IPT Property Tax Article

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What is the Texas Circuit Breaker?

(Sec. 23.231. Circuit Breaker Limitation on Appraised Value of Real Property, Texas Property Tax Code)

By Paul Pennington and Melinda Blackwell

Texans don't have an income tax, but they pay some of the highest property taxes in the country. This point is driven home by elected officials every legislative session. Each chance they get, they attempt to pass some sort of property tax relief to taxpayers, especially homeowners.

For example, in 2019 Texas Governor Greg Abbott signed into law Senate Bill 2. This Bill, among other things, limited the growth of tax rates for counties and cities to a maximum of 3.5% without a popular referendum. It also included $5.1 billion to buy down the school tax rates. During the subsequent 2021 session the Legislature passed various changes to the Texas Property Code including an increase to the homestead exemption for school taxes from $25,000 to $40,000. Moving into the 2023 legislative session, the Texas Comptroller told lawmakers they would have a historic budget surplus of $33 billion. Upon hearing this news, calls for property tax cuts were thrust into the forefront of priorities for the Governor and those in the legislature.

As the session began, the House and Senate produced their own plans. Both agreed to continue and increase the buy down of school tax rates, but each had their additional, competing tax reduction plans. The House plan included a 5% cap on all real property along with the buy down of school tax rates moving forward. The Senate plan proposed to raise the school homestead exemption from $40,000 to $100,000 with that amount increasing to $110,000 for homeowners aged over sixty-five.

The Texas legislature wrestled with these two opposing plans through the regular session and two special sessions. In the end, both the House and Senate agreed to spend $%.. billion to increase homestead exemptions, make changes to Appraisal Review Boards, the Appraisal Districts' Boards of Directors, allocate $12.6 billion to buy down school tax rates (by 10.7 cents) and to create a pilot program called the "Circuit Breaker."

The new Texas "circuit breaker" applies a 20% taxable value cap placed on all real property with a value of $5 million or less, with exception for homesteaded properties, special appraisal land (1-d-1 appraisal), and business personal property accounts. Unlike the circuit breaker legislation in other states, the Texas version is not based on the taxpayer's ability to pay their taxes, rather it is applied universally (with the exceptions noted).

The biggest misconception about the new law is that it is applied to individual properties or economic units. Contrary to this belief, the law is applied to individual parcels. Therefore, one economic unit could be comprised of several accounts, some that could fall under the umbrella of the Circuit Breaker, and other accounts that will not enjoy that protection.

According to the Texas Comptroller's Office, if the "circuit breaker" had been applied in the 2023 tax year, it would have impacted 84.1% of all multifamily, 94.96% of all commercial property, and 87.90% of all industrial parcels.

Now that 2024 value notices are being issued, Texas taxpayers will have questions about the mechanics and application of the "circuit breaker".

A summary of the pertinent provisions of the statute is set forth below:

- For the first year in place (2024), the provision only applies to real property with an appraised value of not more than $5 million. For those properties, their value is capped at an increase of 20 percent. The value limitation is recalculated each year by the Comptroller's Office based on the Consumer Price Index.

- It does not apply to a residence homestead or agricultural special use properties or personal property.

- New improvements are taxable and are not included in the calculation of the cap. A new improvement does not include repairs to or ordinary maintenance of an existing structure or the grounds or another feature of the property.

- The capped value of a property is removed when the property sells. If the property qualifies, the new owner must re-establish the capped value.

In essence, starting with the 2024 tax year, this provision limits the amount of annual value increase to the appraised value of real property which was valued in 2023 at $5 million or less (excepting homesteads and special use type properties like agricultural land, timberland, recreational, park and scenic land, etc.).

For example, if a property was valued at $4 million in 2023, then this value is used to determine the capped value for the 2024 tax year. If the property's market value for 2024 is increased to $5 million, the "circuit breaker" comes into play. The capped value is $4.8 million (20% of $4 million) and it is that value which is used to calculate the amount of taxes due (rather than the $5 million market value).

The value cap does not "run" with the property. Once a property sells, the new owner does not get to retain the capped value already in place on the property. Rather, the new owner will have to establish a new cap on the property as of January 1 of the year following the first year of ownership (assuming the value of the property still qualifies).

After the 2024 tax year, the Comptroller determines the value of property that qualifies for the "circuit breaker" protection. The calculation requires consideration of the consumer price index. The Comptroller is required to publish the qualifying value. Currently, the "circuit breaker" provision is set to expire at the end of 2026. However, the Legislature meets again in 2025. At that time, the Legislature could extend the date the "Circuit Breaker" ends beyond 2026 or simply allow it to expire.