

Amendment U
Exempt Certain Possessory Interests From Property Taxes

1 **Amendment U proposes amending the Colorado Constitution to:**

- 2 ◆ beginning with tax year 2018, eliminate property taxes for individuals
3 or businesses that use government-owned property for a private
4 benefit worth \$6,000 or less in market value; and
- 5 ◆ beginning with tax year 2019, and every two years thereafter, adjust the
6 \$6,000 exemption threshold to account for inflation.

7 **Summary and Analysis**

8 ***Property taxes and possessory interests.*** Property taxes are primarily based on
9 the value of land, houses, other buildings, and business equipment. Individuals and
10 businesses pay property taxes to various local governments, such as cities, counties,
11 school districts, and special districts, each of which imposes its own tax rate on
12 property. Property taxes pay for a variety of local government services, including
13 public education, police and fire services, roads and bridges, parks and recreation
14 facilities, hospitals, and libraries.

15 When an individual or business uses government-owned land or equipment for
16 private purposes, a possessory interest is created. Although government-owned
17 property is exempt from taxes, the financial benefit that a business or individual
18 obtains from using that land or equipment is not. For example, some ranchers lease
19 land from the federal government for cattle grazing. Other businesses lease land to
20 provide a recreational activity, such as skiing or river rafting, or are given a contract to
21 provide a specific service on public land, such as operating a snack bar at a national
22 park. Under current law, the value of a private financial benefit is considered a
23 possessory interest and is subject to property taxes. Typically, the value assigned to a
24 possessory interest is equal to the cost of the lease to use the government-owned
25 land; however, county assessors may use other methods to determine the actual value
26 of a possessory interest prior to determining the tax owed.

27 There are about 7,000 total possessory interests in Colorado. In 2015, the market
28 value of all possessory interests is about \$315.0 million, which is 0.04 percent of the
29 total market value of all taxable property in the state. At this value, total property tax
30 payments for all possessory interests of any value are approximately \$7.0 million
31 annually.

1 **How does Amendment U change the taxation of possessory interests?**
2 Starting in 2018, Amendment U exempts a possessory interest from property taxation
3 if the market value of the interest is \$6,000 or less. Beginning in tax year 2019, and
4 every two years thereafter, the \$6,000 threshold is adjusted to account for inflation.
5 Amendment U exempts approximately 5,100 of the 7,000 possessory interests in the
6 state. In total, these possessory interests pay about \$125,000 in property taxes
7 annually, or about \$24, on average, for each possessory interest.

*For information on those issue committees that support or oppose the measures on the ballot at the **November 8, 2016**, election, go to the Colorado Secretary of State's elections center web site hyperlink for ballot and initiative information:*

<http://www.sos.state.co.us/pubs/elections/Initiatives/InitiativesHome.html>

8 **Argument For**

9 Amendment U reduces the administrative burden of collecting a tax that in many
10 cases costs more to collect than it brings in to local governments. For example, the
11 majority of possessory interests in the state are for agricultural leases, many of
12 which are charged less than \$10 in property taxes. The cost of administering this
13 tax — mailing notices, maintaining tax rolls, and collecting and enforcing the
14 tax — often exceeds this amount.

15 **Argument Against**

16 Amendment U provides an unfair tax break for businesses and individuals who use
17 government-owned land for their private financial benefit, and puts a greater tax
18 burden on others to pay for local government services. These property taxes should
19 continue being collected uniformly from all taxpayers. A small tax bill does not justify
20 exempting businesses or individuals from paying the tax on the private benefit they
21 enjoy on government land.

22 **Estimate of Fiscal Impact**

23 **Local government impact.** Amendment U is expected to reduce property taxes
24 for all local governments statewide by up to \$125,000 per year, beginning in
25 budget year 2018-19. Some county governments may experience minor cost savings
26 as a result of fewer properties to assess and fewer tax notifications to mail and
27 process. Costs will only be saved in those counties that assess property taxes on
28 possessory interests with an actual value of \$6,000 or less.

Last Draft as Mailed to Interested Parties

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Last Draft Comments from Interested Parties

Amendment U Exempt Certain Possessory Interests From Property Taxation

Dave Wissel, representing the Colorado Assessors' Association:

Marie...I have reviewed the latest draft language on Amendment U, and find no changes or suggestions for improvement. As the Assessor in Park County, along with Mark Chapin from Eagle County, have both reviewed the wording on behalf of the Colorado Assessors Association, and I provide my approval of the latest language. Best regards, Dave Wissel, Park County Assessor.

Marc Chapin, representing Eagle County:

I concur with Dave Wissel and after review find no changers are necessary. Thank you

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Amendment U
Exempt Possessory Interests in Real Property

1 **Ballot Title:** Shall there be an amendment to the Colorado constitution concerning an exemption
2 from property taxation for a possessory interest in real property if the actual value of the interest is
3 less than or equal to six thousand dollars or such amount adjusted for inflation?

4 *Be It Resolved by the Senate of the Seventieth General Assembly of the State of Colorado,*
5 *the House of Representatives concurring herein:*

6 **SECTION 1.** At the election held on November 8, 2016, the secretary of state shall submit
7 to the registered electors of the state the ballot title set forth in section 2 for the following
8 amendment to the state constitution:

9 In the constitution of the state of Colorado, section 3 of article X, **amend** (1) (b) as follows:

10 **Section 3. Uniform taxation - exemptions.** (1) (b) (i) Residential real property, which shall
11 include all residential dwelling units and the land, as defined by law, on which such units are
12 located, and mobile home parks, but shall not include hotels and motels, shall be valued for
13 assessment at twenty-one percent of its actual value. For the property tax year commencing
14 January 1, 1985, the general assembly shall determine the percentage of the aggregate statewide
15 valuation for assessment which is attributable to residential real property. For each subsequent
16 year, the general assembly shall again determine the percentage of the aggregate statewide
17 valuation for assessment which is attributable to each class of taxable property, after adding in the
18 increased valuation for assessment attributable to new construction and to increased volume of
19 mineral and oil and gas production. For each year in which there is a change in the level of value
20 used in determining actual value, the general assembly shall adjust the ratio of valuation for
21 assessment for residential real property which is set forth in this paragraph (b) as is necessary to
22 insure that the percentage of the aggregate statewide valuation for assessment which is attributable
23 to residential real property shall remain the same as it was in the year immediately preceding the
24 year in which such change occurs. Such adjusted ratio shall be the ratio of valuation for
25 assessment for residential real property for those years for which such new level of value is used.
26 In determining the adjustment to be made in the ratio of valuation for assessment for residential real
27 property, the aggregate statewide valuation for assessment that is attributable to residential real
28 property shall be calculated as if the full actual value of all owner-occupied primary residences that
29 are partially exempt from taxation pursuant to section 3.5 of this article was subject to taxation. All
30 other taxable property shall be valued for assessment at twenty-nine percent of its actual value.
31 However, the valuation for assessment for producing mines, as defined by law, and lands or
32 leaseholds producing oil or gas, as defined by law, shall be a portion of the actual annual or actual
33 average annual production therefrom, based upon the value of the unprocessed material, according
34 to procedures prescribed by law for different types of minerals. Non-producing unpatented mining
35 claims, which are possessory interests in real property by virtue of leases from the United States
36 of America, shall be exempt from property taxation. OTHER POSSESSORY INTERESTS IN REAL PROPERTY
37 SHALL BE EXEMPT FROM PROPERTY TAXATION AS SPECIFIED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (b).

38 (II) (A) FOR THE PROPERTY TAX YEAR COMMENCING ON JANUARY 1, 2018, A POSSESSORY
39 INTEREST IN REAL PROPERTY SHALL BE EXEMPT FROM THE LEVY AND COLLECTION OF PROPERTY TAX IF THE
40 ACTUAL VALUE OF SUCH POSSESSORY INTEREST IN REAL PROPERTY IS LESS THAN OR EQUAL TO SIX
41 THOUSAND DOLLARS.

1 (B) FOR PROPERTY TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2019, A POSSESSORY
2 INTEREST IN REAL PROPERTY SHALL BE EXEMPT FROM THE LEVY AND COLLECTION OF PROPERTY TAX IF THE
3 ACTUAL VALUE OF SUCH POSSESSORY INTEREST IN REAL PROPERTY IS LESS THAN OR EQUAL TO SIX
4 THOUSAND DOLLARS ADJUSTED BIENNIALLY TO ACCOUNT FOR INFLATION AS DEFINED IN SECTION 20 (2) (f)
5 OF ARTICLE X OF THIS CONSTITUTION. ON OR BEFORE NOVEMBER 1, 2018, AND ON OR BEFORE NOVEMBER
6 1 OF EACH EVEN-NUMBERED YEAR THEREAFTER, THE PROPERTY TAX ADMINISTRATOR SHALL CALCULATE
7 THE AMOUNT OF THE EXEMPTION FOR THE NEXT TWO-YEAR CYCLE USING INFLATION FOR THE PRIOR TWO
8 CALENDAR YEARS AS OF THE DATE OF THE CALCULATION. THE ADJUSTED EXEMPTION SHALL BE ROUNDED
9 UPWARD TO THE NEAREST ONE-HUNDRED-DOLLAR INCREMENT. THE ADMINISTRATOR SHALL CERTIFY THE
10 AMOUNT OF THE EXEMPTION FOR THE NEXT TWO-YEAR CYCLE AND PUBLISH THE AMOUNT IN A MANNER
11 PROVIDED BY LAW.

12 **SECTION 2.** Each elector voting at the election may cast a vote either "Yes/For" or
13 "No/Against" on the following ballot title: "Shall there be an amendment to the Colorado constitution
14 concerning an exemption from property taxation for a possessory interest in real property if the
15 actual value of the interest is less than or equal to six thousand dollars or such amount adjusted
16 for inflation?"

17 **SECTION 3.** Except as otherwise provided in section 1-40-123, Colorado Revised Statutes,
18 if a majority of the electors voting on the ballot title vote "Yes/For", then the amendment will become
19 part of the state constitution.