

Property Tax Equity Review Committee  
Subcommittee C  
Interim Report: September 16, 2003

Subcommittee C is charged with various tasks relating to PTERC's analysis of the benefits and drawbacks of potential tax preferential programs. The information collected by Subcommittees A and B will inform PTERC's upcoming decisions about the types of programs that would best respond to the needs identified. Subcommittee C has focused on inquiries that will help to provide tools for further analysis and eventual proposal of potential programs.

This report summarizes some of the areas considered to date by Subcommittee C, but does not yet represent conclusions or recommendations by the Subcommittee concerning tax relief proposals.

**Burden-Shifting Model**

Subcommittee C has prepared a tool to be used in understanding the shift in tax burden that would result from the various proposals ultimately considered by PTERC. We have proposed looking at relative tax burdens in three ways: (1) the percentage of Town taxes paid by identified age groups; (2) the percentage of income used to pay property taxes for each age group; and (3) the total amount of taxes paid by each age group.

The Subcommittee has proposed that we look at trends over time for each area, if feasible. The historical perspective would add to our understanding of the issues and help in considering the merits and potential drawbacks of any shift in the tax burden. For example, we might look at whether seniors pay a larger percentage of their income to property taxes than other age groups and whether that percentage has changed over time. The proposal contemplates looking at the average, mean, and standard deviation for each category to better understand the breakdown of our population. A copy of the initial format for the burden-shifting spreadsheet is attached.

Our general aim is to be able to tie together data about age, income, and property tax groupings. Both Subcommittees A and B have already looked at this type of data in describing the characteristics of Sudbury seniors. The proposed format would use such data to show how the relative tax burden shifts as we analyze particular proposals. For instance, PTERC may decide to study further the potential impact of adopting the residential exemption. Subcommittee A has already provided information about how the tax burden would shift among homeowners at various levels of assessed values. It would be useful to further assess how this exemption would affect various age and income groupings.

Subcommittee C and the full PTERC have discussed the proposed burden-shifting tool and have identified some questions and concerns, which include the following:

(1) Is income an adequate measure for considering a taxpayer's means or ability to pay taxes?

- Does not take into account assets (other than residence) or relative mortgage burdens on the home.
- Does not take into account other taxes/overall tax burden.
- Does not take into account other homeowner costs.

Note: The proposal is to consider income levels for purposes of identifying the problem areas and measuring the shift in tax burden – not for any means test that may be part of an eventual proposal (which may include asset or other tests).

(2) Will our results be reliable given deficiencies in the available data?

- US Census data
  - Limits of self-reported data
  - Income is by “household”: Can homeowners be separated?
  - Limited to census age groupings
- DOR data
  - Available in age breakdowns only over and under 65
  - Apparently renters can be separated
  - Income by individuals or filers, not households
  - Income may not include Social Security, some pensions, capital gains, workers' compensation, and other sources of income: skews data
  - Use gross, adjusted gross, or taxable income?

(3) Are there other ways to reformat or revise the model in light of information gathered? Examples:

- Do we need the trend data?
- Should we consider primarily income categories and age breakdowns within those categories?
- Should we provide quartile groupings within each category in addition to the standard deviations?
- Do we need the younger age breakdowns?

Subcommittee C is currently refining the burden-shifting tool in light of these questions and additional information gathered by Subcommittees A and B. Our interim conclusions generally are as follows: (1) Despite certain deficiencies, an income-based model is still a useful tool to look at burden-shifting. This is just part of the analysis, not a definitive test. (2) We will have to alter our age groupings in light of the limited information; we may run one set with US data and one set with DOR data. (3) We are considering other revisions and formatting options.

## **Review of tax relief/preferential programs proposed by communities in Massachusetts and at the state level.**

Subcommittee C has reviewed legislation recently enacted and pending before the legislature relating to tax relief programs for seniors. We have reviewed and summarized the information provided by the Taxation Committee representative and our legislators. The information provided to PTERC apparently describes all the related bills filed during the 2002-2003 session. We have found that several bills have been re-filed in the 2003-2004 session, but we do not have a complete list of pending legislation for the current session. Attached is a spreadsheet which highlights the elements of the proposed legislation for 2002-2003. A review of this spread sheet will provide a good sampling of the types of programs proposed.

However, most of the proposed legislation has been introduced by particular legislators, often at the request of a constituent. It appears that last year's bills included only four home-rule petitions. Others have been filed this year, such as the Sudbury H.3909 and Sherborn H.3889 bills. Also, in 2000, the legislature approved a home rule petition to allow Wayland to grant property tax rebates matching the state Circuit Breaker tax credit. These are the few recent home rule petitions identified thus far. Accordingly, most legislative proposals do not reflect a process or consensus of a given community. As these proposals, including the means tests chosen, were not approved by the towns – let alone the legislature – they are not very useful in defining “acceptable” levels of burden-shifting or means testing.

### **(1) 2002-2003 Home Rule petitions:**

**Westford:** H.2542 -- to alter eligibility requirements for 41A tax deferrals; 60 and older, combined income <\$60K, tax deferred <50% FMV, interest 4-8%.

History: prior Bill 2001-02 – no action taken

**Westford:** H.3709 – to allow Westford to cap property taxes of residents 65 and older at Jan. 1 amnt; income \$50K single or \$60K combined; asset test; must have paid property taxes for 10 years; principal residence.

History: new

**Newton:** H.2901 – to allow Newton to adopt higher income maximum for 41A tax deferral; up to \$40K income, formulas for partial exemptions at higher amounts.

History: prior Bill 2001-02 – redrafted, no further action

**Lincoln:** S.1735 – to allow Lincoln to grant property tax rebates up to \$750 for taxpayers who qualify for Circuit Breaker.

History: prior Bill 2001-02 – discharged to taxation, no further action

- (2) Other 2002-2003 bills include a range of proposals. Many are aimed at amending state-wide exemptions but with local options. Examples:
- amend Circuit Breaker to include local option for town to match with rebate
  - change eligibility requirements for 41A tax deferral program and other 41 exemptions, such as decreased qualifying age and increased qualifying income and asset amounts
  - amend Circuit Breaker to increase qualifying income or to repeal or increase assessed value amount
  - freezes on property taxes for those who qualify for exemptions
  - specification of factors for assessors to consider in hardship exemption
  - various freezes, caps, or exemptions for older taxpayers; some with means tests, some without, many with residency requirement
  - exempt older taxpayers from overrides; some means tested, some not
  - amend Circuit Breaker to apply to all taxpayers regardless of age

### **Review of tax relief/preferential programs adopted in other states.**

The AARP has conducted an extensive survey of senior tax relief and related tax programs throughout the country. We have reviewed this database and have grouped the programs into general categories (listed below). Most are similar to various Massachusetts programs or proposals noted above. Others might address some of the equity issues we have identified, but would not be (or might not be) permitted in Massachusetts given the constitutional constraints on taxes (in particular, the proportionality requirement). Some programs address these issues on a state rather than local level, such as the STAR program in New York.

(1) Property Tax Credit/Rebate Programs

A. Circuit breaker – full or partial rebate for property taxes that exceed a certain % of income

B. Tax credit for homeowners and/or renters - tax credit on income tax return

(2) Homestead Exemption [Residential Exemption in Mass.] - reduction in the amount of assessed property value subject to taxation for owner-occupied housing

(3) Tax Deferral Programs - defer taxes (with interest) until death or sale of home

(4) Use of lower property assessment levels for residential v. commercial property

(5) Freeze, Limit, or Cap on:

A. Assessed property value

B. Tax rate

C. Total property taxes

(6) Tax exemption for school related taxes

e.g, STAR program in NY - state exemption from school property taxes for owner-occupied primary residences. “Basic” exemption applies to all residents, regardless of age/income. “Enhanced” applies to seniors with combined household income under \$60,000. State reimburses school districts for all STAR savings.

Categories 1(A), 3, 5, and 6 usually have eligibility requirements of age, income, assets, and/or residency.

## **Constitutional and Political Constraints**

### Legal Issues

Members of our subcommittee have, to some extent, researched the legal issues surrounding tax relief programs. The Massachusetts Constitution requires that taxes, including property taxes, be uniform and proportional. The Constitution permits the legislature to classify property by its use in four classes and taxes must be proportional in the same class “except that reasonable exemptions may be granted.”

The courts have provided little guidance in determining a reasonable exemption. In general, “special treatment extended to a single class of taxpayers is impermissible.” The “reasonable exemptions” provision “does not authorize special treatment that undercuts the dominant requirement of uniformity” in the Constitution. Any exemption must be “reasonably related to the public interest.” The legislature has approved exemptions, including the residential exemption (and home rule petitions increasing the allowed exemption amount) and targeted needs-based exemptions such as the Circuit Breaker, other senior exemptions, and the hardship exemption. Although the constitutionality of these exemptions has generally not been tested in the courts, these provisions provide some direction concerning the types of exemptions that the legislature has deemed to be “reasonable.”

We are continuing in our efforts to clarify the legal constraints faced by municipalities in this area. We have identified a few contacts who may provide us with additional information. However, the Town may choose to seek legal advice concerning any proposed exemption or tax relief program.

### Political Issues

The potential constraints posed by the necessity of legislative approval (for any exemption or abatement program other than the residential exemption) may be more significant than the legal constraints. Our subcommittee discussions of the benefits and drawbacks of various proposals have been informed by the following:

(1) During the July 10, 2003, meeting, PTERC had the opportunity to address questions to Senator Pam Resor, Representative Susan Pope, and Tony DeGregorio, Staff Person to the Chair of the House Committee on Taxation. These presenters indicated that there are significant obstacles for any community seeking to establish a new tax exemption or tax relief program. They reviewed some of the history of other proposals, which have often been referred to committees for study or have received no action by the legislature. Sen. Resor indicated that the legislators would look closely at factors which included any possible legal questions, impact on the community, the amount of burden-shifting that would result, and the participation in existing senior tax relief programs. The legislators stressed that they would consider state-wide implications: they would not approve any local proposal if they would not be willing to allow it in every community. Mr. DeGregorio stated that no proposal without a means test has passed the legislature or would be likely to pass. Sen. Resor and Rep. Pope stated that they would consider

supporting only those proposals that include a means test. (See minutes of July 10, 2003 PTERC)

(2) As noted above, we have reviewed related bills filed during the 2002-2003 session, including the history for each bill. It appears that the bills described in the materials (more than 50) were all referred to the Taxation Committee. Although our search is not complete, it appears that none of these were enacted by the legislature. This includes fairly moderate proposals and proposals with narrow eligibility requirements; it also includes the four home-rule petitions. Many of the bills had been filed in prior years, and some have been re-filed this year.

(3) We have attempted to obtain additional information concerning the political realities from other sources familiar with the legislative process. There are indications that measures which seek to amend, match, or add to an existing state-sanctioned program are more likely to be successful than new and different approaches. An example of such a measure is the Wayland program to match the Circuit Breaker tax credit with a local abatement.

The members of Subcommittee C have divergent views on how PTERC should respond to these perceived political limitations. Several members of the subcommittee believe that PTERC should focus its efforts towards proposals that have the best chance of being enacted by the legislature. These members contend that efforts to pursue an approach unlikely to be accepted by the legislature would not be a wise use of our community resources; we are more likely to provide an adequate remedy in the near future if we tailor our approach according to the indications we have received from the legislature.

Other subcommittee members believe (to varying degrees) that PTERC and Sudbury should take a bolder approach. They contend that we do not know what will pass the legal and political hurdles (which are not well-defined) unless we test those waters. These members advocate that we select the best program for Sudbury and then try to get the measure enacted.

## **Next Steps**

Subcommittee C has considered a range of proposed solutions: some involve specific exemption programs that could be the basis for a warrant article; others involve long-term or non-legislative approaches to be further considered by the Town. We recommend grouping the exemption programs into three areas for further analysis: the residential exemption, proposals to expand or modify existing programs (e.g., matching or expanding the Circuit Breaker), and proposals to create a new exemption. We also have discussed additional data and research needed. Accordingly, we have offered recommendations to the Steering Committee for regrouping or re-tasking as we move toward a final proposal.