



Michigan's Use of Ad Valorem Special Assessments

Michigan House of Representatives
Local Government Committee

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- Founded in 1916
- Statewide
- Non-partisan
- Private not-for-profit
- Promotes sound policy for state and local governments through factual research
- Relies on charitable contributions of Michigan foundations, businesses, and individuals
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Three Classes of Taxation

- **Taxes on income** – personal income taxes, corporate income taxes, estate taxes, etc.
- **Taxes on sales** – sales tax, use tax, liquor taxes, hotel-motel taxes, etc.
- **Taxes on the ownership of property** – property taxes, Michigan's motor vehicle registration tax, etc.
 - **Ad Valorem Tax**: A tax computed from the value of a property.



Differences in Characteristics of Taxes and Traditional Special Assessments

- **General Property Taxes** are levied upon both real and tangible personal property not otherwise exempt by law
- **Traditional Special Assessments** are levied only upon land and premises.
 - Real property which is exempt from general property taxation is not exempt from special assessment unless the statute authorizing the special assessment so provides.



***Bolt vs City of Lansing* provisions related to definition of a tax:**

A tax:

1. Is to be levied to raise revenue for the general operation of government;
2. Is to be levied to benefit the general public; and
3. Is compulsory in nature.



Differences in Purpose of Tax and Special Assessment

- **Tax** – The cost of those municipal services which provide a general benefit to all residents of a unit of government should be borne through taxation imposed upon the general public.
- **Traditional Special Assessment** – The cost of construction and maintenance of local public improvements should be borne the local impositions upon property in its immediate vicinity and levied with reference to special benefits to the property assessed.



Differences in Characteristics of Taxes and Traditional Special Assessments

- **General Property Taxes** are levied throughout an entire unit of local government
 - A city, village, township, or county for example
- **Traditional Special Assessments** are levied only within a special assessment district comprised of the land and premises especially benefited by the public improvement being financed.
 - A sub-region of the local government



Differences in Characteristics of Taxes and Traditional Special Assessments

- **General Property Taxes** are levied on real and personal property except properties statutorily exempted (churches, hospitals, charities, etc.)
- **Traditional Special Assessments** are levied only on real property and do not provide for exemptions of non-profit entities except in a few cases



Differences in Characteristics of Taxes and Traditional Special Assessments

- **General Property Taxes** are levied on a modified acquisition value basis (taxable value) until there is a transfer in ownership
- **Traditional Special Assessments** are levied upon the basis of proportionate front footage or land area.



Differences in Characteristics of Taxes and Traditional Special Assessments

- **General Property Taxes** support basic municipal services
- **Traditional Special Assessments** are essentially a financial tool used to repay debt that is incurred to finance physical improvements to infrastructure

Differences in Characteristics of Taxes and Traditional Special Assessments

- **General Property Taxes** are open-ended and are levied at rates to fund public services
 - What are public services is subject to debate (this is why we elect representatives and subject their meetings to open meetings requirements)
 - Constitutional limitations adopted to create safeguards
- **Traditional *Special Assessments*** are not open-ended
 - A limited financial obligation not exceeding the cost of the improvement to infrastructure being financed



Differences in Characteristics of Taxes and Traditional Special Assessments

- **General Property Taxes** are subject to numerous constitutional and statutory restrictions
 - uniformity and equalization requirements
 - limitations on the rate and duration of millage
 - millage rollback provisions
 - voter approval requirements
 - a cap on annual property tax increases
 - truth in taxation
 - truth in assessment
- **Traditional Special Assessments** are not subject to these constitutional and statutory requirements.



Ad Valorem Special Assessments: Blurring the Differences

- Starting in 1950s, legislation broadened beyond public improvements the purposes for which special assessments could be imposed
- Change had the effect of eroding the connection between special assessments and public improvements which, in turn, undermined the distinction between special assessments and general taxes.

Ad Valorem Special Assessments: Blurring the Differences

- Lines further blurred by abandoning traditional means of spreading the costs (frontage, land area, etc.) in favor of an ad valorem distribution
 - Ad valorem special assessments do not honor the historical connection between special assessments and public improvements.
 - The ad valorem value of property bears no consistent relationship to the benefits received from basic governmental services.



***Bolt vs City of Lansing* provisions related to definition of a tax:**

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Ad Valorem Special Assessments

- **Base** – although the term special assessment infers a benefit uniquely provided to a sub-group of the government's population, unit-wide special assessments treat all properties equally.
 - The special benefit principle, which courts repeatedly have held is the foundation on which rests the right to levy special assessments, is reduced to a practical illusion.

Ad Valorem Special Assessments

- Vocabulary matters
 - *Blake v Metropolitan Chain Stores* (247 Mich 73, 77; 1929) “A charge imposed only on property owners benefited is a special assessment rather than a tax notwithstanding the statute calls it a tax.”
- **Rate** – Special assessments are granted unlimited and open-ended revenue-raising authority.
 - Constitutional limitations apply to taxes, and these are not taxes.



Statutes that Authorize Ad Valorem Special Assessment

- 1909 PA 279 (M.C.L. 117.4d) public improvements and street lighting – cities
- 1923 PA 116 (M.C.L. 41.414) various public improvements – townships and villages
- 1951 PA 33 (M.C.L. 41.801) police/fire equipment and operations – cities with less than 10,000 population, townships, and villages
- 1954 PA 188 (M.C.L. 41.721 et seq.) various public improvements – townships
- 1967 PA 288 (M.C.L. 560.192a) operation and maintenance of storm water retention basins – townships, villages, and cities
- 2012 PA 406 (M.C.L. 123.1241 et seq.) ambulance/fire/police/jail equipment, equipment maintenance and operations – counties, townships, villages, cities, and authorities created to provide these services



Conclusions and Suggested Remedies

- **Traditional Special Assessments** are a long-standing and readily accepted financing tool available to local governments
 - CRC's last look at this subject counted 34 statutes that authorize special assessments for public improvements
 - All but a few of these statutes conform to standards that differentiate traditional special assessments from general property taxation
- **Unit-Wide Ad Valorem Special Assessments** blur the lines and should be treated different



Conclusions and Suggested Remedies

- Suggested Remedies for Unit-Wide Ad Valorem Special Assessments:
 1. Eliminate all ad valorem special assessments
 - Local governments would have the prerogative of levying a property tax instead
 2. Treat ad valorem special assessments as taxes
 - "A tax by any other name is but a tax..."



Conclusions and Suggested Remedies

3. Establish police and fire authorities to provide services where currently PA 33 special assessments are levied
 - Would subject the millage to constitutional property tax limitations
 - Would require voter approval pursuant to Section 31 of Article IX
 - Would still not be subject to 15, 18, 50 mill limitations



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