



---

Memorandum

TO: Town Council

FROM: Finance Department and Town Clerk

DATE: August 4, 2020

SUBJECT: Proposed Ballot Question: Gallagher Amendment

## **I. SUMMARY**

The purpose of this memorandum is to gather feedback from Town Council regarding a proposed ballot question to voters this November to “de-Gallagherize” property tax collections in Vail.

## **II. BACKGROUND**

The Gallagher amendment was approved by Colorado voters and adopted in 1982 in response to homeowner concerns over rising residential property taxes. It requires that residential assessed values comprise no more than 45 percent of the state’s overall assessed value. Non-residential properties, such as commercial and vacant land make up the remaining 55 percent. While the Gallagher Amendment sets the commercial assessment at a fixed rate of 29%, the residential assessment rate must be adjusted by the General Assembly during years of reappraisal to maintain a consistent ratio between total statewide assess values of residential and non-residential property.

Most years, Gallagher doesn’t come into play. If commercial values and home values rise at a similar pace, there’s no need for an adjustment.

But when there’s a state-wide housing market boom — as there has been over the past several years — coupled with a business downturn, homeowners can wind up contributing more than their 45 percent share. That throws the ratio out of whack, triggering a mandatory tax cut for homeowners under the state constitution.

From 2003 to 2017, the assessment rate for residential properties remained unchanged, at 7.96 percent of market value, along with the fixed rate of 29 percent for commercial properties. For tax collections in 2018, the residential assessment rate (RAR) dropped to 7.2 percent and in 2020 it dropped to 7.15 percent.

The latest re-assessment period ends this June 30<sup>th</sup>, with stable home values counterpoint to significantly decreased commercial values hard-hit with the economic impacts of COVID-19.

The current estimate for residential rates is an 18% decrease, to an assessment rate of 5.88 percent. This will represent the third reduction in property tax collections since 2017.

While the Town of Vail's mill levy is typically 10% of a taxpayer's tax bill, property tax collections make up 8% of the town's General Fund revenues (\$5.9M budgeted for 2020). The taxes pay for town department operations such as Fire, Police, Transit, Public Works, Community Development, Vail Town Library and Administration. Below are the more recent revenue impacts from the Gallagher Amendment (\*2021 is an estimate):

Budget Year	Residential Assessment Rate (Was: 7.96%)	Percentage change YOY	Revenue impact from reduced residential rate	Total Property Taxes Collected by TOV
2018 Actual	7.2%	-10%	\$-408,488	\$5,313,730
2019 Actual	7.2%	n/a	\$-408,488	\$5,369,376
2020 Budget	7.15%	-0.7%	\$-489,823	\$5,900,000
2021 Budget	5.88%	-18%	\$-1,383,598	\$5,200,000

The above revenue impacts are substantial to the town's operations. Rising property values have typically helped the town offset the impacts from the Gallagher Amendment, however this will not continue given recent economic crisis caused by COVID-19 and cannot be counted on in the future. Statewide estimates show commercial properties decreasing 20% and residential properties increasing 10% for this most recent valuation period ending June 30<sup>th</sup>. If residential values ultimately decrease due to the economic downturn, property tax collections for the town will decrease further. TABOR (Taxpayer Bill of Rights) prevents the town from increasing its mill levy to make up for those losses without voter approval.

State lawmakers in the General Assembly have voted to refer a ballot question to Colorado voters in November 2020 asking to repeal the Gallagher Amendment. If the repeal passes, the state will be able to set assessment rates for both residential and commercial properties at any level they deem fit in the future. However, given the economic hardships homeowners are enduring and based on current polling, the statewide ballot proposal may not pass.

### III. DISCUSSION

Staff is requesting Council consider a ballot question this November that would diminish the impact of the Gallagher Amendment by allowing the town to increase or decrease its mill levy in order to effectively achieve a permanent residential assessment rate of 7.15%, the rate currently imposed on residential properties in the town and throughout the state.

#### **Proposed Ballot Question**

The town could wait for the result of the statewide ballot question and risk revenue loss or follow the lead of other special districts such as the Vail Recreation District, Colorado Mountain College and Eagle River Fire District and ask town residents to essentially freeze the residential assessment rate (RAR) at its current level of 7.15%. The following is a draft ballot question for your consideration:

SHALL THE TOWN OF VAIL BE AUTHORIZED TO INCREASE OR DECREASE ITS CURRENT AND ALL FUTURE MILL LEVIES ONLY IF, ON OR AFTER NOVEMBER 3, 2020, THERE ARE CHANGES IN THE METHOD OF CALCULATING ASSESSED VALUATION, INCLUDING WITHOUT LIMITATION A CHANGE IN THE PERCENTAGE OF ACTUAL VALUATION USED TO DETERMINE RESIDENTIAL ASSESSED VALUATION DUE TO ARTICLE X SECTION 3 OF THE COLORADO CONSTITUTION (OTHERWISE KNOWN AS THE GALLAGHER AMENDMENT), SO THAT, TO THE EXTENT POSSIBLE, THE ACTUAL TAX REVENUES GENERATED BY SUCH MILL LEVY ARE THE SAME AS THE ACTUAL TAX REVENUES THAT WOULD HAVE BEEN GENERATED HAD SUCH CHANGES IN THE METHOD OF CALCULATING ASSESSED VALUATION NOT OCCURRED; AND SHALL THE PROCEEDS OF SUCH TAXES AND INVESTMENT INCOME THEREON BE COLLECTED AND SPENT BY THE TOWN AS A VOTER APPROVED REVENUE CHANGE IN 2020 AND IN EACH YEAR THEREAFTER, WITHOUT REGARD TO ANY SPENDING, REVENUE RAISING, OR OTHER LIMITATION CONTAINED WITHIN ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION OR SECTION 29-1-301, COLORADO REVISED STATUTES, AND WITHOUT LIMITING IN ANY YEAR THE AMOUNT OF OTHER REVENUES THAT MAY BE COLLECTED AND SPENT BY THE TOWN?

This year's General Election date is Tuesday, November 3<sup>rd</sup>. If the Town of Vail would like to coordinate this question with Eagle County, staff would need to let the County Clerk know no later than August 5 and approved ballot language would need to be submitted no later than August 25, 2020.

#### **IV. ACTION REQUESTED FROM COUNCIL**

**Does Council support moving forward with a ballot question this November?**

**If yes, does Council support a coordinated election with Eagle County for this question?**

Should Council support both of the above questions, staff will return at the August 18<sup>th</sup> meeting with an Intergovernmental Agreement with Eagle County for the coordinated election as well as a resolution approving the ballot language.