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Research Report

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Changes in Oregon's Urban Renewal Program from the 2001 Supreme Court Ruling on Shilo Inn v. Multnomah County et al.

Overview

Since Measure 50 was implemented in 1997, urban renewal (UR) division of taxes have been categorized, for Measure 5 purposes, according to the taxing district that imposed the taxes. The Supreme Court ruling in Shilo Inn v. Multnomah County et al. in December 2001 determined that all UR division of taxes must be categorized under the government Measure 5 limit of \$10 per \$1,000 real market value. With this court decision, UR division of taxes must now be categorized for Measure 5 in the same manner as the 6-year period prior to Measure 50 (1991-1997). This ruling was based on the principle that taxes should be categorized according to the taxes end use not according to the taxing districts' purpose in determining the Measure 5 tax limit. The following results can be drawn from the court ruling:

1. Most UR agencies will experience a reduction in their division of tax revenue. If an UR plan has special levy authority, revenue from the special levy could be increased to compensate for the reduction in lower division of tax revenue.
2. Property tax revenue for school districts (K-12, ESD and community colleges) will increase due to a reduction in their Measure 5 tax compression losses of permanent, local option and Gap bond taxes. The increase in school revenue annually will not be significant for schools statewide.
3. Governments could suffer additional Measure 5 compression losses from all UR division of taxes being categorized under the Measure 5 government property tax limit. Government local option levies would be the first levies subject to reduction due to Measure 5 tax limits.
4. Property owners, within an UR plan area, could have lower school taxes but potentially higher government taxes. The overall result would vary by property.
5. Property owners, outside an UR plan area but within a municipality, which sponsors an UR plan, could see an increase in their government taxes if the UR agency's plan has the option of imposing a special levy.

Brief Urban Renewal History

With the passage of Measure 5 property tax limitation, all districts' property taxes are categorized as either school, government or taxes to pay bonded indebtedness. Prior to Measure 50, all UR taxes were categorized as government taxes and placed under the \$10 per \$1,000 of real market value Measure 5 limit. The only source of revenue for all UR plans, prior to Measure 50, was the division of tax.

There were several complexities with the implementation of the urban renewal program during 1991-1997. Since all UR taxes were placed under the Measure 5 government limit, some local governments had to decide if they wanted to use all their UR taxing authority. If they used full authority, all local governments would experience higher compression losses. Another complexity during this time period was that property owners inside and outside a city or county had different tax rates for a taxing district depending on whether the property was located within a municipality that was sponsoring an UR plan. The taxing district rates were calculated by dividing the levy amount by the taxable value of the district, excluding the UR incremental value. The division of tax was calculated by dividing each district's tax rate at the agency level. If a property was within the municipality sponsoring an UR plan, then the school and local government districts' tax rates were divided, reducing the district rate by the amount of the UR tax rates. Properties, outside the urban renewal agency, did not have their tax rates divided and were assessed higher tax rates. Essentially all taxpayers inside and outside the city or county sponsoring the UR plan paid for financing urban renewal projects.

The Urban Renewal Program Since Measure 50

With the implementation of Measure 50, the urban renewal program changed in four major areas:

1. The levy-based system property tax system was replaced by a predominately rate based tax system - the UR division of tax calculation was changed to the product of total taxes extended by all local districts times the ratio of the UR incremental value divided by the total assessed value to determine the total UR division of tax authority for each code area within an UR plan. The division of tax amount was included in the district taxes and was not identified on the property tax statement.
2. All existing urban renewal agencies had to choose a funding option and establish a maximum indebtedness for each plan.
3. All existing UR plans were given a maximum authority, which would grow each year at the same rate as the growth in the incremental value. In any year, where the estimated division of tax revenue for a plan does not raise the existing plan's maximum authority, that plan could impose a special levy. The sum of the division of tax and special levy taxes could not exceed the maximum authority for a plan each year. The UR special levy was extended over the city or county sponsoring the UR plan and the taxes were classified as government taxes for Measure 5 purposes. The UR special levy was identified on property owners' tax statements.
4. Since Measure 50, UR division of tax has been classified as education, government or exempt bond taxes for Measure 5 tax limit purposes. School districts taxes, which were allocated to UR districts, were categorized as educational taxes. Government taxes divided with urban renewal agencies were classified as government taxes. UR division of taxes from general obligation bonds, were exempt from Measure 5 tax limits. The classification of the UR division of tax for Measure 5 purposes and the allocation of UR portion of the compression losses was performed at the code area.

Supreme Court Ruling on Shilo Inn v Multnomah County

The Oregon Supreme Court ruled in favor of the plaintiff, Shilo Inn, December 2001 overturning the Oregon Tax Court Ruling. The major outcome of this ruling is that UR division of taxes, from school tax rates (permanent, local option and GAP), will be subject to the Measure 5 government limit because the taxes will be used to pay for indebtedness for UR projects. The ruling also implies that UR division of taxes from general obligation bonds would also be subject to the Measure 5 government limit.

Shilo Inn owns two pieces of real property located with the Airport Way UR plan area in Portland. The plaintiffs contended that the county's implementation of the Measure 5 property tax limits on its tax statement in 1998-99 violated the Oregon Constitution. The plaintiffs maintained that the Measure 5 tax limit requires all taxes, disbursed to an UR agency, be classified as government taxes and subject to the Measure 5 government tax limit. The plaintiffs asserted that if all UR division of taxes had been subject to the government Measure 5 tax limit, then their property tax bill would have been reduced by \$6,000 in 1998-99.

The Supreme Court decision stated that the constitutional changes with Measure 50 did not change the method of categorization for Measure 5 purposes to a system in which the function of the taxing district imposing the tax is used to determine the Measure 5 categorization. Rather, the Supreme Court ruled that the Measure 5 property tax limits were to be applied to taxes not taxing districts. Taxes are to be categorized for Measure 5 purposes by the uses to which the taxes are to be dedicated. The Supreme Court found that all property taxes allocated to an UR agency to be categorized as "revenues raised to fund government operations other than the public school system," for the purpose of evaluating compliance with Measure 5 tax limitations. Furthermore, the court ruled that the statutory implementing language, in particular ORS 310.150(7), changed during the 1997 legislative session, violates the Measure 5 constitutional limit. The constitutional changes from Measure 50 in 1997 neither directs the legislature nor grants it the power to enact laws that change the constitutional structure of Measure 5.

Economic Effects of the Shilo Inn vs Multnomah County Supreme Court Ruling

Example 1, at the end of this report, provides an illustration of the UR division of tax calculation changes that may occur with the recent court ruling. This example assumes that all division of taxes are collected from the property owners in the UR plan area and that UR incremental value is spread evenly to all properties in that code area. The following are conclusions from example 1:

- ⇒ Prior to the Supreme court ruling, the K-12 local option levy was reduced by \$125 due to Measure 5 compression losses - after the court ruling, the school district was able to extend another \$125 of their local option levy under Measure 5 education limit.
- ⇒ Prior to the court ruling, the city local option levy imposed was \$500 without any tax compression. After the education and bond taxes are distributed to UR agencies and classified as government taxes for Measure 5 purposes, the government compression losses increased from \$0 to \$1,250. The city's portion of the local option levy would be reduced to \$0 due to the Measure 5 compression. UR agencies and other local governments would experience additional compression losses of \$1,000.

- ⇒ In Example 1, the total taxes on the property owner would be reduced by \$1,000 due to the court ruling.

The economic effects from the Shilo Inn v Multnomah County Supreme Court decision varies depending on the districts' tax rates and the assessed and real market values of individual properties. All of these factors combined cause the economic effects of this urban renewal division of tax calculation change to be property specific. There are some general trends that can be concluded from the UR division of tax changes with this court ruling.

UR Districts

UR agencies, with plans that do not have special levy authority, will likely experience a reduction in their revenues from the court ruling. In some cases, all the UR division of taxes can not be imposed because of the Measure 5 government limit and additional tax reductions will occur. Most UR plans in existence in 1997 have special levy authority. If these UR plans have not been using their full authority, they could supplement their lower division of tax revenue with a higher special levy to generate additional revenue on property owners within the municipality sponsoring the UR plan.

School Districts

School districts (K-12, ESD and community colleges), within an UR plan area, should have less Measure 5 compression losses from their permanent, local option and GAP bond tax rates with the new court ruling. Currently, school district compression losses from the permanent tax rates are relatively small. For those schools, within an UR plan area which also have voter approved local option authority, this recent court ruling will benefit these districts the most. This is because local option levies must be compressed first before local districts' permanent and GAP bond taxes if a property is at the Measure 5 tax limit. In many code areas with UR incremental value, school districts with local option authority experienced some compression losses. Having all UR division of taxes categorized under the government Measure 5 limit will allow additional school district taxes to be imposed under the education Measure 5 limit.

Government Districts

With the Supreme Court ruling, government districts, within UR plan areas, could have additional compression losses from Measure 5. This is due to all UR division of taxes being categorized as government taxes. Governments, with local option authority, will be the first districts to experience additional tax revenue loss from this court ruling. Once local option levies have been reduced, all governments will share any additional compression losses in their taxes from permanent and GAP bond rates in proportion to their total taxes extended.

Some UR agencies, with special levy authority, may respond to this court decision by extending a higher special levy on all its taxpayers in the municipality in order to help compensate for their reduced division of tax revenue. Only existing UR plans, which have not been using their full authority, will have the tax authority to do this. The higher special levy tax rate will cause additional Measure 5 compression losses for all governments in code areas outside the UR plan area but within the municipality or county sponsoring the UR plan.

Property Owners

Inside an UR plan area (assuming division of tax is collected within the plan area)

Property owners, inside an UR plan area, may have a reduction in their education property taxes from this court ruling. One instance, in which a property owner might not have a reduction in their school taxes, is when the school district has local option authority. If the change in classification of the UR division of taxes from school to government taxes for Measure 5 purposes results in the school district still having sufficient existing tax authority to impose taxes up to the education Measure 5 tax limit, then the property owner will not have a reduction in education taxes from this court ruling.

In addition to the increase or no change in education taxes, there would likely be an increase in government taxes for property owners. In order for a property owner to see a reduction in their tax bill, the increase in government taxes would have to be less than the reduction in bond and education taxes.

Outside an UR plan area but Within the UR Sponsoring Municipality
(assuming these taxpayers do not pay the division of tax)

Property owners, outside an UR plan area but within the municipality sponsoring the UR agency, will only be affected by this court decision if the UR plan has special levy authority. Property owners, outside an UR plan area but within the city or county sponsoring the UR agency, will likely see an increase in their property taxes from the court ruling. This is because UR agencies are likely to increase the amount of their special levy extended in order to compensate for lower division of tax revenues.

Areas of Uncertainty

Implementation of Measure 5 Government Limitation in UR Plan Areas

- The court decision does not directly address whether taxes from bond levies allocated to UR agencies also needs to be classified as government taxes and subject to the Measure 5 government tax limit. According to the advice of Legislative Counsel, the UR division of tax from bond levies should also be subject to the Measure 5 government tax limit.
- Should the classification of UR division of tax be performed at the code area, taxing district level or agency level like it was prior to Measure 50?
- How to report urban renewal division of tax on the tax statement?

Example 1: Urban Renewal Division of Tax Calculation Before and After the Supreme Court Ruling on Shilo Inn v. Multnomah County

Code Area Assumptions:	1 property in the code area	Total AV= \$1,000,000 RMV= \$1,250,000	Increment Value = \$500,000 Excess Value Ratio = 50%		
School			Government		
Total Tax Rates (per \$1,000 of AV)		Taxes Extended	Tax Rates (per \$1,000 of AV)		Taxes Extended
Prior to Court Ruling on Shilo Inn V. Multnomah County					
Total Education Tax Rates subject to M5:	\$ 6.50	\$ 6,500	Total Government Tax Rates:	\$ 10.00	\$10,000
K-12 Local option:	\$.50	\$ 500	City local option:	\$.50	\$ 500
K-12 GO bond:	\$1.00	\$ 1,000			
UR portion of K-12 GO bond:	\$.50	\$ 500			
M5 School Tax Limit:	\$5.00	\$ 6,250	M5 Govt. Tax Limit:	\$10.00	\$12,500
Total Education Taxes Imposed:		\$ 6,250	Total Government Taxes Imposed:		\$10,000
Compression Losses on K-12 local option:		\$ 250	Total Compression Losses on City local option:		\$ 0
UR division of tax (school):		\$ 3,125	UR division of tax (government):		\$ 5,000
UR portion of compression losses:		\$ 125			
Total Property Tax Imposed = \$ 6,250 + \$10,000 + \$1,000 = \$17,250					
Total Compression Losses = \$ 250 + \$ 0 = \$250					
Total Urban Renewal Taxes = \$ 3,125 + \$ 5,000 + \$500 = \$8,625					
After Court Ruling on Shilo Inn V. Multnomah County					
Total Education Tax Rates subject to M5:	\$ 6.50	\$ 3.25	Total Govt Tax Rates subject to M5:	\$ 10.00	\$ 5.00
K-12 - Local Option	\$.50	\$.25	City - Local Option	\$.50	\$.25
K-12 - GO Bond	\$ 1.00	\$.50	UR Division of Tax (Govt)		\$ 5.00
UR portion of Ed Total Tax Rate + Bond Rate:		\$ 3.75	UR Division of Tax (Education+Bond)		\$ 3.75
			Total UR Division of Tax Rate Extended:		\$ 8.75
Total Education Taxes Extended:		\$ 3,250	Government Taxes Extended:		\$10,000
M5 Tax Limit:		\$ 6,250	UR division of tax (school):		\$ 3,250
Compression Losses:		\$ 0	UR division of tax (bonds):		\$ 500
			Total Govt Taxes Extended under M5:		\$13,750
			M5 Tax Limit:		\$12,500
			Total Government Taxes Imposed:		\$12,500
			Total Compression Losses:		\$ 1,250
			Compression Losses of City Local option:		\$ 250
			Compression Losses (UR):		\$ 648
Total Property Tax Imposed = \$ 3,250 + \$12,500 + \$500 = \$16,250					
Total Compression Losses = \$ 0 + \$ 1,250 = \$1,250					
Total Urban Renewal Taxes = \$ 5,000 + \$ 3,250 + \$500 - \$ 648 = \$8,102					