

How Florida's Proposed Amendments Would Affect Taxpayers

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On Nov. 6, 2018, Florida voters will encounter 12 proposed amendments to the state's constitution. This will be one of the longest lists of proposed changes in two decades.

In an effort to inform and protect the public, our firm has compiled the following information on Amendments One, Two and Five, which relate to Florida's tax system. These three amendments were placed on the ballot by the Florida Legislature.



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We hope readers find this material useful in making their choices this November.

Amendment One: Increased Homestead Property Tax Exemption

Amendment One would create an additional \$25,000 property tax exemption for homestead properties with an assessed value greater than \$100,000.

History

The Florida Constitution requires all property to be assessed at just value (i.e., market value) as of January 1 of each year. These property assessments are used to calculate property taxes that fund counties, municipalities, district school boards and some special districts. A property's just value is then adjusted by any applicable exemptions, such as the homestead exemption eligible for a Floridian's primary residence. The current \$50,000 homestead exemption has two components. In 1980, voters approved an exemption from all property taxes for the first \$25,000 in assessed value. In January 2008, voters approved an additional \$25,000 exemption from all property taxes other than school district taxes on assessed values greater than \$50,000. Currently, Florida properties with an assessed value of \$75,000 or greater enjoy a \$25,000 reduction of value for school tax purposes and a \$50,000 reduction of value for all other property tax purposes.

If approved, Amendment One would create an additional \$25,000 property tax exemption from all property taxes other than school district taxes on assessed values greater than \$100,000. Florida properties with an assessed value of \$125,000 or greater enjoy a \$25,000 reduction of value for school tax purposes and a \$75,000 reduction of value for all other property tax purposes. It is estimated that approximately 2.4 million homestead parcels (57 percent of all homestead parcels in the state) will receive a reduction.

Estimated Fiscal Impact

If approved, Amendment One is estimated to have a negative fiscal impact on counties, municipalities and some special districts in the amount of approximately \$645 million in 2019, \$663 million in 2020, and \$681 million in 2021. However, the Legislature has proposed separately funding fiscally constrained counties[1] in order to protect those counties from the negative fiscal impacts of the amendment.

Amendment Two: Limitations on Property Tax Assessments

Amendment Two would retain the 10 percent cap on annual assessment increases for nonhomestead properties.

History

In January 2008, 64 percent of Florida voters approved an amendment to the Florida Constitution which created a 10 percent limitation on annual assessment increases for nonhomestead properties.[2] This limitation does not apply to school district taxes. The current 10 percent limitation will be automatically repealed unless reapproved by voters in November 2018. If passed, Amendment Two would retain this limitation in the constitution.

Nonhomestead properties include commercial properties, rental properties, investment properties, vacant land and buildings.

From 2004 through 2006, a majority of nonhomestead parcels in the state increased in value by more than 10 percent each year. In 2004, nearly 1 million nonhomestead parcels increased by more than 10 percent representing an increase of \$31 billion in assessed values. In 2005, 1.3 million nonhomestead parcels increased by more than 10 percent (\$61 billion in value). In 2006, 2 million nonhomestead parcels increased by more than 10

percent (nearly \$104 billion in value). The 10 percent assessment cap was proposed in 2008 to avoid similarly drastic value increases in the future.

The current 10 percent assessment limitation does not apply in any year following a change of ownership or control. Additionally, the 10 percent assessment limitation does not apply if a nonhomestead property is substantially improved in such a manner that the property's just value increases by 25 percent or more.

Estimated Fiscal Impact

For 2018, it is estimated that there is approximately \$73 billion in nonhomestead values protected by the current 10 percent cap. If Amendment Two fails, it will result in a tax increase for nonhomestead property owners and remove the protection currently in the constitution. Removal of the 10 percent limitation is estimated to have a positive fiscal impact for counties, municipalities and some special districts in the amount of approximately \$688 million in 2019, \$673 million in 2020, and \$667 million in 2021.

Amendment Five: Supermajority Vote Required to Impose, Authorize or Raise State Taxes or Fees

Amendment Five would:

- Prohibit a state tax or fee from being imposed, authorized or raised by the state Legislature except through legislation approved by two-thirds of the membership of each house of the Legislature;
- Prohibit the reduction or elimination of any current exemption or credit for a state tax or fee without a supermajority vote of the membership of each house of the Legislature; and
- Require that any legislative proposal imposing, authorizing or raising a state tax or fee or reducing or eliminating an exemption or credit must be contained in a separate standalone bill that does not contain any other subject.

Amendment Five does not apply to any tax or fee imposed by, or authorized to be imposed by, a county, municipality, school board or special district.

Background

The Legislature has broad power to enact and modify the state's tax policy through legislation, subject to state and federal constitutional constraints. Such legislation is subject to the normal constitutional requirements for the enactment of general law. Passage of a bill requires a majority vote in each house of the legislature and presentation to the governor for approval.

The Florida Constitution currently requires a three-fifths approval of the membership of the Legislature to increase the Florida corporate income tax above 5 percent.[3] Additionally, the state constitution requires approximately a dozen other circumstances where a greater-than-majority vote is required for the approval of legislation. Examples include exemptions from public records disclosure and the repeal of court rules of practice or procedure.

Currently, 14 other states have some level of supermajority vote requirement for tax increases including Arizona, Arkansas, California, Delaware, Kentucky, Louisiana, Michigan, Mississippi, Missouri, Nevada, Oklahoma, Oregon, South Dakota and Wisconsin.

Estimated Fiscal Impact

If approved, Amendment Five creates a new constraint on the Legislature's ability to enact, authorize or increase state taxes and fees. The amendment does not directly result a fiscal impact to the state's budget or local government budgets, although it would make it more difficult for the Legislature to raise taxes or fees in the future.

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[1] Florida's fiscally constrained counties are: Baker, Bradford, Calhoun, Columbia, Desoto, Dixie, Franklin, Gadsden, Gilchrist, Glades, Gulf, Hamilton, Hardee, Hendry, Highlands, Holmes, Jackson, Jefferson, Lafayette, Levy, Liberty, Madison, Okeechobee, Putnam, Suwannee, Taylor, Union, Wakulla and Washington.

[2] 2008 Amendment One also included the additional \$25,000 homestead property tax exemption for non-school purposes (discussed above), the ability for homestead property owners to transfer a homestead assessment difference to a new property (portability) and a \$25,000 tangible personal property tax exemption.

[3] In 1984, the Florida corporate income tax rate was increased to 5.5 percent, where it currently remains.