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## Demystifying inside millage

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Ohio is a “voter referendum” state. Early Ohio settlers — veterans of the American Revolution — came to Ohio wary of the government’s ability to levy taxes without a vote and sought various limits to that over time. Currently, Section 2 of Article XII of the Ohio Constitution provides that property may not be taxed in excess of one percent of its true value without a vote. This was codified in RC 5705.02, albeit at ten mills of assessed value. These provisions are commonly known as the “ten mill limit,” and the unvoted property tax so authorized is commonly referred to as “inside millage.”

In most places in Ohio, the full ten mills of inside millage is levied annually and shared between the political subdivisions overlapping every parcel of real estate. At a minimum, a parcel would be in three overlapping political subdivisions — a township, school district and county. There may also be an overlapping village or city. Regardless, RC 5705.31(D) establishes the formula for allocating the millage, which relates back to the conversion of the prior fifteen mill limit to ten mills in 1933.

The allocations of inside millage under the formula are generally guaranteed, although certain annexations and other territory attachments and detachments can either create townships that did not legally exist when the allocations were established or involuntarily cause non-uniform inside millage in contravention of the rule of uniform taxation also contained in Section 2 of Article XII of the Ohio

Constitution. Over the years, RC 5705.311, RC 5705.315 and case law have favored results that preserve the higher inside millage of the combined territory if it can be done without reducing the guaranteed allocations of the other overlapping political subdivisions.

Inside millage is important for townships, since such millage is not subject to the reduction factors of RC 319.301, which subtract inflationary growth from the tax base for voted millage.

The use of inside millage for operating and other expenses

Typically, inside millage is used for operating expenses (general fund). Additionally, RC 5705.14(E) permits a fund transfer from the general fund to any other fund of the township upon a majority vote of the board of township trustees.

Inside millage may also be formally allocated to special purposes authorized by law, e.g., a township park district under RC 511.27, cemetery purposes under RC 517.03, and, most commonly, road and bridge purposes under RC 5573.211.

A township may formally allocate inside millage for road and bridge purposes under RC 5705.06(F) and such allocation covers the entire township. If a township wants to have a road levy on just the unincorporated portion of the township, it can proceed under either RC 5575.10, RC 5573.13 or RC 5573.21 to allocate a portion of its inside millage to that purpose. Then it may levy up to three mills of inside millage for road purposes. A transfer of the road funds back to the general fund or elsewhere must follow the process outlined in RC 5705.16.

The use of inside millage for debt service

Inside millage is also used to satisfy the Article XII, Section 11 requirement of the Ohio Constitution that general obligation debt is secured by the levy of a tax. When a township is issuing unvoted debt, it pledges its inside millage to pay debt service, unless that debt service is paid from other available sources such as special assessments. If the debt service requires more than the township's allocation of inside millage, and it does not have other funds available, the county budget commission may increase the township's inside millage allocation and reduce the allocations of the overlapping political subdivisions.

The county auditor is responsible for tracking the debt service pledges of inside millage for all the overlapping political subdivisions to prevent the aggregate amount from exceeding ten mills. This is often referred to as the "indirect debt limitation," since it is not simply a direct percentage of tax valuation.

Requesting additional inside millage

As noted above, in most places in Ohio, the full ten inside mills is levied and allocated among the overlapping political subdivisions. Appearances can be deceiving, however, since some counties with sales taxes do not have their inside millage

allocations levied but reserve that ability under RC 5705.313, thus precluding any overlapping political subdivision from requesting it for operating purposes.

If a township wants to see the allocation of inside millage within its county or counties, it should request DTE 515s for every taxing district from the Division of Tax Equalization of the Ohio Department of Taxation. If a township determines that the full ten inside mills is not being levied in its county or counties, the township may formally request additional inside millage from the county budget commission of its dominant county under RC 5705.31(D). In order to so request, the township will need to demonstrate all of the following: (1) the additional inside millage can be levied uniformly across the township without exceeding ten mills in the aggregate amongst the overlapping political subdivisions; (2) the township has a need for the additional inside millage; and (3) the timing fits within the statutory property tax levy process.

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