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AD VALOREM SPECIAL ASSESSMENTS IN MICHIGAN

Historically, general property taxes have been levied by units of local government to finance a vast array of governmental services and programs. By contrast, special assessments historically have had but a single principal purpose: to finance the construction and maintenance of local public improvements, such as streets, street lighting, and sewers.

While there are several specific characteristics that distinguish general property taxes from traditional special assessments, the Legislature has undermined these distinctions over time by authorizing units of local government to impose a hybrid category of special assessments, that use property values as the base, which are virtually in-

distinguishable from general property taxes. However, because the majority of the authorizing statutes refer to "special assessments" rather than "taxes," these impositions escape the constitutional and statutory restrictions which govern general property taxes. In effect, through clever use of nomenclature, the Legislature has accorded some units of local government a revenue-raising authority that is essentially unfettered by the state Constitution.

Ad valorem special assessments became a legislative issue during 1996 after the state Attorney General concluded that they must be levied on state-equalized value rather than taxable value. That ruling was significant because, in

Comparison of Property Taxes, Traditional Special Assessments, and Unit-Wide Ad Valorem Special Assessments

	Property Taxes	Traditional Special Assessments	Unit-Wide Ad Valorem Special Assessments
Purpose	To finance a vast array of basic governmental services	To finance improvements to infrastructure, such as sidewalks and street lights	To finance basic governmental services, usually police and fire protection
Property Upon Which Levied	Real and tangible personal property not otherwise exempt by law	Real property only, <u>including</u> tax-exempt property unless authorizing statute provides otherwise	Real property only, <u>excluding</u> tax-exempt property although not usually authorized by statute
Geographic Area	Throughout an entire unit of local government	In a "special assessment district" comprised of lands and premises benefited	Throughout an entire unit of local government
Base Upon Which Levied	The value of property	Generally front footage or land area	The value of property
Legal Restrictions	<u>Constitutional</u> : includes uniformity; equalization; 15, 18, & 50 mill limits; voter approval; taxable value cap; Headlee rollbacks; <u>Statutory</u> : truth in taxation; truth in assessment	Authorizing statute; not subject to foregoing constitutional or statutory restrictions	Authorizing statute; not subject to foregoing constitutional or statutory restrictions

A more detailed analysis (CRC Report #319) of this topic is available upon request.

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March of 1994, voters amended the state Constitution to limit annual increases in taxable value (but not state-equalized value) to the lesser of five percent or inflation. While the issue addressed by the Attorney General is an important one, the more pressing policy question is whether unit-wide, ad valorem special assessments are an appropriate means to finance basic municipal services or are simply a means of circumventing constitutional and statutory property tax limitations.

The full extent of the problem posed by unit-wide, ad valorem special assessments is extremely difficult to ascertain due to three interrelated factors:

- (1) inadequate or inaccurate reporting by units of local government which impose them;
- (2) the considerable number of authorizing statutes, many of which overlap either as to the type of public improvement permitted to be financed by special assessment, or the type of unit of local government permitted to impose them, or both; and
- (3) the general difficulty which, not only taxpayers, but many local officials encounter when attempting to distinguish such special assessments from ad valorem taxes.

Notwithstanding these difficulties, data filed for the 1995 tax year with the State Tax Commission for revenue sharing purposes revealed 147 unit-wide ad valorem special assessment districts. These districts contained property with an aggregate state-equalized valuation of \$15.4 billion and generated \$55.5 million in revenues.

There are a number of remedies to the abuses which result from unit-wide, ad valorem special assessments. These remedies include

- requiring that such special assessments be levied on taxable value, which was the option favored by the Legislature during 1996;
- eliminating statutory authorization for such special assessments;
- treating such special assessments as taxes by subjecting them to the same constitutional and statutory restrictions which apply to ad valorem property taxes;
- authorizing townships to establish separate authorities to provide police and fire protection, since the majority of unit-wide, ad valorem special assessments are levied by townships for either or both of those purposes.