PROPERTY TAXES
Debased, Befogged, Constricted
February 18, 2017

William F. ("Bick") Halligan

I. Legal Structure of Property Taxes

The basic property tax formula is as follows:

Fair Market Value (FMV)	X	Assessment Ratio	=	Assessed Value (AV)	X	Tax (Millage) Rate	=	Property Tax Revenue

A. Property Tax Base (FMV x Assessment Ratio = Assessed Value)

1. **Fair Market Value** (ad valorem - according to value)
   - a. Real property - land and buildings
   - b. Personal property - cars and equipment
   - c. Agricultural use - rollback taxes (5 years)
   - d. Depreciation
     - State reimbursements for reduction from 20% to 10% residual
   - e. "Reassessment": updates fair market value
     - **Act 388**: 15% cap limits increase in taxable FMV – capped amount is used in assessed value for EFA
   - f. Sales ratio factor adjusts FMV to "full market value" for index of taxpaying ability (huge factor in freezing index for 2010-11)

2. **Assessed Value**
   - a. Assessment ratios (% of fair market value) based on use of property
     Manufacturing property: 10.5% (**FILOT** reduces to 6, 4 or 3%)
     Personal property (cars): 6% (reduced from 10.5%)
     Commercial property (offices, retail, apartments): 6%
     Residential property (homestead, single family houses): 4%
   - b. Constitutional debt limit is 8% of assessed value (Article X, § 15)
   - c. Index of taxpaying ability under EFA uses assessed value
   - d. **TIFs** remove increasing assessed value from tax base for schools
   - e. **MCIBP**: allocation of assessed value must be identical to allocation of revenue received and retained
     - DOR: school revenue ÷ school millage = school assessed value

3. **Exemptions**
All real and personal property is subject to taxation, unless exempt.

a. **True (or total) exemption - nothing is owed**
Examples: state; church; pollution control equipment; many more

b. **Partial exemption**
(1) County tax is owed - school tax is not
Example: 100% homestead exemption from school operating taxes (State reimbursement)
(2) School tax is owed - county tax is not ("5 year abatement")
Example: Manufacturing, research and development, corporate office, distribution (S.C. Code § 12-37-220(A)(7), (B)32, (B)34) (**MCIBPs** trump)
(3) Limited amount. Example: homestead exemption for retired/disabled up to $50,000 (State reimbursement to counties, cities, school district Tier 2)

c. **"Fictional" exemption, but substitute payment**
taxpayer owes the amount equivalent to property taxes.
(1) **FILOT** for manufacturing property
- (school revenue nominally protected, but lower assessment ratio, fixed millage agreements, special source revenue credits/bonds)

(2) Property in a **MCIBP**
- Counties have right to use all funds generated from schools' rate for non-school purposes; no limits on land area, value, time, or partial exemptions (subject only to abuse of discretion standard)

d. **State reimbursement for some exemptions**
(1) **Act 388**: exemption for school operating taxes and reimbursement from 1¢ sales tax in Homestead Exemption Fund; annual statewide increase limited to CPI and all-age population growth; school district increase based on WPUs – large gap between amount homesteads would be paying and reimbursement.
(2) **BIG ISSUE: How to value reimbursement within Index (EFA)?**

B. Tax Rate (Millage Rate) (Tax Levy)

1. millage:
   1 mill=.001=$1/$1000
   $1 of tax revenue per $1000 of assessed value
2. applies to assessed value
3. same tax rate applies to all property in the jurisdiction
4. fiscal autonomy of school board (local legislation for each district)
   a. unlimited: does not exist any more
   b. limited: millage cap or restriction on increasing tax rate
   c. none: county council or county board sets tax rate
5. **Act 388**: millage limitation of § 6-1-320
   a. all-age population growth plus CPI
   b. school districts, cities and counties
   c. exceptions

6. Reassessment rollback millage: prior year's revenue divided by assessed value is new base for increase; can be roll "up" if AV declines
7. **FILOT** fixed millage agreements (county council freezes school rate)

C. Tax Revenue ($cash$)

1. EIA Minimum Local Effort - § 59-21-1030 required local property tax revenue (on a per pupil basis) to increase from year to year by the inflation rate.
   - EIA minimum local effort had no relationship to actual increases in costs
   - suspended/repealed
2. tax collections
3. collection rate
4. delinquencies, penalties, interest
5. Local Option Sales Tax (LOST): at least 71% of sales tax revenue creates credit used to reduce city and county property taxes
   - in **MCIBP**, LOST credit increases school's loss of revenue
6. **FILOT, MCIBP**, not **TIF**: Special source revenue bonds/credits reduce tax revenue by paying for "infrastructure" for developer or by giving developer credit (reduction in amount paid)
   - commonly 20-50% of amount owed
7. **MCIBP:** County keeps cash "off the top" to reimburse County for economic development expenses, such as land acquisition, roads, utilities, speculative buildings; some counties have kept <u>all</u> cash for 2-3 years
8. **MCIBP** – County keeps cash "off the top" for County economic development office, county operating expenses or county debts
9. **TIF** Revenue: **TIF** Assessed Value x School Tax Rate (debt and operating)

II. Three Major Changes in the Law

A. Suspension of EIA Minimum Local Effort – No Floor for Revenue

The minimum local effort which was part of the Education Improvement Act of 1984 ("EIA Minimum Local Effort" of *S.C. Code* § 59-21-1030), has been suspended since 2008 and appears likely to be repealed. The EIA Minimum Local Effort required the county auditor to levy a millage rate sufficient to assure that the District received, per pupil, at least the same amount of local revenue as it received the previous year, adjusted upward for an inflation factor.

This "floor" protected the District's local property tax *revenue* regardless of any erosion of assessed value or diversion of tax revenue. The EIA Minimum Local Effort requirement shifted the school property tax burden away from property involved in economic development schemes, and onto all other property in the District, in order to produce the required minimum tax revenue for operations. This could only be achieved by a higher millage rate than would otherwise be needed. The county auditor did not have any authority to drop below whatever millage rate was needed to meet the EIA Minimum Local Effort.

Regardless of the precise factor by which an economic development method operated, the District's operating millage rate on all other taxable property would increase enough to make up the lost revenue, so that the District's property tax revenue per pupil increased to meet the EIA Minimum Local Effort. This method of protecting the School District from a loss of operating revenue no longer exists.

B. Act 388 – Millage Rate Cap

Even as the EIA "floor" on *revenue* is disappearing, a new "ceiling" on school operating millage *rates* has been enacted. Act 388 of 2006 (S.C. Code § 6-1-320) limits annual increases in the millage rate for operations to a formula based on the consumer price index and population growth. This cap on rates is regardless of revenues, although there are a few exceptions to the cap for extreme or catastrophic situations. The millage rate cap creates a mathematically fixed upper limit on available local revenue. Establishing school operating millage rates has previously been a local political question, but no political decision can avoid the legal cap on the millage rate, even if it results in insufficient local revenue to fund the budget. Where the millage rate is constrained, the only way to increase local revenue is by increases in assessed value. Thus, economic development incentives that limit assessed value reduce revenue.

The millage cap creates two enormous difficulties for districts under the Education Finance Act of 1977 ("EFA"). First, many districts have reached the point where the millage cap prevents them from generating the annual incremental increase in the local share of the EFA and employee benefits. The State, by definition, funds only 70% of the annual increase in the base student cost and employee benefits, which varies by district according to the index of taxpaying ability. If a district cannot fund its local share annual increment (30% statewide), it cannot pay the expenses that are mandated and must reduce other, discretionary expenses (i.e. expenses which exceed minimum regulatory standards).

Second, the millage cap and limitations on increases in assessed value have made it almost impossible for districts to replace reductions in State revenue. Reductions can be the result of state cuts or changes in the Index of Taxpaying Ability. As a district gets "wealthier" (compared to other districts), as measured by the assessed values used in the Index of Taxpaying Ability, State revenue declines; the assumption of the EFA is that the district will have access to more local revenue to replace the decrease in State revenue. If the assessed value does not grow to the extent necessary to replace the State revenue with the same tax rate, there is no exception in the millage cap to increase the operating millage rate to replace the lost State revenue. In other words, the school district can be caught in the inconsistency between the millage cap of Act 388 and the local revenue requirements of the EFA, and the inconsistency is aggravated to the extent assessed value does not increase.

The property tax millage limitation of Section 6-1-320 also applies to cities and counties, but they have other sources of local revenue, such as business license taxes, water and sewer rates, transportation or road fees, storm water drainage fees, and special tax districts with higher rates, none of which are available to school districts. While cities and counties are affected by reductions in state aid to local government, they do not face anything nearly as complex as the EFA, employee benefits, index, and local share calculations, and the State does not control the compensation and benefits of city and county employees as the State does with teachers.

C. <u>Act 388 - Limitation of 15% on Increase in Taxable Fair Market Value</u>

Another strategic threat to the School District's access to taxable assessed value is the recent amendment of the State Constitution concerning how property is valued for taxation purposes. Prior to these amendments, properties were assessed on actual fair market value. Now and going forward, "for the tax year beginning 2007, each parcel of real property in this State shall have a *maximum* value for ad valorem taxes that does not exceed its fair market value." S.C. Const. art. XI, sec. 6 (emphasis added). Moreover, now and in the future, "the General Assembly is authorized, by general law, to define 'fair market value' …." S.C. Const. art. XI, sec. 6. Thus, the General Assembly has the power to define "fair market value" in nearly any way it wants to do so, and that definition is merely the "maximum" value that the property can have for purposes of property taxes.

The recent amendment also provides that the "value of each parcel of real property, adjusted for improvements and losses, does not increase more than fifteen percent every five years unless, as defined by the General Assembly, an assessable transfer of interest occurs." *Id.* The fifteen (15%) percent limit was enacted as party Act. 388, is codified as S.C. Code § 12-37-3140 and applies to tax years beginning after 2006.

III. <u>Attachments</u>

- **A. Property Tax Formula**
- **B. Property Tax and "Fee" Formulas (Expanded)**
- **C. Effect of Hypothetical FILOT/MCIBP on School District**
- **D. Effect of Hypothetical TIF on School District**
- **E. How Does the EFA/Index Work?**
- **F. 2016 Index State Summary (2014 Tax Year)**
- **G. 2016 Index Abbeville (2014 Tax Year)**

PROPERTY TAX FORMULA

Property Tax Base — **Fair Market Value (FMV)** X **Assessment Ratio** = **Assessed Value (AV)** X **Tax Rate: Millage Tax Levy** = **Tax Revenue: $Cash$**

Fair Market Value (FMV)

- Exemptions
  → total (Act 388)
  → partial
  → fictional
- 15% Reassessment cap (Act 388)
- Agriculture or timber rollback
- Less depreciation if applicable
- Appeals by taxpayer

Assessment Ratio

- By property classification

  mfg. 10.5%
  utilities 10.5%
  cars 6%
  commercial 6%
  homestead 4% (residential)
- Cars (10.5 to 6%)
- FILOT (10.5 to 6/4/3%)

Assessed Value (AV)

- Index of Taxpaying Ability (ITA)
- 8% Debt Limit
- TIF – frozen at initial AV
- How to place a value in ITA for exemption reimbursement?

Tax Rate — Millage Tax Levy

- Millage
  1 mill = .001 = $1,/$1,000
  $1 tax revenue per $1,000 of AV
- Same Tax Rate applies to all property in jurisdiction
- Fiscal autonomy
  unlimited : none
  limited : millage cap
  none: county council or county board
- Act 388 : § 6-1-320
  → all age population growth plus CPI
  → school districts, cities, counties
  → exceptions
- reassessment roll back (up) millage
- FILOT - frozen

Tax Revenue — $Cash$

- No EIA Minimum Effort (cash/pupil)
- Collection rate
- Delinquencies, Penalties, Interest
- FILOT: credit reduces payment
- MCIBP (Park)
  → County controls
  → off the top county expenses, operations, debt
- TIF Revenue:
  TIF AV x School Tax Rate

ATTACHMENT A

PROPERTY TAX (AND "FEE") FORMULAS

TAX ("FEE") BASE x **TAX ("FEE") RATE** = **TAX ("FEE") REVENUE**

1. Traditional Formula – all property

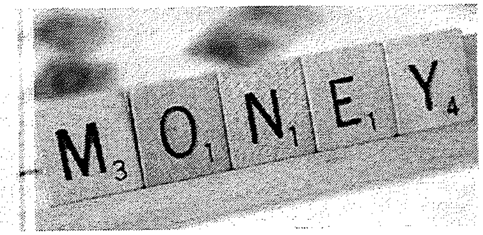
FMV • less depreciation if applicable • agriculture or timber rollback • Exemptions ⇨ total ⇨ partial ⇨ fictional	x	Assessment ratio • by classification mfg. 10.5% utility 10.5% cars 9.75% (6%) comm. 6.0% res. 4.0%	=	assessed value • used in EFA index • used in 8% debt limit	x	Total tax rate • varies by year • 1 mill – .001 = $1 revenue for $1,000 of assessed value • autonomy ⇨ unlimited ⇨ limited ⇨ none	=	Total amount **owed** to County Treasurer		=	Total amount **paid** to County Treasurer		County Treasurer pays money to school district based on operating millage and debt millage

2. New "Fee" Formula for business property (FILOT or property tax in MCIBP) – fictional exemption, but substitute payment in same amount (but it is not)

FMV • less depreciation if applicable • FILOT: ⇨ new property only $5 million minimum ⇨ time limits • MCIBP ⇨ old or new property ⇨ scattered ⇨ unlimited land area ⇨ unlimited time	x	assessment ratio • FILOT ⇨ by agreement between county and company ⇨ negotiated from 10.5% to 6/4/3% • MCIBP same as traditional formula	=	assessed value • not used for EFA index or debt limit	x	total tax rate • millage • 20 yrs. frozen rates for FILOT • MCIBP: varies by year	=	total amount **owed** to County Treasurer	- credit to business • decided by county council (25-80%)	=	total amount **paid** to County Treasurer	-	County expenses/ general fund (county takes what it wants) =
				assessed value for school district • EFA index • 8% debt limit	=	schools tax rate			÷				County Treasurer pays money to school district based on county ordinance (MCIBP)

ATTACHMENT B

FILOT/MCIBP



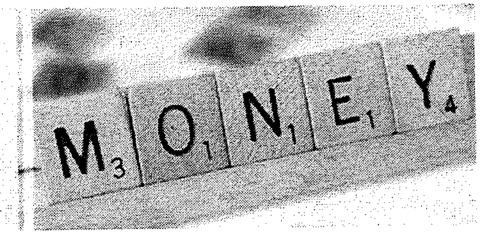
	Effect of Hypothetical FILOT/MCIBP on the School District					
		Scenario #1 No FILOT	Scenario #2 FILOT/NO MCIBP	Scenario #3 FILOT/MCIBP YEAR 1	YEAR 2	YEAR 3
1	Investment (FMV)	$20,000,000	$20,000,000	$20,000,000	$20,000,000	$20,000,000
2	Value less Depreciation (8%)	$18,400,000	$18,400,000	$18,400,000	$16,800,000	$15,200,000
3	Assessment Ratio	x 0.105	x 0.060	x 0.060	x 0.060	x 0.060
4	Assessed Value	$1,932,000	$1,104,000	$1,104,000	$1,008,000	$912,000
5	Total Tax Rate (Mills)	x 0.150	x 0.200	x 0.200	x 0.200	x 0.200
6	Total "Owed"	$289,800	$220,800	$220,800	$201,600	$182,400
7	Special Source Revenue Credit/Bonds (35%)			-$77,280	-$70,560	-$63,840
8	Real $$$ Paid	$289,800	$220,800	$143,520	$131,040	$118,560
9	Other County (1%)			-$1,435	-$1,310	-$1,185
10	County Economic Dev. (5%)			-$7,176	-$6,552	-$5,928
11	County General Fund (10%)			-$14,352	-$13,104	-$11,856
12	County Expenses ($200,000)			-$120,557	-$79,443	-0-
13	Distributed by Millage	$289,800	$220,800	-0-	$30,631	$99,591
14	School Portion (.150)	$289,800	$165,500	-0-	$22,973	$74,693
15	School Operations (.125)	$241,500	$138,000	-0-	$19,144	$62,244
16	School Debt (.025)	$48,300	$27,600	-0-	$3,828	$12,448
17	County Portion (.050)	(5 yr. exempt) -0-	$55,200	-0-	$7,657	$24,897
18	School's Assessed Value	$1,932,000 yr. 3: $1,596,000	$1,104,000 yr. 3: $912,000	-0-	$153,152 (line 15 ÷ .125)	$497,952 (line 15 ÷ .125)
19	Constitutional Debt Limit	x 0.08	x 0.08	x 0.08	x 0.08	x 0.08
20	Increase in Debt Limit	$154,560	$88,320	-0-	$12,252	$39,836

FILOT: Fee In Lieu-Of Taxes

MCIBP: Multi-County Industrial or Business Park

ATTACHMENT C

Tax Increment Financing ("TIF")



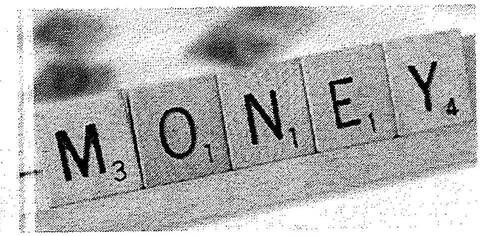
Effect of Hypothetical TIF on School District Revenue

Year	Year 1	Year 2	Year 3	(1) Year 4	(2) Year 4
Event	No TIF	TIF New Building On Tax Roll	School District millage increase (+ 10 mills)	Reassessment (+15% FMV)	Sale (+25% FMV increase)
Fair Market Value	$500,000	$10,000,000	$10,000,000	$11,500,000	$12,500,000
Assessment Ratio	x .06	x .06	x .06	x .06	x .06
Assessed Value	$30,000	$600,000	$600,000	$690,000	$750,000
School Tax Rate (Mills)	x .150	x .150	x .160	x .160	x .160
Revenue from School Tax Rate	$4,500	$90,000	$96,000	$110,400	$120,000
School Revenue	$4,500	$4,500	$4,800	$4,800	$4,800
TIF Revenue	$0	$85,500	$91,200	$105,600	$115,200

Since 2007: Homestead Exemption; 15% Reassessment Limit; More FILOT/Parks

ATTACHMENT D

Index Issues



- How does EFA/Index work?

Total EFA	-	Local Share	=	State Share
1) (District WPU x BSC)	-	(State WPU x BSC x index x .3)	=	District Allocation
(4020.11 x 2,350)	-	(969,897 x 2,350 x .00266 x .3)		
9,447,258	-	1,818,848	=	7,628, 409
2) Increase Index by 10% to .00292:				
9,447,258	-	2,003,468 + 184,619	=	7,443,790
3) Decrease Index by 10% to .00239:				
9,447,258	-	1,634,228 - 184,620	=	7,813,030

ATTACHMENT E

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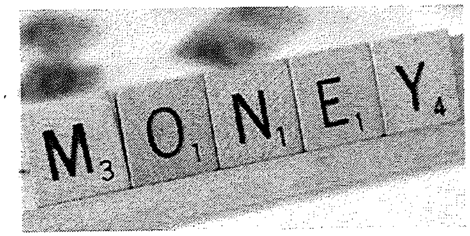
2016 Factored Preliminary
Index of Taxpaying Ability
Summary

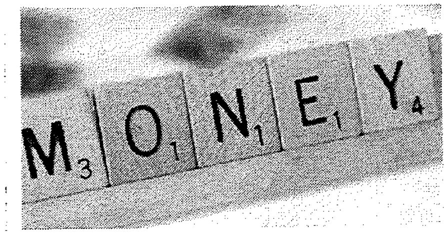
Index Year: 2016
Tax Year: 2014



Owner Occupied Residential	7,725,990,108
All Other Real Property	8,381,270,381
Agricultural Property-Use Value	146,007,677
Personal Property-Locally Assessed	2,478,956,647
Real and Personal Property-DOR Assessed	3,338,422,643
Fee-in-Lieu and Joint Industrial Park	1,060,783,082
Tier 1, 2 and 3, Replacement Assessment	6,578,877,418
Total Adjusted Assessed	21,984,317,848

Tax	Appraised	Ratio	Assessed	NBR
Owner Occupied				
Agricultural (Private)	2,934,036,400	0.040	117,361,456	279,156
Agricultural (Corporate)	477,437,017	0.060	28,646,221	12,926
All Other	139,687,839,68	0.060	8,381,270,381	1,362,073
Subtotal	143,099,313,10		8,527,278,058	1,654,155
Motor Vehicles	36,322,034,050	0.060	2,179,322,043	
Other Personal Property	2,853,662,895	0.105	299,634,604	
Total Under County	182,275,010,04		11,006,234,705	
Fee-in-Lieu and Joint Industrial Park Assessed			1,060,783,082	
Manufacturing Property	8,285,263,810	0.105	869,952,700	
Utility Property	15,736,279,648	0.105	1,652,309,363	
Business Personal Property	7,231,021,381	0.105	759,257,245	
Motor Carrier	541,936,524	0.105	56,903,335	
Tier 1, 2 and 3			6,578,877,418	
Total SCDOR	31,794,501,362		10,978,083,143	
Grand Total	214,069,511,40		21,984,317,848	

ATTACHMENT F



2016 Factored
Index of Taxpaying Ability

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Index Year: 2016
Tax Year: 2014

School District: District Name: ABBEVILLE SCHOOL DISTRICT

Owner Occupied Residential	21,665,300
All Other Real Property	12,179,252
Agricultural Property-Use Value	1,443,240
Personal Property-Locally Assessed	8,912,613
Real and Personal Property-DOR Assessed	13,515,857
Fee-in-Lieu and Joint Industrial Park	1,294,451
Tier 1, 2 and 3, Replacement Assessment	21,101,930
Total Adjusted Assessed	58,447,343

Index of Taxpaying Ability

District Fiscal Capacity	/	Statewide Fiscal Capacity	=	Index of Taxpaying Ability
58,447,343		21,984,317,848		0.00266

Tax Base	Appraised	Ratio	Assessed	NBR
Owner Occupied				
Agricultural (Private)	29,591,750	0.040	1,183,670	4,808
Agricultural (Corporate)	4,326,167	0.060	259,570	162
All Other	202,987,533	0.060	12,179,252	10,678
Subtotal	236,905,450		13,622,492	15,648
Motor Vehicles	138,105,883	0.060	8,286,353	
Other Personal Property	5,964,381	0.105	626,260	
Total Under County	380,975,714		22,535,105	
Fee-in-Lieu and Joint Industrial Park Assessed			1,294,451	
Manufacturing Property	34,981,810	0.105	3,673,090	
Utility Property	73,416,114	0.105	7,708,692	
Business Personal Property	13,539,086	0.105	1,421,604	
Motor Carrier	6,785,438	0.105	712,471	
Tier 1, 2 and 3			21,101,930	
Total SCDOR	128,722,448		35,912,238	
Grand Total	509,698,162		58,447,343	

ATTACHMENT G