

# CHANGES TO PROPERTY TAX

## H. 4449

### Property tax swap

**Effective Date--October 1, 2006 for decrease of sales tax on food;**

**June 1, 2007 for 1% increase in sales tax;**

**January 1, 2008 for reimbursement to school districts**

**January 1, 2007 for millage caps on local governments**

**Ratification of constitutional amendment for caps on reassessment values**

This act decreases the sales tax on groceries from 5% to 3%, effective October 1, 2006, using money from the General Fund. Beginning in June 2007, it increases the sales tax by 1% on everything, except accommodations, groceries, and items with a maximum sales tax cap. In exchange, 100% of the fair market value of the property taxes for school operations is removed from homesteads, and a 2/3rds majority vote of each legislative body is required to override this exemption.

Beginning January 1, 2008, school districts will be reimbursed from the Homestead Exemption Fund based on the amount of property taxes that would have been collected. The Homestead Exemption Fund will contain funds from the \$100,000 school operating relief fund and the school operation portion from the \$50,000 homestead exemption for those over 65. School districts will be reimbursed dollar-for-dollar in FY 2007-08. Beginning January 1, 2008, aggregate reimbursements will be increased by the Consumer Price Index (CPI) and population of the State increases from the previous year, and then the funds will be distributed back to school districts based on the weighted pupil units (WPU) with an add-on weight of .20 for eligible poverty students. Each county will receive no less than \$2.5 million for the school districts within the county. If there are multiple school districts within a county, then the reimbursement from the \$2.5 million threshold will be based on the 135-day average daily membership (ADM). The General Fund will be responsible for any shortfalls for the WPU disbursements and the \$2.5 million threshold amounts.

If funds remain in the Homestead Exemption Fund after school district distributions, then counties receive a distribution for a credit against county operations on homesteads. The reimbursement to the county is based on the proportion of a county population to the State population. The county is to credit the taxpayer based on the reimbursement received divided by the number of county parcels eligible for the credits. This reimbursement is not mandatory and is contingent upon availability of funds in the Homestead Exemption Fund.

Beginning January 1, 2007, millage caps are in place for all local governing bodies, which includes school districts. The millage caps allow local governments to increase millage rates only by the increase of the CPI and the population increase of the entity from the year before. The local governing body can exceed this cap only by a 2/3rds majority vote of the membership of the local governing body, and only for specific purposes, which include the following: (1) deficiency from previous year; (2) natural

disaster or act of terrorism; (3) compliance with a court order; (4) closure of a business that decreases tax revenue by more than 10%; or (5) compliance with an unfunded state or federal regulation mandate. If the millage cap is exceeded, then the additional tax must be listed as a separate surcharge. The millage cap does not apply to revenues, fees, or grants not derived from the ad valorem tax millage or to the receipt or expenditure of state funds. All existing tax increment financing agreements (TIFs) are to be paid from the funds that would otherwise have been payable to the taxing entities with respect to the owner-occupied residential real property located within the TIF area.

Counties with an existing local option sales tax can hold a referendum at the same time of the general election in November 2006 to repeal the existing local option sales tax. A county council ordinance or public petition, signed by at least 5% of the qualified electors, must be verified at least 60 days before the general election. If repealed, the local option sales tax is repealed as of January 1, 2007. If not repealed, then local option sales taxes enacted to pay for school operating costs will have the amounts that would have been credited to owner-occupied school operating expenses credited instead to other classifications of property.

A new local option sales tax may also be enacted by a county through an ordinance or petition signed by 7% of the qualified electors in the county. This local option may provide a credit for school operating expenses, county operating expenses, or both. It will be applied to all classifications of property with the exception of fee-in-lieu agreements. The act has provisions for distributions to school districts where more than one school district exists within a county and also for distributions to school districts where a school district is comprised of parts of multiple counties. Local option sales taxes that are used for school operating expenses are included in the local revenue used to calculate the Education Improvement Act (EIA) local maintenance of effort.

A tax holiday held on November 24 and 25, 2006 applies to all items currently taxed under Chapter 36 of Title 12 of the South Carolina Code, except for accommodations taxes or any local sales or use tax.

A joint sales tax exemption review committee is established that, by no later than 2010, will have examined all of the sales tax exemptions and will make recommendations for changes to the existing laws. The review occurs every 10 years.

Counties are able to enact ordinances that will allow new property to be placed on the county tax rolls within 1 month of receiving a certificate of occupancy. For improved properties, those listed before June 30<sup>th</sup> will have taxes due by December 31<sup>st</sup> of that year, and those listed after June 30<sup>th</sup> will have taxes due when the property tax bill is due the next year. Municipalities within a county enacting such an ordinance have the same requirements.

Beginning after tax year 2006, counties may enact ordinances that will allow a taxpayer to pay real property taxes by installment. There are notification requirements for both the taxpayer choosing this method and the county that enacts this ordinance. The

installment payments are based on the total property tax due for the previous tax year and payments can be made in 6 separate payments, ending on January 15<sup>th</sup> of the following year.

This act also restricts alternative financing methods for funding bonded indebtedness by providing that the financing requirements for bonded indebtedness apply to installment payment contracts to be paid by school districts or other political subdivisions when those installment contracts are to finance the acquisition, construction, renovation, or repair of school facilities.

Finally, some provisions in this act are contingent upon passage of a constitutional amendment that limits reassessment increases of real property to no more than 15% over a 5-year period of time, unless an assessable transfer of interest occurs. These provisions will provide the procedures to determine the fair market value of real property and the procedures to determine when an assessable transfer of value will occur. Many of the transfers that do not trigger a change in assessment mirror the provisions of the federal Internal Revenue Code that exempt certain types of transfers from changes in federal taxes. The Department of Revenue (DOR) will be responsible for promulgating regulations to implement these provisions, and DOR has been authorized to examine the substance and not merely the form of the transfer in determining when an assessable transfer of interest has occurred. Real property owners will be required to sign certificates accompanying real property tax notices that no assessable transfer of interest has occurred. Civil penalties in the amount of no less than twice the taxes due and no more than three times the taxes due may be enforced against a property owner who knowingly falsifies information on the certificate.

Taxpayers will be given more time to challenge assessments in years when there is no property reassessment. Instead of having to file an objection by March 1<sup>st</sup> of each year, the taxpayer will have 90 days after the tax notice is mailed to object to the assessment. Lastly, counties and municipalities receiving state aid will be required to file their financial reports by November 15<sup>th</sup> of each year with the Budget and Control Board, Office of Research and Statistics, Economic Research Section. This office also will be responsible for collecting, maintaining, and compiling the financial data received from the counties and municipalities into a comprehensive report to submit to the General Assembly each year.

#### **H. 4450**

#### **15% cap over 5-year period on reassessment increases to real property Effective Date-Becomes effective upon voter approval in November 2006 and ratification of the General Assembly**

This constitutional amendment limits increases in real property for assessment purposes to 15% over a 5-year period, unless an assessable transfer of interest occurs. An assessable transfer of interest occurs at the time property is transferred, as provided by general law. Real property will be assessed at its maximum amount as of tax year 2007.

The General Assembly, by general law, will define what an assessable transfer of interest means, what types of improvements and losses trigger a reassessment, and how fair market value is defined. The constitutional amendment also provides, for bonded indebtedness purposes, that the assessed values of all taxable property within a political subdivision or school district will not be lower than the assessed values in tax year 2006.