

TO: Equalization Directors
State Tax Commission Personnel

FROM: Emil Tahvonen, Administrator
State Tax Commission

No. 15 - April 13, 1982
Allocated Tax Rates
Rollbacks - Headlee

STATE OF MICHIGAN

FRANK J. KELLEY, ATTORNEY GENERAL

CONSTITUTIONAL LAW: Const 1963, art 9, § 31--reduction
of millage allocated by county tax
allocation board after separate
tax limitation authority expires

Upon termination of a separate tax limitation for a school
district by operation of law, millage allocated to the school
district by the county tax allocation board continues to be
subject to reduction, if applicable, pursuant to Const 1963,
art 9, § 31.

Opinion No. 6032

JAN 25 1982

The Honorable Richard J. Allen
State Senator
The Capitol
Lansing, Michigan

You have requested my opinion on the following question:

When a separate tax limitation for a school
district is terminated and millage is then
allocated to the school district by the
county tax allocation board, is the allocated
millage subject to a compounded millage
reduction fraction, if applicable, pursuant
to Const 1963, art 9, § 31?

Const 1963, art 9, § 6 limits the amount of ad valorem
property taxes which may be levied without voter approval to
15 mills. Pursuant to that constitutional provision, county
electors may approve separate tax limitations not to exceed
18 mills between the county, townships, and school districts.
If approved separate tax limitations are not in effect, the
tax rates authorized within the 15 mills limitation are
annually allocated between the county, townships, school
districts, and, where applicable, to community college

districts by the county tax allocation board. 1933 PA 62, § 11; MCLA 211.211; MSA 7.71. The tax rate under consideration here is the school district's rate as allocated by the county tax allocation board.

Your opinion request is based on the following facts. In 1976, voters of a county approved establishment of separate tax limitations for the county, townships, and intermediate and local school districts for a four year period, pursuant to Const 1963, art 9, § 6, and §§ 5a-5i of 1933 PA 62; MCLA 211.201 et seq; MSA 7.61 et seq. In 1980, the voters defeated a proposal to establish separate tax limitations for an additional four year period. The basic 15 mill levy, as limited by Const 1963, art 9, § 6 and authorized by 1933 PA 62, § 3; MCLA 211.203; MSA 7.73, was then allocated for 1981 among the various units by the county tax allocation board pursuant to 1933 PA 62, supra, § 11. School districts were allocated 8.0 mills as the tax rate, which was also the amount of school district millage established by the separate tax limitation approved in 1976 and the amount which would have been provided for school districts by the proposal defeated in 1980.

Const 1963, art 9, § 31 was added to the Constitution in 1978 by the approval of the Headlee Amendment by the electors. In pertinent part, it provides:

"Units of Local Government are hereby prohibited from levying any tax not authorized by law or charter when this section is ratified or from increasing the rate of an existing tax above that rate authorized by law or charter when this section is ratified, without the approval of a majority of the qualified electors of that unit of Local Government voting thereon. . . . If the assessed valuation of property as finally

equalized, excluding the value of new construction and improvements, increases by a larger percentage than the increase in the General Price Level from the previous year, the maximum authorized rate applied thereto in each unit of Local Government shall be reduced to yield the same gross revenue from existing property, adjusted for changes in the General Price Level, as could have been collected at the existing authorized rate on the prior assessed value."

Under this provision, if the assessed valuation, as finally equalized, of property in a school district increases by a greater percentage than the increase in the General Price Level, the authorized tax rate must be "rolled back" to offset the valuation increase in excess of the increase in the General Price Level. OAG, 1979-1980, No 5562, p 389 (September 19, 1979), concluded that this requirement applied not only to voter-approved millage levies, but also to the maximum 15 mill levy whether allocated or established by separate tax limitations. When Const 1963, art 9, § 31 is applied to the 15 mill levy, it reduces the maximum permissible levy from 15 mills to a lower "rolled back" rate. Thus, the county, township, and school district allocated shares of the 15 mill levy are "rolled back."

When a unit of local government is subject to the roll-back requirement of Const 1963, art 9, § 31 in each of two or more years, the rollback for each of these years must be cumulated. Thus, for example, a school district which has been allocated 8.0 mills, but which is subject to the roll-back requirement for three consecutive years because of increases in assessed valuation in excess of increases in the General Price Level, might see its maximum authorized millage rate drop to 7.8 mills the first year, to 7.5 mills the second year, and to 7.2 mills by the third year. Even

though nominally allocated 8.0 mills, the school district may not actually levy this rate unless its voters have approved an increase in the maximum authorized rate to 8.0 mills.

Const 1963, art 9, § 31 is implemented by The General Property Tax Act, 1893 PA 206, § 34d; MCLA 211.34d; MSA 7.52(4). When a unit of local government is subject to a millage rollback, (pursuant to 1893 PA 206, § 34d(7), (8), and (9), supra, for calculating a "millage reduction fraction"), the Legislature has established the following procedure:

"(7) Beginning in 1979 a millage reduction fraction shall be determined for each year for each local unit of government. The numerator of the fraction shall be the total state equalized valuation for the preceding year multiplied by the inflation rate and the denominator of the fraction shall be the total state equalized valuation for the current year minus new construction and improvements. The millage reduction fraction for 1979 shall not exceed 1. For 1979 tax levies, the millage reduction fraction shall be multiplied by the maximum millage rate authorized by law or charter for the unit of local government for 1979, except as provided by subsection (9).

"(8) The millage reduction fraction for the 1979 tax year shall be the first fraction in the series of annual reduction fractions which shall be multiplied together to produce the compounded millage reduction fraction for the year. The compounded millage reduction fraction for 1980 shall be calculated by multiplying the 1979 millage reduction fraction by the 1980 millage reduction fraction. The compounded millage reduction fraction for 1981 and each year thereafter shall be calculated by multiplying the local unit's previous year's compounded millage reduction fraction by the current year's millage reduction fraction. Beginning with 1980 tax levies, the compounded millage reduction fraction for the year shall be multiplied by the maximum millage rate authorized by law or charter for the unit of local government for the year, except as provided by subsection (9). A compounded millage reduction fraction shall not exceed 1.

"(9) The millage reduction shall be determined separately for authorized millage approved by the voters after January 1, 1979. Beginning in 1980, the limitation on millage authorized by the voters on or before May 31 of a year shall be calculated beginning with the millage reduction fraction for that year. Millage authorized by the voters in 1979 or after May 31 of a subsequent year shall not be subject to a millage reduction until the year following the voter authorization which shall be calculated beginning with the millage reduction fraction for the year following the authorization. The first millage reduction fraction used in calculating the limitation on millage approved by the voters after January 1, 1979 shall not exceed 1."

In the first year that a unit of local government is subject to a millage rollback, the authorized millage rate is multiplied by the millage reduction fraction to determine the "rolled back" millage rate. In succeeding years, the millage reduction fractions for each year are multiplied together to calculate a "compounded millage reduction fraction" which is then used to determine the "rolled back" millage rate. This procedure continues annually until the voters authorize an increase in the tax rate, at which time the procedure starts anew pursuant to 1893 PA 206, § 34d(11), supra, which provides:

"(11) A unit of local government may submit to the voters for their approval the levy in that year of a tax rate in excess of the limit set by this section. The ballot question may ask the voters to approve the levy of a specific number of mills in excess of the limit, or to approve the levy of a total number of mills to be levied after application of this section and section 31 of article 9 of the state constitution of 1963, or to approve the levy in that year of its authorized millage without regard to the millage reduction required by section 31 of article 9 of the state constitution of 1963, or to approve an increase in that year's compounded millage reduction fraction to 1. If a tax levy in excess of the limit set by subsections (7) to (9) is approved, the year's compounded millage rollback

fraction shall be recalculated for determining the following year's compounded millage rollback fraction. The provisions of this section shall not allow the levy of a millage rate in excess of the maximum rate authorized by law or charter."

The compounding of millage reduction fractions is necessary to enable valuation increases in excess of the General Price Level to be permanently offset or "rolled back." If the millage reduction fraction for each year were calculated solely on the valuation increase for that year, taxpayers would receive the benefit of the rollback for only the most recent year and would be subject to the full effect of the valuation increases in years prior thereto.

Under Const 1963, art 9, § 31 and 1893 PA 206, § 34d, supra, the millage rollback requirement continues from year to year unless the electors affirmatively act to increase the authorized tax rate. In the fact situation presented in your request, the electors of the school district have not approved a levy of a tax rate in excess of the limit set by 1893 PA 206, § 34d(7), (8) and (9), supra. Consequently, no millage rate in excess of the rate calculated by application of these subsections may be levied.

It is my opinion, therefore, that upon termination of a separate tax limitation for a school district by operation of law, millage allocated to the school district by the county tax allocation board continues to be subject to reduction, if applicable, pursuant to Const 1963, art 9, § 31.


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