027, IN WHICH THE AMOUNT OF STATEWIDE PROPERTY TAX REVENUE HAS BEEN REDUCED BY IMPOSITION OF A STATEWIDE LIMITATION UPON THE AMOUNT OR GROWTH OF PROPERTY TAX REVENUE, A SUPPLEMENTAL TAX SHALL BE ASSESSED AND IMPOSED BY THE STATE UPON LUXURY RESIDENTIAL REAL PROPERTY IN AN AMOUNT SUFFICIENT TO REPLACE THAT REDUCTION IN REVENUE, AS DETERMINED BY THE ASSESSORS AND THE ADMINISTRATOR IN THE MANNER PRESCRIBED BY LAW. THIS TAX IS IN ADDITION TO ANY OTHER TAX IMPOSED UNDER THIS TITLE 39.

Section 5. In Colorado Revised Statutes, 39-1-112, **amend** (1), and **add** (2), (3), (4), and (5) as follows:

39-1-112. Taxes available – when. (1) Except as otherwise provided IN THIS SECTION AND in article 1.5 of this title, all taxes levied pursuant to the provisions of articles 1 to 13 of this title shall be available for expenditure by the political subdivision for which levied during its fiscal year as collected.

(2) UPON RECEIPT BY A LOCAL TAXING AUTHORITY OF REVENUES FROM SUPPLEMENTAL TAXES LEVIED UPON LUXURY RESIDENTIAL REAL PROPERTY PURSUANT TO SECTION 39-1-104.8 OF THIS TITLE, THE LOCAL TAXING AUTHORITY SHALL REMIT SUCH REVENUES TO THE DEPARTMENT OF THE TREASURY, WHICH SHALL DEPOSIT AND HOLD SUCH REVENUES IN A SEPARATE LUXURY RESIDENTIAL REAL PROPERTY TAX FUND.

(3) ON OR BEFORE JANUARY 1, 2026, THE DEPARTMENT OF LOCAL AFFAIRS SHALL DEVELOP CRITERIA FOR THE REALLOCATION AND DISTRIBUTION OF ALL REVENUE DEPOSITED AND HELD IN THE LUXURY RESIDENTIAL REAL PROPERTY TAX FUND TO THE POLITICAL SUBDIVISIONS OF THE STATE FOR THE SPECIFIC PURPOSE OF REPLACING AND BACKFILLING REVENUE LOST TO LOCAL COMMUNITIES AS A RESULT OF IMPOSITION OF ANY STATEWIDE LIMITATIONS UPON THE AMOUNT OR GROWTH IN AMOUNT OF STATEWIDE OR LOCAL PROPERTY TAX REVENUE. THESE CRITERIA SHALL CONSIDER THE DISPARITIES IN LOCAL PROPERTY VALUES CAUSED BY THE PRESENCE AND DISTRIBUTION OF LUXURY RESIDENTIAL REAL PROPERTIES IN THE STATE, AS WELL AS THE DISPARATE IMPACTS UPON LOCAL COMMUNITIES OF IMPOSITION OF THE STATEWIDE REVENUE LIMITATION.

(4) REVENUE HELD IN THE LUXURY RESIDENTIAL REAL PROPERTY TAX FUND SHALL BE DISBURSED BY THE DEPARTMENT OF THE TREASURY TO THE STATE’S POLITICAL SUBDIVISIONS, ACCORDING TO THE CRITERIA DEVELOPED BY THE DEPARTMENT OF LOCAL AFFAIRS, NO LATER THAN DECEMBER 31 OF EACH YEAR IN WHICH RECEIVED. ALL REVENUE DISTRIBUTED FROM THE LUXURY RESIDENTIAL REAL PROPERTY TAX FUND SHALL BE IMMEDIATELY AVAILABLE FOR EXPENDITURE BY EACH POLITICAL SUBDIVISION UPON RECEIPT FROM THE DEPARTMENT OF THE TREASURY IN SUCH MANNER AS EACH POLITICAL SUBDIVISION MAY DETERMINE.

(5) THE REVENUE RECEIVED AND DISTRIBUTED BY THE DEPARTMENT OF THE TREASURY PURSUANT TO THIS SECTION MAY BE COLLECTED, RETAINED, DEPOSITED AND DISTRIBUTED BY THE STATE AS A VOTER-APPROVED REVENUE CHANGE UNDER SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION.

SECTION 6. Effective date. This act takes effect January 1, 2025.