Background materials for upcoming tax classification hearing – 11/25/08

In case it's helpful, I have pasted below the past two years of past Select Board considerations of the tax issue. Might keep us from reinventing the wheel, or might identify areas where we have more questions.

Stephanie

From the Amherst Bulletin, 12/1/06

Select Board to address tax fairness
By GERRY WEISS

This Monday, the Select Board will hold a required public hearing in preparation for setting the tax rates for the current year. After the hearing, the board must determine how the tax levy will be allocated.

It might appear to many that we should stick with the status quo, as the board has been doing for decades. However, given the challenging condition of our current finances, these policies demand further analysis. Whether we stay the tax course, or change that course, everyone in Amherst will be affected. And, while none of these decisions will increase revenues, they will determine the fairness of how the tax pie will be divided.

First, we must determine if we wish to alter the ratio of the commercial to the residential tax rate. This can be done by shifting more of the tax burden to the commercial, industrial and personal property classification. In this case, personal property means commercial assets within a business, such as computers and furniture. By state law, we can increase the CIP portion by as much as 50 percent.

This would result in what is known as a split tax rate, with businesses having a higher tax rate than residents. This is done in 30 percent of towns and cities throughout the commonwealth. Why would we consider doing this? Over the years, the assessed value of our homes has grown at a much faster rate than the assessed value of businesses. Since 1990, while residential assessments in Amherst have increased by 126 percent, CIP assessments have only increased by 69 percent. At the same time, statewide, residential assessments have risen 148 percent and CIP assessments 55 percent. The result is that in most towns, residents are carrying an increasing share of the tax burden.

A 10 percent increase would lower the residential tax rate from $15.69 to $15.52, while increasing the CIP rate from $15.69 to $17.25. For the residential property owner whose assessed value is $330,900 (average owner-occupied home value in Amherst), the taxes would drop by $55. A business owner with the same assessed value would see an increase of $517.

We must consider the fairness and utility of this shift. Would this increase be passed onto the business owners that rent their space? How would these increases affect the entire business environment in Amherst? Is it worth doing at all, given the small benefits for homeowners? What would be the impact on farms and APRs, which are included in the CIP sector?

The Board of Assessors has recommended to the Select Board that we adopt a uniform tax rate for all tax classes.

The second major decision is whether or not to grant a residential exemption. An RE is a fixed-dollar amount excluded from the valuation of each owner-occupied property. In Amherst about 4,500 homes would be eligible for the exemption. The largest possible exemption that we may grant is 20 percent of the average residential value. Since the sum lost by granting a residential exemption must still be made up within the residential property sector, the balance of the levy must be raised by increasing the tax rate of that sector.

For this analysis, I'll use a smaller exemption, 10 percent, which would cause the tax rate to go from $15.69 to $16.91, while reducing the taxable amount of a home by $29,646. This would result in a $330,900 home receiving a tax cut of $106 compared to the tax that would have been assessed without an exemption. As the assessed value of one's home decreases, the tax savings increases. A home assessed at $200,000 would see a savings of $244. At the same time, as the assessed value of a home increases, the savings decrease until the property value reaches $411,500. Above that point, you would begin to pay increasingly higher taxes as your assessment rises. That is, with a 10 percent exemption, a home valued at $500,000 would see an increase of $109, while a home valued at $1 million would see an increase of $719. Since many homeowners probably deduct their property taxes on their federal income tax returns, their increases would be partly mitigated by this deduction.

Granting this exemption would give relief to many homeowners who are finding the tax burden to be increasingly difficult to bear. About 3,600 homeowners would see their taxes go down, while about 865 homeowners would see a tax increase. Since apartment owners pay the residential rate, yet do not qualify for the exemption (because they are not owner-occupiers), all landlords/ladies would see an increase in their taxes, and might pass this on to their renters. This problem would not affect the 138 elderly/handicapped units owned by the Amherst Housing Authority.

We must also be aware of the impact on our assessor's office, as administration of the RE is very time-consuming. The Board of Assessors has recommended that the Select Board not grant a residential exemption. The board has never granted an RE and currently, only 13 communities in the commonwealth do.

The last item we must decide upon is the granting of a commercial exemption of up to 10 percent of the value of businesses with no more than 10 employees and valuations under $1 million. Within the CIP tax sector, this action would have the same effect as the RE would have within the residential sector. This provision in the tax law is meant to assist small businesses by shifting some of the tax burden to the larger businesses.

Complicating this picture is the fact that many small-business owners do not own their own property and therefore don't pay taxes. The owner of the property pays the taxes, based on a complicated assessment formula. The Board of Assessors does not believe the value of this exemption to businesses in Amherst has been established and they recommend that we not grant a small commercial exemption. The Select Board has never granted this exemption.

These are difficult decisions and have ramifications for everyone, no matter which way we vote on Monday. I am looking forward to a thorough discussion.

Select Board member Gerry Weiss can be reached by email at WeissG@amherstma.gov.

InAmherst.com recap of the 12/4/06 meeting:
Public Hearing Continuation – Tax Classification

Ms. Awad explained that the Select Board needed to set the tax rate and was considering three rate change possibilities: a Residential Exemption, a split rate for commercial versus residential, and a small-business exemption. Mr. Weiss read from his ***Bulletin column*** on the subject by way of explanation, and said that he found that the Residential Exemption and the split tax rate, which typically go hand-in-hand, work well in places such as Somerville, Brookline and Cambridge. Mr. Kusner raised the issue of public housing units and Mr. Weiss explained that the Town-owned elderly and disabled units pay no taxes and hence wouldn't be affected by the anticipated rent increases as landlords pass along their higher tax rates to tenants; the Town-owned family units make a payment in lieu of taxes (PILOT) at half the regular Town tax rate, and would be affected by potential increases.

David Burgess, Principal Assessor for the Town, explained that in cities such as Mr. Weiss cited, there is a large difference in the split rate between the commercial and residential sectors, so the Residential Exemption has little impact on renters and others who don't qualify and are thus affected by the higher rates – the rates aren't that high anyway.

There was discussion about other tax assistance programs for elderly residents who have difficulty with the tax burden, as well as clarification from Mr. Burgess about why no open space discount would be included in the Residential Exemption: that's because the Assessor's office already discounts the assessment on unbuildable land by 20%.

Ms. Greeney stated her opposition to the RE proposal because of the negative effect on renters. Ms. Awad noted that the Town had to comply with State guidelines on exemptions and couldn't craft one that specifically excluded rental housing. Mr. Kusner noted that he has heard no requests to create these changes, but wondered if there was any point at which a large expensive property should be expected to pay proportionally more.

Peter Ward, a retired school teacher and 35-year resident of Puffton Village, opposed the RE, because he was certain landlords would pass along the increases, and felt that amounted to renters paying more than their "fair share."

Larry Kelley noted that the proposed changes would give him a small benefit as a homeowner but would be devastating to him as a business owner. He also spoke of his past experience as an apartment renter, and how renting can be a stepping-stone to homeownership. He talked about the tax base being 90% residential and 10% commercial and said the commercial base "is dying."

Mr. Weiss said he agreed with Mr. Kelley up until the part about businesses dying. He said our commercial tax base percentage is the same or higher than almost 200 other towns in the State and that the idea of businesses being worse-off here is "not borne out tax-wise."

Nancy Gittleman, an owner-occupier landlord, said that she can't pass along all increases to tenants, saying that one can "max-out" on what can be competitively and fairly charged for rent.

Dan Feldman, a homeowner, business owner and landlord said he opposed dividing the rates among residents, and spoke of the expense of operating a business locally. He cautioned the Board to weigh the pros and cons of the decision carefully.

The Board voted unanimously not to split the tax rate between residential and commercial properties.

Discussion continued about the proposed Residential Exemption. Mr. Kusner noted that it was not intended to pit owners against renters and that the Board was trying to understand what other towns do with such an exemption and why.

Phil Jackson cautioned against underestimating the number of people who are "house rich and cash poor," and said if people are driven out of town by the high taxes, fewer houses would be owner-occupied. He said everyone was looking to maximize their profit with their housing investment, and people who buy bigger houses have taken on a bigger risk and pay more taxes than those with smaller houses. He called shifting the tax burden to larger homes "a misguided social policy, not a fiscal policy."

The Board voted unanimously against creating a Residential Exemption.

After brief discussion about wanting more information for the future about exemptions for small businesses, the Board voted unanimously not to create that exemption this year either, and no rate changes were made.

InAmherst.com recap of the 8/13/07 meeting:
Residential Property Tax Exemption

Mr. Weiss introduced the topic of the residential tax exemption, and said it would not include discussion of a split tax rate, as the agenda had stated. Town Assessor David Burgess attempted to explain a spreadsheet that illustrated the effect various exemption amounts would have on the residential tax bills for owner-occupied properties. It was not easy to follow the discussion without having the spreadsheet, though some who had it didn't benefit much anyway. The bottom line was that depending where the exemption level was set, the number of people whose taxes would stay the same, and the numbers who would pay more or pay less, varied. Because the full levy amount needs to be collected, the amount that an exemption would decrease some people's taxes needs to be made up for by increasing the taxes of others. The consideration of different exemption levels and break-even points (the point at which taxes don't change) looked at how many properties are affected, and by how many dollars, in the different scenarios.

Mr. Kusner raised the issue of how such an exemption would affect renters, under the assumption that landlords of non-qualifying properties would pass the increase along to the tenants. He had done an analysis of the property owners' cost increase per unit at several different-sized properties encompassing 1500 rental units. He said that at the maximum possible exemption level, the increased cost per unit would be from $3 to $10 per month. He said that if that increase were passed along to the tenants, the effect would be minimal. Mr. Weiss noted that it is still "real money," and that that is the kind of effect the Select Board needs to weigh.

It was suggested that Mr. Burgess see how split tax rates are working in other towns. He said that wouldn't be difficult because there are only 12 such towns in Massachusetts. Many of those are coastal communities where people own second homes, but it was felt that Cambridge and Somerville might be good comparisons with Amherst because of their large student populations.

No action was taken, and additional discussions of this issue will be held.

Notable: Mr. Burgess said he was "seriously considering" increasing the assessments on two-family properties, which he said are selling well and at prices higher than their current assessed values.

InAmherst.com recap of the 11/15/07 meeting:
Public Hearing – Tax Classification (6:52)

Mr. Weiss noted that Ms. Awad and Ms. Brewer could not be at the meeting, and that Ms. Brewer had asked that a vote on the tax rate not be taken at this time. There was a suggestion that there was some urgency to the vote.

David Burgess, Principal Assessor, introduced the members of the Board of Assessors. He said the Select Board's vote is the final step in setting the new tax rate. He said the Select Board's options were to maintain a single tax rate, to adopt a split tax rate for commercial versus residential properties; to grant a small commercial exemption, or to grant a residential exemption.

Mr. Burgess said that a residential exemption raises the residential property tax rate and shifts the taxes from the lower valued exemption-eligible properties to those properties with higher values. He said that he had provided the Select Board with spreadsheets and summaries of how different exemption amounts would impact properties of different values.

Mr. Burgess said that for a split tax between the Commercial/Industrial/Personal classes and Residential class, the Select Board could authorize up to a 50% increase for the former. He said he was estimating a tax rate of $16.02, but used $16.01 for this calculation. He said that the Commercial tax rate would rise from $16.01 to $24.02 per thousand, while the Residential rate would fall to $15.17. He said that would be an 85 cent decrease for residences and $8 increase for the Commercial/Industrial/Personal sectors.

Mr. Burgess said that the small commercial exemption could be for up to 10% for qualifying businesses, and said those businesses had to employ no more than 10 people on average per year, and be certified as such by the Department of Employment and Training. Mr. Kusner asked if that includes farms as well, and Mr. Burgess said it would affect farm property but not vacant land.

Mr. Burgess said that the Board of Assessors was recommending that the Select Board not accept any of these options. Mr. Weiss asked him to expand on why they decided to not recommend them.

Board of Assessors member Connie Kruger said that they review the options anew each year. Per the small commercial property exemption, she said that most small business owners don't own their business property, and that giving the exemption benefit to the property owner did not seem to yield much benefit. Per the split tax rate, she said that only 10% of the real estate value comes from commercial property now, which she said was down from 16% 20 years ago. She said that the Town is looking to support businesses, and not discourage their growth and development, and said that was why the Board of Assessors did not recommend the split rate. She said the residential exemption was most complicated and suggested that her colleague Donald Wise speak to that, because she said he had articulated the Board's position well.

Mr. Wise said that the Board of Assessors had had much discussion about the problem of it becoming increasingly difficult for lower-income people to afford to live in Amherst, and that in the interest of making the situation more equitable, exemptions were considered. He said they seem like a good idea, but that the Board was concerned about potential unintended consequences. He said: that older people with valuable family properties might be further pressured to sell; that raising rates on rental properties would lead to higher rent costs for tenants; and that if such an option is implemented, it would be difficult to undo the change if so desired. He said that while the residential exemption seemed like a good idea, it represented a slippery slope that made the Board of Assessors "reluctantly" recommend keeping a constant tax value.

There was some discussion about whether rental property was considered commercial. Ms. Kruger said that although it is a commercial endeavor, it has a residential tax classification. She said that 60% of the Town's housing is rental units.

On the subject of unintended consequences, Ms. Kruger emphasized the concern about seniors on fixed-incomes who may live in high-value homes, and said that there is no way to know the financial situations of those who would face higher tax bills due to their having to absorb the exemption of the lower-valued homes. She said that another concern was that because vacant land would not be eligible for the exemption, the tax cost of holding such land would increase and might encourage people to sell that land for development.

There was some discussion about how the larger commercial tax base in some of the communities with split tax rates make them different from Amherst's situation, and about possible public policy reasons for exempting a minimal level of housing.

Ms. Kruger said that what is being considered is shifting taxes from one property value to another, and not targeting the relief to those who need it. She said that there are a range of incomes and need levels across all property values. She said that in resort communities like Nantucket, the residential exemption shifts more of the burden to owners of second homes and away from the locals. She said that in Amherst, it would have the effect of shifting it more to the rental sector, and said that it is "hard to get enthusiastic about that."

Mr. Weiss said that all the ripple effects of the unintended consequences could not be known, and said that increases might eventually not be able to be passed on to rental tenants because the units would then be priced out of the market, and said that that could lead to a deterioration in upkeep as the owners absorb the higher costs, and that the deteriorating property would then have a lower value and pay lower taxes.

Ms. Kruger said that if this change were tried and found to be problematic in the future, it would be difficult to switch back to the current system, because it would mean that the exemption-eligible properties would then require a big tax increase.

Ms. Greeney said that she had spoken with Mr. Burgess about the issue and determined that Amherst's situation is unlike that of the communities for which the shift goes to second-home owners, and said she does not believe Amherst would benefit from the split tax rate.

Mr. Burgess compared residential exemptions to the land bank concept, which he said became the Community Preservation Act. He said that both ideas started on Cape Cod in response to the effect of high-priced summer homes driving up housing costs, and that both resulted from a desire to find a way to help the year-round population. He said that other communities then followed suit.

Mr. Kusner said that a more fair system of taxation needs to be found.

The public hearing was closed and Ms. Greeney moved to adopt an equal tax rate for all tax property classes and that no open space discount be granted, and the vote to approve that motion was 3 to 0 with 2 absent. She moved that no residential exemption be adopted, and the vote to approve that motion was 3 to 0 with 2 absent. She moved that no small commercial exemption be adopted, and the vote to approve that motion was 3 to 0 with 2 absent.

Mr. Weiss asked if it would be possible to re-vote the decision if the absent members so desired, and that was confirmed. Mr. Weiss asked why there was some rush this year, and said that last year the rate was determined in mid-December.

Mr. Burgess said that the Town is part of a pilot program with the State whereby all the tax information will be relayed to the State without paper and via the Internet. He said the vendors doing the bills haven't tested the system with a split tax rate, and that such a change would require six to eight weeks of new system changes and testing. He said that that situation was not relevant to the Select Board's tax decision. Ms. Kruger said that it represented an administrative reason why they were seeking to have the decision made now.