

2nd Draft

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
9 on the value of land, houses, other buildings, and business equipment. Individuals
10 and businesses pay property taxes to various local governments, such as cities,
11 counties, school districts, and special districts, each of which imposes its own tax rate
12 on 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
24 a 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
26 value 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.

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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. The state constitution requires
19 that local taxing districts collect taxes uniformly for all taxpayers. A small tax bill does
20 not justify exempting businesses or individuals from paying the tax on the private
21 benefit they 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.