Amendment U
Exempt Certain Possessory Interests From Property Taxes

Amendment U proposes amending the Colorado Constitution to:

- beginning with tax year 2018, eliminate property taxes for individuals or businesses that use government-owned property for a private benefit worth $6,000 or less in market value; and

- beginning with tax year 2019, and every two years thereafter, adjust the $6,000 exemption threshold to account for inflation.

Summary and Analysis

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

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

There are about 7,000 total possessory interests in Colorado. In 2015, the market value of all possessory interests is about $315.0 million, which is 0.04 percent of the total market value of all taxable property in the state. At this value, total property tax payments for all possessory interests of any value are approximately $7.0 million annually.
How does Amendment U change the taxation of possessory interests?

Starting in 2018, Amendment U exempts a possessory interest from property taxation if the market value of the interest is $6,000 or less. Beginning in tax year 2019, and every two years thereafter, the $6,000 threshold is adjusted to account for inflation. Amendment U exempts approximately 5,100 of the 7,000 possessory interests in the state. In total, these possessory interests pay about $125,000 in property taxes 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

Argument For

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

Argument Against

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

Estimate of Fiscal Impact

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