

A Review of Montana’s Senate Bill 542

Are graduated or progressive assessment ratios constitutional when applied to property within the same legislative classification?

Montana courts have recognized the right of the legislature to create separate classifications of property and treat those classes differently for tax purposes. *Hilger v. Moore*, 56 Mont. 146, 182 P. 477, 482 (1919). Montana courts have also held that the Montana constitution guarantees equality and uniformity of taxation **within the same class of property**. *State v. PPL Montana, LLC*, 2007 MT 310, 340 Mont. 124, 172 P.3d 1241.¹

In 2025, the State of Montana enacted SB 542,² making significant changes to Montana’s property tax system. Montana generally does not apply its tax rate (mill levy) directly to the estimated market value of the property. Rather, the legislature derived various assessment ratios that are applied to the market values of the properties to derive the “taxable values,” and the tax rate (mill levy) is then applied to the taxable values (i.e., a percentage of the market value) to derive the amount of tax that is due. Under Montana law, a statute is presumed to be constitutional and the party challenging the statute has the burden to prove it is not. *Kottel v. State*, 2002 MT 278 ¶ 9, 60 P.3d 403.

SB 542 introduced a graduated tax system that imposes tiered property tax ratios³ based on the value of the property. Lower value properties are assessed at a lower ratio, and higher ratios are imposed on higher value properties. This graduated tax system applies to Class 4 properties—Residential, Commercial and Industrial properties creating disparity among

¹ Prior to 1972, Article XII section 11 of the Montana Constitution required that taxes “shall be uniform **upon the same class of subjects** within the territorial limits of the authority levying the tax.” In 1972, the Montana constitution was revised and sections 1 and 11 of article XII, the provisions of the 1889 Constitution that guaranteed uniformity, were removed. Nevertheless, the Montana Supreme Court concluded that the 1972 version preserves the uniformity requirement. *Kottel v. State*, 2002 MT 278 ¶ 20 (the uniformity requirement was preserved by Article VIII, Sections 1 and 3 which “incorporate the uniformity doctrine into the phrase ‘general laws.’”).

²According to the summary provided by the Montana Taxpayers Association, “[t]he changes to tax rates are primarily contained in SB 542, but HB 231 has language that amends sections of SB 542. Most of HB 231 is void upon signing both bills.” [Senate Bill 542 Timeline | Montana Taxpayers Association](#). For purposes of this bulletin, we will refer to SB 542 because it enacts all the changes referred to herein.

³ The assessment ratios are sometimes referred to as “tax rates.” However, they will be consistently referred to herein as “assessment ratios” even though SB 542, the amended statute and explanatory publications use the terms interchangeably.

properties in the same class.⁴ The graduated assessment ratios for Class 4 properties for 2025 and for subsequent years are summarized below:

Tax Year 2025

Class	Description	Valuation Standard	Portion of Value to Which Ratio Applies	Assessment Ratio
4	Residential	Market Value	up to \$400,000	0.76%
			\$400,000 to \$1.5 million	1.10%
			Over \$1.5M	2.20%
	Commercial and Industrial	Market Value	up to \$400,000	1.40%
			over \$400,000	1.89%

Tax Year 2026 and Thereafter

Class	Description	Valuation Standard	Portion of Value to Which Ratio Applies	Assessment Ratio
4	Residential	Market Value*	Value up to median statewide value of residential properties	0.76%
			Value from median value to 2x median value	0.90%
			Value from 2x median value to 4x median value	1.10%
			All value above 4x median value	1.90%
	Residential		Second homes and short-term rentals	1.90%
	Residential		Multifamily long-term rental property	1.10%
	Commercial and Industrial	Market Value	Value up to 6x median value	1.50%
			Value above 6x median value	1.90%

⁴ Although SB 542 has some application to Agricultural Land (Class 3) and Forest Land (Class 10), this review is only concerned with the application the bill has to Class 4 properties because the Montana Constitution requires uniformity within a given class. Taxing Class 3 or 10 properties at a different rate than the rate imposed on Class 4 properties does not raise constitutional concerns.

Under SB 542, assessment ratios will vary greatly within the Class 4 properties depending on (a) whether the properties are residential properties, second homes, short-term or long-term rentals, or commercial and industrial properties and (b) the value of each property. The most immediate impact of SB 542 is the shift of the property tax burden to second homes and short-term rentals that will be taxed on a ratio of 1.90% regardless of the value of the property.⁵ Thus, a second home that is worth \$1 less than the median value of Montana homes will be assessed at 1.90% of its value instead of .76% of its value.⁶ Even though commercial and residential properties are in “the same legislative classification,” they are treated differently under SB 542. The highest assessment ratio is automatic for second homes and short-term rentals and, for commercial and industrial properties, is triggered at a lower level of value than it is for residential properties.

Montana law requires that property in the same class be given the same tax treatment. This requirement does not prevent the legislature from reclassifying property and then giving it disparate tax treatment. *Montana Stockgrowers Ass’n v. of Revenue*, 238 Mont. 113, 777 P.2d 285, 288-89 (1989). However, SB 542 did not change any classifications.

In *Montana Stockgrowers Ass’n*, the Court explained that livestock and business inventory had been “plac[ed] in separate tax classifications with different percentages of taxable value,” before they were placed in the same classification in 1979. In 1981, the legislature reclassified livestock as Class 6 property and, in 1983, deleted business inventory from Class 6 (based on a new exemption). Although Class 6 property was taxed at a lower percentage of value, the livestock did not qualify for the new business inventory exemption. The stockgrowers alleged that there was no rational basis for treating livestock differently from business inventory. The Court held that “[t]he intent of the legislature in inserting livestock as class six property through SB 283, and deleting business inventory through the same bill, obviously indicates that the two types of property are to receive separate treatment.” *Id.* at 290. Thus, it appears that the only way to survive a constitutional uniformity challenge is for the legislature to place properties in separate classifications when they are to receive disparate treatment. Otherwise, all property within the same classification must be taxed uniformly.

The Montana Supreme Court has held that progressive or graduated tax rates do not violate constitutional guarantees of uniformity when applied to **income** tax. *O’Connell v. State*

⁵ Some states provide preferential property tax treatment for homes used as primary residences, but it is accomplished through a constitutional provision that permits the legislature to exempt a portion of property used as a primary residence from property tax. *See e.g., Dennis v. Summit County*, 933 P.2d 387 (Utah 1997).

⁶ The Montana Department of Revenue projected that “the new tax policy means non-homestead residential properties — second homes and Airbnb-style short term rentals — will see average increases each of the next two years, for a cumulative increase of 68% by 2026. Under the previous code, those properties would have seen an estimated increase of 14%.” [How Montana’s new second-home tax could shift your property tax bill.](#)

Board of Equalization, 95 Mont. 91, 25 P.2d 114 (1933) (emphasis added).⁷ The Court’s rationale was that “the same degree of uniformity is not required . . . in the case of an income tax statute that is required in one providing for a levy upon ‘property,’” thereby suggesting that graduated **property** tax rates would not be constitutionally permissible. *Id.*

The requirement of uniformity within a classification is so stringent that it cannot be circumvented by temporarily reclassifying some property within the same class to bestow a financial benefit. In *Victor Chemical Works v. Silver Bow County*, 130 Mont. 308, 301 P.2d 730 (1956), a statutory amendment permitted reclassifying industrial property (otherwise included in Class 4 and subject to a 30% assessment ratio) as Class 5 (subject to a 7% tax assessment ratio) for a period of three years after the property is first assessed. The Montana Supreme Court held that the statute was unconstitutional because it “permits the grossest discrimination between property of the same class.” 301 P.2d at 736. The court held that this would “work a patent and undenied discrimination” by setting the taxpayer’s plant “apart from other property of the same general kind and nature . . . by taxing one at seven per cent, the other at thirty per cent of its true and full value.” *Id.*

SB 542 would appear to be even more problematic than the statute held unconstitutional in *Victor Chemical Works* because it imposes different assessment ratios **within the same class of property**. It is well-established under Montana law that property within the same class cannot be treated in a disparate manner—whether by temporarily moving some (but not all) property to another class or by imposing a graduated or progressive assessment ratio on the class that will result in disparate treatment of property within the same class. *See also, Peter Kiewit Sons’ Co. v. State Board of Equalization*, 161 Mont. 140, 505 P.2d 102, 106-07 (1973) (“[I]f the classification is reasonable, **and if all of the subjects within a given class are accorded the same treatment**, the legislation cannot be said to deny to anyone within such class the equal protection of the law.”) (emphasis added).

Finally, the questionable constitutionality of progressive assessment ratios within a class of property may be the reason that no states were using this approach as of January 6, 2023:

Regarding states using a progressive assessment ratio schedule, **we did not identify any state using this approach within a class of properties**. We reached out to the Lincoln Institute of Land Policy, among other entities, to confirm our findings, and to date have not received any contradictory information. Under a progressive assessment ratio schedule policy, within a class of properties (e.g., residential), the assessment ratio would increase as properties’ value increases (i.e., owners of higher value properties would be taxed on a greater portion of their property’s fair market value). This approach can be

⁷ At that time, article XII section 1 required the legislature to “levy a uniform rate of assessment and taxation,” and section 11 required that taxes levied “shall be uniform upon the same class of **property** within the territorial limits of the authority levying the tax. Even though these constitutional provisions have been removed, Montana still requires uniform treatment of property within the same class. *See Kottel v. State*, 2002 MT 278 ¶ 20 and note 1, *supra*.

distinguished from widely used classification systems, in which different classes of property are subject to different tax rates or assessment ratios.

[Memo from Office of Legislative Research for Connecticut General Assembly, Jan 6, 2023](#)
(emphasis added).