

ALICE Model Act - Split-Rate Property Tax Authorizing Legislation¹

Rationale. The traditional property tax penalizes owners with higher taxes when they construct, improve or maintain buildings. It rewards owners with lower taxes when they allow buildings to deteriorate. Owners of boarded-up buildings and vacant lots typically pay much less property tax than their more responsible neighbors. The “upside-down” economic incentives associated with the traditional property tax can be corrected by reducing the property tax rate on privately-created building values while increasing the tax rate on publicly-created land values. This is known as a “split-rate property tax.” Alternatively, it could be called a “Universal Property Tax Abatement.”

The lower tax rate on buildings makes it cheaper to construct, improve and maintain them, resulting in more affordable rents for both residents and businesses. Lower business costs and lower costs for building improvements lead to higher employment. The higher tax on land values reduces land speculation and actually helps keep land prices low. Because land values are created by the community through zoning and through access to public goods and services, higher taxes on land values can recapture publicly-created land values and can make infrastructure improvements financially self-sustaining to a greater degree. Landowners pay in proportion to the value of public benefits that they receive – a very comprehensible and equitable approach. Thus shifting the property tax off of privately-created building values and onto publicly-created land values makes the property tax more like a public services access fee.

Improving property tax assessment and appeals procedures can be beneficial for the successful implementation of a split-rate property tax system. Current land and building assessment practices are often inaccurate and untimely. Successful reforms require regular assessments of land and improvements and publicly available information regarding assessments and appeal procedures. Computer-assisted mass appraisal (CAMA) software can “break down the sales prices of houses or other properties into values contributed by location, lot size and shape, building square footage, building style and age and other property characteristics. If enacted, this model legislation will pave the way to progressive property tax alternatives.”²

¹ This model was drafted by ALICE staff with the help of Rick Rybeck, Director, [Just Economics LLC](#). Many thanks to Joshua Vincent, Executive Director, [Center for the Study of Economics](#) and Kris Nelson, Legislative Director, [Common Ground OR-WA](#) who provided feedback on earlier drafts of this model.

² Richard F. Dye and Richard W. England, “[Assessing the Theory and Practice of Land Value Taxation](#),” *Lincoln Institute of Land Policy* (2010).

Summary. This act authorizes local taxing authorities to establish land and improvements to land as different classes of property and allows building values to be taxed at lower rates than land values.³ It also ensures availability of full public information regarding assessments and appeal procedures; ensure that shifts in the tax burden on individual taxpayers will not be excessive from year to year; and ensures comparability of tax effort between jurisdictions in the metropolitan area and between jurisdictions of comparable size. The accompanying model ordinance provides language for local taxing authorities to implement a split-rate property tax.

SECTION 1. SHORT TITLE. This [act] may be cited as the “Split-Rate Property Tax Authorization Act.” [or “Universal Property Tax Abatement Authorization Act”]

SECTION 2. DEFINITIONS. For the purposes of this [act]:

(1) “Assessor” means the person or office responsible for making assessments of real property on behalf of the local taxing authority.

(2) “Estimated market value” means 100% of the most probable price at which a particular piece of real property, if exposed for sale in the open market with a reasonable time for the seller to find a purchaser, would be expected to transfer under prevailing market conditions between parties who have knowledge of the uses to which the property may be put, both seeking to maximize their gains and neither being in a position to take advantage of the exigencies of the other.

³ Most state constitutions contain a clause or provision for “uniformity.” Generally, “uniformity” requires that state laws apply equally to all persons under the same conditions and in the same circumstances. With regard to taxation, the burden of taxation must be alike on all property under the same conditions and in the same circumstances within the taxing jurisdiction. However, the question of what property is “under the same conditions and in the same circumstances” is open to interpretation. Generally, the law allows for the classification of property if the classification is reasonable and naturally inherent in the subject matter. Some jurisdictions classify residential property differently from commercial property and tax them at different rates. Many jurisdictions also permit tax abatements on improvements under specified circumstances. Thus, it should generally be permissible to classify “land” and “improvements to land” as different classes of property that could be subject to different rates of taxation as long as all similar land parcels are taxed the same and all similar improvements are taxed the same. Legislative language will need to reflect the unique constitutional, statutory and case law surrounding uniformity in each state.

(3) “Improvements” means all buildings, structures or permanent fixtures built upon or attached to land, including machinery and equipment which become fixtures.

(4) “Land” means all real property exclusive of improvements.

(5) “Local taxing authority” means any political subdivision of this state including, [counties, municipalities, cities, villages, towns, and townships] having the authority to assess real property values and levy taxes upon those values.

(6) “Real property” means land, including water and land under water, and improvements to land.

SECTION 3. AUTHORIZING LOCAL TAXING AUTHORITIES TO ADOPT A SPLIT-RATE PROPERTY TAX. Any local taxing authority may, by ordinance adopted by its governing body:

(a) classify real property as:

(1) land or land exclusive of improvements; or

(2) buildings and other improvements to land.

(b) establish a different rate of property tax for each class, provided the lower rate shall apply to buildings and other improvements to land. This split-rate property tax system may be:

(1) applied in one year, or

(2) phased in over a multi-year period by incrementally increasing the differential between the tax rate applied to land and the tax rate applied to improvements.

[Policy Option: *Municipal Criteria to Abate Taxation of Improvements.*⁴]

⁴In order to target specific localities or localities with specific attributes some states include criteria localities must meet in order to qualify to implement a property tax abatement program. These criteria could include

[Policy Option: *Establishing a Property Tax Abatement Pilot Program.*⁵]

[Drafters Note: *Optimal Land Rent Capture.*⁶]

SECTION 4. TAXPAYER NOTIFICATION OF IMPLEMENTATION OF SPLIT-RATE PROPERTY TAX SYSTEM. In the event that a municipality enacts a split-rate property tax system, as part of the implementation of the tax, the [local taxing authority] of the municipality shall provide the following:

(a) notice to taxpayers at least [6 months] in advance of [date on which the taxes are due] that, beginning in tax year [20__], the “improvements” component of their real property tax assessment will be taxed at a lower rate than will be applied to the “land” component, and;

(b) an explanation of how assessors determine the fair market value of “land” and “improvements;”

(c) an explanation about how taxpayers may appeal the assessment value or apportionment of real property between its land and improvements components.

[Policy Option: *Implementation Plan.*⁷]

Population: e.g. Any municipality with a population of more than one hundred thousand (2005 Connecticut General Assembly Bill 5892) or less than 26,000 (2009 Connecticut LCO No. 8154)

Land classification: e.g. residential, industrial, commercial

Economic criteria: e.g. distressed municipalities (2009 Connecticut LCO No. 8154)

⁵ Several states authorized a land value taxation program to municipalities on a trial basis. This permitted the states to see the value of the program before committing to authorizing all local taxing authorities:

(a) The [State Office] shall establish a pilot program in a single municipality whereby the municipality selected shall develop a plan for implementation of split-rate property taxation that (1) classifies real property as (A) land or land exclusive of improvements, or (B) buildings and other improvements to land; (2) establish a different rate of property tax for each class, provided the lower rate shall apply to improvements to land. (b) The [State Office] shall establish the criteria for the program. The [State Office] shall not select a municipality for the pilot program unless the legislative body of the municipality has approved the application. The [State Office] shall send notice of selection for the pilot program to the chief executive officer of the municipality. (2009 Connecticut LCO 8154; see also 2002 Virginia H 239)

⁶ In the event of extraordinary inflation in land prices (due to new or improved infrastructure or due to exogenous economic factors) the local taxing jurisdiction shall have the authority to adjust the differential tax rates outside the rates recommended by the implementation plan. For example, “during periods of high land price inflation within the local real estate market, a local jurisdiction may increase the tax rate applied to land values in order to reduce land price inflation.”

SECTION 5. REVIEW AND REPORT OF UNIVERSAL PROPERTY TAX ABATEMENT.

(a) The assessor of the local taxing authority shall conduct a tax incidence study and report on the effect of the split-rate property tax. Such a report shall be completed no later than [two years after the implementation of the split-rate property tax system] and shall include an analysis of the effect of the split-rate property tax on improved properties and vacant properties. These effects shall be summarized according to the different property types (residential, commercial and industrial) citywide and within each assessment neighborhood

(b) The assessor of the local taxing authority shall present the report at a public hearing where residents of [municipality] shall have an opportunity to ask questions and comment on the report.

(c) The [governing body] of the local taxing authority shall have an opportunity to adjust the split-rate property tax based on the report provided that the lower tax rate apply to buildings and improvements to land.

SECTION 6. TAXPAYER APPEAL. The [local taxing authority] shall provide an opportunity to appeal the assessment value or the apportionment of assessed property between its land and improvements components of their real property tax.

⁷ Requiring an implementation plan may help smooth the transition to a split-rate property tax:

(a) Prior to the governing body of a local taxing authority enacting a property tax abatement ordinance pursuant to Section 3 of this [act], the governing body shall appoint a committee consisting of relevant taxpayers and stakeholders to prepare a plan for implementation of universal property tax abatement. Such plan shall:

(1) provide a process for implementation of differentiated tax rates;

(2) designate geographic areas of the municipality where the differentiated rates shall be applied;
and

(3) identify legal and administrative issues affecting the implementation of the plan.

(b) The chief executive officer, the assessor and the tax collector of the municipality shall have an opportunity to review and comment on the plan created by this section.

[Policy Option: State Board of Assessment and Appeal.⁸]

SECTION 7. EFFECTIVE DATE. This [act] shall take effect [date] and shall be applicable to all taxable years beginning after [date].

[Policy Option: Assessments.⁹]

[Drafter Note: Authorizing Split-Rate Taxation through Ballot Initiative.¹⁰]

⁸ While most states have local assessment appeal procedures in place the legislature could create a State level Assessment and Appeal Board to provide a further mechanism to file complaints against assessments conducted by the local taxing authority. This board should consist of property tax experts, academics, and housing advocates.

(a) The Board shall receive and evaluate complaints that property assessments do not conform to established criteria for accuracy and uniformity. Assessment appeals are generally required to demonstrate an error equal to or exceeding [percent]% of fair market value in order for the Board to mandate a change in a proposed assessment. The Board may increase the assessment if an evaluation of an appeal leads to the conclusion that a proposed assessment was too low.

(1) If real property is divided into classes, then property owners may appeal the classification of property.

(2) If land and improvements are separate classes of property and if land and improvements are to be taxed at different rates, then property owners may appeal the separate assessments for land and improvements even if they do not contest the total assessment value.

(b) The Board shall review assessment uniformity, even in the absence of specific complaints.

⁹ A robust property tax assessment system is a necessary component of any successful split-rate property tax system. While some municipalities have reliable assessment techniques many do not. States that want to ensure an effective assessment system should consider including a section with the following language:

(a) Local taxing authorities shall assess the value for all real property as the estimated market value of such property as of the valuation date, as determined by the assessor. Assessments shall be based upon the sources of information available to the assessor, which may include actual view. In determining the estimated market value for various kinds of real property, the assessor may do so manually or through the use of an automated system or systems such as the Computer-Assisted Mass Appraisal System. The assessor shall take into account any factor that may have a bearing on the market value of the real property, including, but not limited to:

(1) sales information on similar types of real property;

(2) mortgage or other financial considerations;

(3) reproduction cost less accrued depreciation because of age, condition, and other

factors;

(4) income-earning potential (if any);

(5) zoning, and;

(6) government-imposed restrictions.

(b) Notwithstanding this section, in the case of a property for which the most recent assessment has been changed as a result of an appeal, the reasons for the revised assessment shall be considered the basis for the subsequent valuation by the assessor, who shall take into account the reasoning in making the assessment, so long as the revised assessment is rendered on or before [date].

(c) Local taxing authorities shall assess all real property on an annual basis.

¹⁰ States that allow ballot initiatives may allow citizens of localities to implement a split-rate property tax through the ballot initiative process:

(a) Any local taxing authority may, by submitting the question of the levy to the voters in the local taxing district in [November of an even-numbered year] and obtaining the approval of a majority of the voters voting on the question:

[Drafters Note: *Authorizing Split-Rate Taxation through Constitutional Amendment or Revision to Home Rule Charter.*¹¹]

[Policy Option: *Establishing a Universal Property Tax Abatement Task Force.*¹²]

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- (1) *classify real property as:*
 - (A) *land or land exclusive of improvements, or*
 - (B) *buildings and other improvements to land;*
 - (2) *establish a different rate of property tax for each class, provided the lower rate shall apply to buildings and other improvements to land.*
 - (3) *phase in a split-rate property tax system over a multi-year period by incrementally increasing the differential between the rate applied land values and the rate applied to the value of buildings and other improvements.*

¹¹ In addition to authorizing a split-rate property tax through legislative action it is also possible to authorize it through a constitutional amendment or revisions to municipal home rule charters. A constitutional amendment may encounter more barriers to initiate and pass but it is also potentially less likely to be overturned by subsequent legislation or challenged in the courts. Revisions to home rule charters may also encounter significant barriers but allow states to direct split-rate property tax system to targeted jurisdiction within a state on a more permanent basis than pilot programs.

¹² Several states mandated a study of the split rate property tax system prior to authorizing local taxing authorities to use it. While conducting a study can take a significant amount of time and requires state resources it can help create community and political buy-in for the system and may ultimately facilitate the successful implementation of a split rate property tax system.

SECTION 1. Task Force on Land Value Taxation.

(1) The Task Force on Land Value Taxation is established, consisting of eight members appointed as follows:

- (a) The President of the Senate shall appoint:*
 - (A) Two members from among members of the Senate from each caucus.*
 - (B) Two members with expertise in property taxation.*
- (b) The Speaker of the House of Representatives shall appoint:*
 - (A) Two members from among members of the House of Representatives from each caucus.*
 - (B) Two members with expertise in property taxation.*
- (2) The task force shall conduct a study of land value taxation, to include:*
 - (a) An examination of the tax shift and equity effects of a change from property taxation under the rate limitations to land value taxation.*
 - (b) Simulation of a phase-in period and measurement of land rent capture rates for each stage of the phase-in period.*
 - (c) Assessment of the revenue-generating effects of land value taxation within urban renewal areas that currently employ tax increment financing.*
 - (d) Assessment of the revenue-generating effects of land value taxation on overlapping taxing districts.*
 - (e) Examination of the use of revenue-positive land value taxation to offset reduction of tax revenues from other sources.*
 - (f) A simulation model to illustrate an alternative method to split-rate land value taxation that would reduce assessments on improvements.*
 - (g) Consideration of alternative methods of placing limits on the growth of property taxes.*
 - (h) Examination of tax burden relief measures that could accompany land value taxation.*
- (3) The task force may study any aspect of land value taxation it considers important to the success of the task force.*

Model Law Sources:

2002 Virginia House Bill 239, available at: <http://www.alicelaw.org/catalog/1430>

2009 Connecticut Public Act 09-236, available at: <http://www.alicelaw.org/catalog/1431>

2005 Connecticut General Assembly Bill 5892, available at:
<http://www.alicelaw.org/catalog/1432>

Rick Rybeck, "Property Tax Modernization," Just Economics (2011) available at:
<http://www.alicelaw.org/catalog/688>

Resource Organizations:

Center for the Study of Economic, <http://www.urbantoolsconsult.org/>

Common Ground USA, <http://commonground-usa.net/>

Council of Georgist Organizations, <http://www.cgocouncil.org/>

Just Economics LLC, www.justeconomicsllc.com

Lincoln Institute of Land Policy, <http://www.lincolnst.edu/>

(4) A majority of the members of the task force constitutes a quorum for the transaction of business.

(5) Official action by the task force requires the approval of a majority of the members of the task force.

(6) The task force shall elect one of its members to serve as chairperson.

(7) If there is a vacancy for any cause, the appointing authority shall make an appointment to become immediately effective.

(8) The task force shall meet at times and places specified by the call of the chairperson or of a majority of the members of the task force.

(9) The task force may adopt rules necessary for the operation of the task force.

(10) The task force shall submit a report in the manner provided by _____, and may include recommendations for legislation, to an interim committee of the Legislative Assembly related to taxation no later than _____.

(11) The Legislative Revenue Office shall provide staff support to the task force.

(12) Members of the task force who are not members of the Legislative Assembly are not entitled to compensation, but may be reimbursed for actual and necessary travel and other expenses incurred by them in the performance of their official duties in the manner and amounts provided for in _____. Claims for expenses incurred in performing functions of the task force shall be paid out of funds appropriated to the Department of Revenue for purposes of the task force.

(13) All agencies of state government, as defined in _____, are directed to assist the task force in the performance of its duties and, to the extent permitted by laws relating to confidentiality, to furnish such information and advice as the members of the task force consider necessary to perform their duties.

Additional Information:

David Brunori and Jennifer Carr, “Valuing Land and Improvements: State Laws and Local Government Practices,” *Lincoln Institute of Land* (2002) available at: https://www.lincolninst.edu/pubs/dl/151_brun02web.pdf

Daphne A. Kenyon, Adam H. Langley and Bethany P. Paquin, “Rethinking Property Tax Incentives for Businesses,” *Lincoln Institute of Land Policy* (2012) available at: https://www.lincolninst.edu/pubs/dl/2024_1423_Rethinking%20Property%20Tax%20Incentives%20for%20Business.pdf

Elizabeth Plummer, “Evidence on the Distributional Effects and Administrative feasibility of a Land Value Tax: Who Wins, Who Loses, and Can It Happen?” *Lincoln Institute of Land Policy* (2009) available at: https://www.lincolninst.edu/pubs/dl/1659_874_Plummer%20Web.pdf

H. Spencer Banzhaf and Nathan Lavery, “How ‘Smart’ is the Split-Rate Property Tax? Evidence from Growth Patterns in Pennsylvania,” *Lincoln Institute of Land Policy* (2008) available at: http://www.lincolninst.edu/pubs/dl/1372_693_Banzhaf_Working_Final.doc

Jeffrey P. Cohen and Michael J. Fedele, “Where in Connecticut is the Best Location for a Split Tax? An Analysis of Land Assessment Equity in Several Cities,” *Lincoln Institute of Land Policy* (2012) available at: https://www.lincolninst.edu/pubs/dl/2133_1455_Cohen_WP12JC1.pdf

Jerome C. German, Dennis Robinson and Joan Youngman, “Traditional Methods and New Approaches to Land Valuation, Land Lines, Volume 12 Number 4 (July 2000) available at: http://www.lincolninst.edu/pubs/295_Traditional-Methods-and-New-Approaches-to-Land-Valuation

John H. Bowman and Michael E. Bell, “Implications of a Split-Rate Real Property Tax: An Initial Look at Three Virginia Local Government Areas,” *Lincoln Institute of Land Policy* (2004) available at: https://www.lincolninst.edu/pubs/dl/905_BowmanBell_PDF.pdf

Koleman S. Strumpf, “Infrequent Assessments Distort Property Taxes: Theory and Evidence,” *Lincoln Institute of Land Policy* (1998) available at: <http://www.lincolninst.edu/subcenters/property-valuation-and-taxation-library/dl/strumpf.pdf>

Richard F. Dye and Richard W. England, “Assessing the Theory and Practice of Land Value Taxation,” *Lincoln Institute of Land Policy* (2010) available at: https://www.lincolninst.edu/pubs/dl/1760_983_Assessing%20the%20Theory%20and%20Practice%20of%20Land%20Value%20Taxation.pdf

Rick Rybeck, “Property Tax Modernization Model Act,” *Just Economics* (2011) available at: <http://www.alicelaw.org/catalog/688>

Rick Rybeck, "Transforming the Property Tax into a Public Service Access Fee," *Just Economics* (2011), available at: <http://www.alicelaw.org/catalog/723>

Rick Rybeck, "Using Value Capture to Finance Infrastructure and Encourage Compact Development," *Public Works Management and Policy*, Vol. 8 No. 4 (April 2004) available at: <https://www.mwcog.org/uploads/committee-documents/k15fV11f20080424150651.pdf>

Rick Rybeck, "Tax Reform Motivates Sustainable Development," *AIA/DC News* (December 1995/January 1996) available at: <http://www.justeconomicsllc.com/pdfs/TaxReformMotivatesSustDvlpmt-AIA-96.pdf>

Robert J. Gloudemans and Sheldon Handel and Michael Warwa, "An Empirical Evaluation of Alternative Land Valuation Models," *Lincoln Institute of Land Policy* (2002) available at: https://www.lincolninst.edu/pubs/dl/157_GloudemansHandelWarwa02.pdf

Sally Kwak, "Biases in Analysis of Split-Rate Property Tax Reforms: Hawaii's Experience 1963-1979," *Lincoln Institute of Land Policy* (2009) available at: https://www.lincolninst.edu/pubs/dl/1591_808_Kwak%20Final.pdf