3. Problems in Administration

3.1) The Tax Rate Depends on Elaborate but Imprecise Definitions

A "pure" real estate tax system has two main features: property is assessed on the basis of its “highest and best use,” and the same tax rate is applied to all property. With the passage of Act 68 in 2003, Vermont's educational property tax changed to a "split-roll" system, where the exact same property may bear a very different tax rate and tax burden depending whether it is classified as "homestead" or as "non-residential", that is, on personal characteristics of the owner or the current use rather than an objective appraisal of the value of the parcel itself.

The justification for splitting the roll in this particular fashion appears to be political rather than technical: local homeowners are also voters. Such a "split-roll" favoring homeowners appears to be yet another instance of a pervasive bias in the American political system in favor of owner-occupied residences\(^\text{29}\) over economically productive investment in business plant and equipment. It joins the tax deductibility of most home mortgage interest, the exclusion from taxable income for most home sale gains, the current $10 billion giveaway to first-time and repeat home buyers, and the Federal role as the mortgage lender of last resort.\(^\text{30}\)

\(^{29}\) "Home" is one of the most emotive words in the English language, along with "family" and "child". Almost any tax policy may become law if it can be framed as being pro-home, pro-family, or pro-child.

\(^{30}\) A basic rule of practical tax politics -- of how to tax and be loved -- is "tax the guy behind the tree," that is, the non-resident who isn't a voter. Act 60 originally allowed "part-year" residents to claim homesteads, but that was quickly eliminated by amendment. The Tax Department's statistical reports show a striking concentration of high property values in a few wealthy ski vacation towns largely owned by non-residents. The total VT real property tax base is about $78 billion, of which non-residents own $12.8 billion or 15%. Half of all non-resident property ($6.4 bb) is found in just 15 towns with 50%+ non-resident ownership. These include the Town and Village of Ludlow (non-residents own $997 million of $1.5 billion total property), and the Towns of...
In such a split-roll system, the tax rate depends on how the law defines the relevant owner characteristics and how the administrative process finds out what they are and links them to particular parcels. What, then, is a Vermont education tax "homestead"? A definition, specifically for purposes of the education property tax system appears at 32 VSA §5401(7). The subsection begins by saying that a homestead is "the principal dwelling and parcel of land surrounding the dwelling, owned and occupied by a resident individual as the individual's domicile." But this is followed by assorted clauses that make some renters into homesteaders (so they can qualify for circuit-breaker adjustments), encompass condos, co-ops and mobile homes, allow some trusts to hold legal title, and provide special treatment to farm dwellings occupied by relatives. Even ghosts can have homesteads: the estate of a decedent can continue to enjoy the tax benefits of homestead status until the following April Fool's Day, §5401(7)(G). If a home and a business share the same parcel, it may be partly a homestead and partly not. A home office is disregarded if it takes up less than 25% of a dwelling, but renting out any part of a dwelling carves that portion out of homestead status.31

This definition is actually much more complicated and less precise than it first appears. Not content with the original Act 60 wording (the dwelling of a "resident individual", to be determined with reference to Vermont state income tax status), the legislature added another constraint: a "homestead" must be an individual's "domicile". This, too, is

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Stratton ($861 million of $1billion), Dover ($529 million of $790 million), Winhall ($437 million of $534 million) and Killington ($398 million of $695 million).

Other surprises: while the City of Burlington (’08 census est. pop. 38,897 and $5 billion in property value) and the City of South Burlington (pop. 17,574 and $2.7 billion) lead the list in total assessed value, third place goes to the Town of Stowe (pop. 4,919) “The Ski Capital of the East” with $2 billion ($681 million belongs to nonresidents, and another $527 million is owned by corporate entities.) The Town of Stratton (pop. 167) is worth more than the City of Rutland (pop. 16,747), and the Town of Warren (pop. 1,735) is more valuable than the capital city of Montpelier (pop. 7,760). The Town of Dorset (pop. 2,106) is worth one and one-half times the City of Winooski (pop. 6,429), and the Town of Winhall (pop. 786) is $90 million ahead of the City of St. Johnsbury (pop. 7,421).

Table 2 shows the top 20 towns, ranked by ratio of property value to number of tax returns filed.

31 Presumably this is to prevent both owner and renter from doubling up their income sensitivity adjustment claims.
a specially defined term: 32 VSA §5401(14) defines it for this purpose as "the principal dwelling of a person who has established permanent residence in the state." But permanence is a matter of prediction: only the future can tell whether one's current living arrangements will indeed turn out to have been "permanent." In close cases, which are bound to occur among the 170,000 or so declared homesteads, statements of intent may be shaded in anticipation of the tax savings associated with the "right" answer. The statute tosses the problem of divining the taxpayer's true intent over to the Tax Commissioner, with the admonition to consider "any relevant factors, including but not limited to" a list of 16 items, no one of which is conclusive.

The notion of legal "domicile" can be traced back more than 2,000 years, but it is still more easily intuited than defined. In addition to 32 VSA §5401(14), some seven or so other definitions -- all slightly different -- appear somewhere in Vermont's statutes. A 19th century Federal judge put it well:

"Domicile is a word which we have adopted from the Roman or civil law, but which it has been considered so difficult to define with precision and accuracy, that an eminent writer on the subject was unwilling to hazard a definition, and therein has been commended by a learned English judge for his wisdom.

"The Roman codes described domicile as follows: 'In whatever place an individual has set up his household gods and made the chief seat of his affairs and interest; from which, without some special avocation he has no intention of departing; from which when he has departed he is considered to be from home; and to which, when he has returned, he is considered to have returned home'.

32 The wording is largely redundant, since (7) and (14) when read together now describe the: "principal dwelling... of a resident individual ... as the principal dwelling of a person who has established ... residence."
33 Rustic Vermont Humor: Tourist (to Northeast Vermont Farmer): "Hey, farmer, have you lived here all your life?" Farmer (answering Tourist): "No, not yet."
34 Other tax practitioners have spotted the problem. See Tax Seminar 2009 notes by Glen A. Wright, CPA at http://vttaxseminar.org/documents/Changing_State-Residency_Glen_Wright.pdf
35 16 VSA §1075(a)(3), 16 VSA §2822(7), 17 VSA §2103(30), 17 VSA §2122(b), 23 VSA §4(30), and 32 VSA §10002(a). At least when it comes to voting, a person may remain outside the state for almost three years and still retain legal domicile. In re Albrecht, Docket 2004-385 (Vt. Sup. Ct 3-judge panel) at http://www.vermontjudiciary.org/d-upeo/385.aspx
"There are few subjects presented to courts for their decision which are surrounded with so many practical difficulties as questions of domicile. The residence is often of an equivocal nature; the intention extremely obscure, and has to be gathered from acts and declarations oftentimes conflicting and contradictory." Grier, J., White v. Brown, 29 F. Cas. 982 (E.D. Pa., 1848) (citations omitted)

The ancients conflated "Domicilium collocare", to establish one's domicile, with "larem collocare, constituere", to set up a shrine for the tutelary deities of the household. One wonders how the Commissioner will go about searching for the modern equivalent of household gods--the Lares and Penates--and what consecration rituals a taxpayer must perform in order to be blessed with a reduced property tax bill.

A different, and usually higher, tax rate applies to "nonresidential property." These words, too, don't quite mean what they seem. "Nonresidential property" according to 32 VSA §5401(10) is all property, except: that exempt by law, or subject to various utility taxes, or "(C) Homesteads declared in accordance with section 5410 of this title", or movables, machinery, inventories and ski lifts, or property made specially exempt, such as whey processing equipment, wind power generators, and the like.

Exception (C) warrants a second look. Declared homesteads, it says, are not in the "non-residential" category. Parsing the definitions together, it seems that an undeclared "homestead" is still literally a "homestead", but it also mutates into a species of "non-residential property". Compounding the confusion, the definition of "non-residential property" includes real property that is rented to a tenant who resides in it. It is not easy to comprehend or comply with a law that posits self-negating concepts such as "non-homestead" homesteads and "non-residential" residences: it falls far short of best practices in legal drafting.

36 Berger, Encyclopedic Dictionary of Roman Law 441 (1953)
3. Problems in Administration

3.2 Split Roll Administration Becomes a Domesday Book

In order to operate this split-roll system, the tax authorities not only have to know what a property is worth, but how it is currently being used. Act 60 originally said that a resident "may" declare a homestead, but when Act 68\(^\text{38}\) split the tax roll in 2003, "may" turned into "shall". Rather than simply presuming that a "homestead" once declared remains a "homestead" until further notice--of a death, a sale, or a move by the owner—the Department has been struck with the Domesday Book syndrome (so-called after the detailed compilation of property undertaken by William the Conqueror upon taking control of England.) The Department has a compulsive need to count everything that can possibly be counted and to make everyone fill out so many forms that the tax computers in Montpelier are choking on them.

In 2008,\(^\text{39}\) the Department's Statewide Grand List included 170,393 homesteads and 150,190 non-homestead parcels. The year before the homestead count was 169,644. On a town-by-town basis, the number of homesteads showed very little change (a change would occur if a resident moved out of Vermont, a new home was built, a home was converted to or from commercial or rental use, etc.) Considering both the increases (Bennington, for example, gained 105 to 3,238) and the decreases (Burlington lost 177 of 6,181) the year-on-year total changes reported for the entire State came only to 2,943--about a 1.7% turnover.\(^\text{40}\) If there is so little change in the number of "homesteads" from year to year, why make


\(^{40}\) Some of these "changes" might not be real -- for example, a home might be reclassified as "non-residential" simply because a Homestead Declaration was not filed on time. The Department does not issue statistical reports that detail its enforcement efforts (if any), so we do not know how many "homesteads" are declared incorrectly, either deliberately or by accident.
every homeowner in the state file paperwork every year? Why overwhelm the Department's 181 employees by making them slog through 170,000 HS-122 forms every year in addition to their other work? Why not just require filings when there is a change, with the occasional audit to discourage non-compliance?

A related problem stems from the different administrative years used for income and property taxes. The Homestead Declaration filing is linked to the Department's administration of state income tax returns. The Department's Income Tax booklet\(^{41}\) includes form HS-122 for making the declaration and claiming the property tax adjustments, along with the supporting HI-144 schedule for calculating "household income". However, the attempt to get timely information for the fiscal year property tax system has produced a set of traps for the unwary. Everyone who is, expects to be, or was a resident homeowner as of April 1 (the property tax assessment date) must file Form HS-122 by April 15th, the same date as federal and state individual income tax returns are due. But while income tax filing date extensions are automatically granted on request\(^{42}\) without penalty (except for enhanced interest on any payment shortfall following the original due date), it is not possible to get a parallel extension of the homestead filing date. The instructions are emphatic: "no extension of time to file is available."\(^{43}\)

"Well, up to a point." Late filings, says the Department, are accepted until September 1, with a 1% penalty charge. "No Homestead Declarations accepted beyond this date", declares the Department on one website page, while another insists that "A Homestead Declaration must be filed even past the September due date." Repeated changes in the law

\(^{41}\) http://www.state.vt.us/tax/pdf.word.excel/forms/2008/incbk.pdf
\(^{42}\) Vermont now generally conforms to the Federal tax procedure used by the Internal Revenue Service, which allows automatic extensions of five or six months of the due date for most types of income tax returns. Taxpayers must still file an application (Form 4868 for individuals and Form 7004 for entities) for an extension, but they are automatically granted and there is no need to give any reason or justification. Such extensions help spread out return filing dates and mitigate the work compression problem for tax preparers and return processors trying to do a year's worth of work in about six weeks. When flow-thru entities, such as partnerships, LLC's and S-Corps, extend their tax return due dates (generally to September 15), the individuals who own interests in such entities must also seek extensions, since they need to include their share of entity results as part of their personal tax reporting.

\(^{43}\) http://www.state.vt.us/tax/individualextensions.shtml
compound the confusion. In 2003, Act 68 changed the due date rules: the income tax return filing date "with extensions" became "without extensions." In August, 2004 the Department issued Regulation §1.5401(7), setting December 1 as the final processing date, only to be slapped down the following year by the legislature, which decreed that July 15th would be the final date, 2005 Vt. Adv. Leg. Serv. 38, only to change it to September 1 in the next session.

The legislature also added an escape hatch for lateness due to "hardship". 32 VSA § 5410(j) and (l) permit appeals of homestead tax penalties and requests for tax abatement, but add to administrative fragmentation by channeling the hearings to local town listers or Boards of Tax Abatement, rather than to the Department. "Hardship" relief is available for cases involving military service, illness, disability, death, fire, flood or other disaster. And, as if admitting that there was still a problem with the filing dates, in the 2007-08 session the legislature retroactively extended to August, 2008 the time for reprocessing certain untimely year 2007 tax adjustment claims that had been denied before December 2007.

And what if an unlucky taxpayer holds an interest in a pass-thru entity, such as a partnership, S-Corp or LLC (which have until September 15 to tell their owners how much entity income goes on the owners' tax return) and cannot get the information needed to calculate household income by April 15, or even September 1? The Department's response appears reasonable:

"If you are not able to determine your household income in time to meet the filing due dates, complete Schedule HI-144 household income using the best information available and complete Section B of Form HS-122 no later than September 1, 2009. You are responsible for filing an amended Schedule HI-144 when your income is known."46

However, it is a bit unusual for a tax agency to say, in effect, "Close your eyes and guess," considering that Declarations are signed "under penalty of perjury". Or at least they used to be--another amendment taking effect

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44 The February 6, 2009 Weekly Legislative Report of the Vermont League of Cities and Towns leads off by giving thirteen reasons why they think that the local role in collecting the education property tax should be eliminated.
45 (§37 of Act 190, Miscellaneous Tax Amendments)
46 http://www.state.vt.us/tax/propertyadjextensions.shtml
in year 2010 adds "unsigned signatures" to the oxymorons of the law. Henceforth, under 32 VSA §5410(c): 

"In the event that an unsigned but otherwise completed homestead declaration is filed with the declarant’s signed state income tax return, the commissioner may treat such declaration as signed by the declarant."

Homestead forms, like income tax returns can also be filed early. But it is at the filer's own risk. Because April 1 is the operative ownership date for property taxes, an early filer who moves or sells by April 1 must file a second form, HS-122W, to withdraw the declaration. When ownership changes hands after April 1, the seller must still file the declaration, with any adjustment treated as a seller credit in escrow "unless agreed otherwise."
Squaring the Circle: Vermont's Education Tax Experiment
by Robert H. Daniels and Thomas L. Daniels
[Version 3.2 Preliminary. Subject to Revision. Please Do Not Quote]

3. Problems in Administration

3.3 Poorly Defined "Sensitivity Adjustments" Impede Compliance.

The multi-tiered system for giving property tax relief through an "income sensitivity adjustment" works like a malformed version of a progressive income tax. In effect, this is a shadow system operating in parallel with the regular state income tax.

The circuit breaker and the school tax adjustments use the "household", instead of the individual or the couple, as the basic unit of taxation. 32 VSA §6061(3) defines an individual's household as: "for any taxable year, the individual and such other persons as resided with the individual in the principal dwelling at any time during the taxable year", with limited exceptions for non-relatives sharing a home under a written agreement pursuant to a nonprofit program and for unrelated hired live-in caregivers. Only one person per household per year may claim relief, 32 VSA §6062(b), and should two or more persons be eligible, they are to decide among themselves which one shall claim. Any disagreement is to be resolved by the Tax Commissioner, whose decision, however arrived at, is final.

The chosen claimant must then calculate the total "household income", including everyone who was a "member of the household" at any time during the year, but only counting their income while a member.

47 The concept of a "household" is a confusing amalgam of the property tax emphasis on "dwellings" and the income tax focus on individuals and families. If A lives with B for part of the year and with C for part of the year, then B and C are both members of A's "household", but they are not members of each other's households.

48 The drafters apparently failed to consider the fact that multiple claims from the same household will often involve divorce situations or the break-up of live-together relationships, where the parties are not likely to be able to agree on anything.

49 A sadistic instructor might torment tax students by posing hypothetical questions about taxpayers who move during the year: "A sells a house that A shared with B and C, and marries D, who used to live with E. A and D together
What happens if someone who lived in the household has moved and cannot be located or refuses to disclose their income to another member, as is their right under the taxpayer privacy provisions of the income tax laws. The Department's suggested solution is just "leave it to us":

"Q: What if a roommate refuses to provide the person making a property tax adjustment or renter rebate claim with his or her income and/or social security number?

A. Attach a letter to your claim stating you cannot obtain the income. Please include the name and social security number of the roommate. The Department will determine the roommate's income on information available."

The legislators who drafted the "sensitivity adjustment" apparently thought that the Federal Tax Code's definition of "taxable income" did not reflect a household's true ability to pay property taxes or its need for relief. Under 32 VSA §§6061 and 6066, "income" means a household's "modified adjusted gross income" as defined in §6061(5). The latter subsection tells us to start with "federal adjusted gross income", so there are no exemptions for dependents, no standard allowances, or itemized deductions for medical expenses, taxes, interest, charity, casualties, and the like. Instead, three sets of "modifications" are applied to AGI:

A) Business losses, pass-thru losses, rental losses and capital losses don’t count at all. A household where W earns $50,000 and H's business loses $50,000 may have zero federal AGI, but "household income" is $50,000 for the sensitivity test. It is also not clear how the statutory language applies if a household has both capital gains and capital losses. The income tax nets them together when calculating AGI, and if the result is a net loss, up to $3,000 can be deducted against non-capital income, with the rest of the capital loss carried forward to future years. Do capital buy another home and are joined there by F, D’s mother. Who should claim the sensitivity adjustment and how do you calculate their 'household income'?"

50 http://www.state.vt.us/tax/pdf.word.excel/misc/uvm.pdf at p. 7. The Department does not explain how a claimant can include the social security number of a roommate who refuses to provide their social security number.

51 Exception: a business selling business property for which capital gain reporting is required may net that year's loss for that particular business against such gain. The drafters apparently were not aware that the Internal Revenue Code makes a distinction between "capital gains" as defined in IRC §1222 and "gains, net of losses, from the sale of depreciable assets or land used in a business", that can be treated as capital gains under IRC §1231.
losses not count at all in calculating household income, or is it only the net loss that is disregarded? The Department thinks it is the latter, but the statute offers minimal support.\footnote{To be added}

B) Various items are added to "Federal adjusted gross income", such as:

> Alimony and other "support payments". "Alimony" is already included in a recipient's federal AGI, under IRC §71, and is subtracted from the payor's AGI per IRC §215. Does the Vermont statute tell us to add something that's already been added—in which case it would be meaningless—or to add back something that was subtracted, which would eliminate the deduction for the person paying the alimony? Fortunately, the Department seems to prefer the meaningless reading to the harmful literal one.\footnote{To be added}

> Total gifts in excess of $6,500 received by the household "in the form of cash or cash-equivalents". (If loving grandparents pay junior's college tuition, is that a "cash-equivalent"?)

> Cash public assistance, though not surplus food or relief in kind. (Food stamps? Section 8 vouchers? Earned income tax credits? The statute takes a quaint, almost 19th-century approach to "poor relief".)

> Any otherwise untaxed Social Security benefit payments, federal employee allowances or pensions, veterans' benefits, workers comp payments and the like. (This is a major add-back. The Census Bureau's 2006-08 American Community Survey Tables B 19055 and 19059 estimated that 70,839 of the 252,423 households in the state received social security income, and a further 41,324 received other retirement income. IRS Statistics of income for 2007, Table 2 show 35,286 returns with taxable social security amounting to more than $381 million. Taxable retirement and pension income amounted to more than $1.2 billion.)

> Capital gains excluded from AGI. (This picks up the $250,000 allowance for tax-free capital gains on selling a residence, as well as the IRC §1202 exclusion of half the gain on certain qualified small
business stock. It could also be read as overriding the various tax code provisions regarding the non-recognition of gain on real estate exchanges, on stock-for-stock merger transactions, or when transferring assets to a newly formed business.\textsuperscript{54} Since the starting point is federal AGI, it is not affected by Vermont’s new capital gain tax exclusion, 32 VSA §5811(21).)

> Interest on US Treasury and State of Vermont obligations not subject to income tax. This raises an interesting constitutional question: can the State tax indirectly that which it is prohibited from taxing directly by calling it a "sensitivity adjustment"? The Vermont State Supreme Court was asked to rule on this in Schievella v. Department of Taxes, 171 Vt. 591; 765 A. 2d 479 (2000). Plaintiffs challenged the constitutionality of the income limit (then $75,000) for the school tax adjustment, and the inclusion of interest that would be federally tax-exempt. The Court applied the loose "rational basis" test of 14th Amendment "Equal Protection" jurisprudence and found that the line-drawing at $75,000 was within permissible legislative discretion. It then finessed the inclusion of tax exempt interest in a footnote, reasoning that since the income limit was constitutional, plaintiffs could not demonstrate any injury, and thus did not have "standing to sue." 765 A. 2d at 482 n. 2.

> The part of any Roth-IRA distribution that represents account earnings, over and above the initial investment. Such distributions are entirely exempt under the federal income tax system, but "sensitivity" treats Roth-IRAs, in effect, the same as traditional non-deductible IRA's. Compliance requires the scrupulous maintenance of cost records for the entire lifetimes of the owner and any inheriting beneficiary, and the recalculation of a pro-rated basis adjustment factor each time there is a distribution. The drafters seem to have overlooked the fact that such records are not needed otherwise, and may often be unavailable or nonexistent.

C) Various items are then subtracted, such as:

\textsuperscript{54} Technically, the question is whether a gain is "excluded" from income if it is "realized" but not "recognized". See Regs. §1.61-6(a): "Gain realized on the sale or exchange of property is included in gross income, unless excluded by law."
> up to $6,500 of earned income of a dependent full-time student member of the household.

> up to $6,500 of income (earned or not) of a claimant's dependent parent or disabled adult child.\textsuperscript{55}

> Non-cash gifts received, foster care payments and discretionary relief for some caregivers who were caught up in the expansive definition of "members of the household".

There are serious issues of administrative feasibility here. Most of the adjustments are not subject to third party reporting, so tracking them is inconvenient for taxpayers and the Department cannot easily find discrepancies through document matching. In year 2008, the average amount of property tax relief for 110,348 adjustment recipients was just $1,200\textsuperscript{56}, so trying to verify the adjustments individually would spread a limited audit staff impossibly thin for a relatively small revenue pickup per return.

Years ago, the State of Vermont attempted to simplify its income tax system by linking it to the federal tax code. "Sensitivity income" adds a complicated set of "shadow" rules that cancel out the simplification effort. In all but the easiest cases, taxpayers and tax preparers who seriously attempt to comply with the law will have to implement poorly defined concepts that call for complex calculations based on information that does not exist or is not readily available. Their only consolation is that the Department will usually find it difficult or impossible to detect or correct the errors that result.

\textsuperscript{55} This does not reduce the claimant's own social security add-back required by Step (B), above. For dependent parents receiving benefits the result is not entirely clear. Below a certain income level, the Tax Code excludes Social Security benefits received from income, so they are not part of AGI. Suppose a claimant's parent receives $10,000 in Social Security benefits. Federal AGI would be zero and AGI plus "payments received" would be $10,000. What does it mean to exclude "the first $6,500 of income received" if the $10,000 "payment" is not considered "income" in the first place?

Squaring the Circle: Vermont's Education Tax Experiment

by Robert H. Daniels and Thomas L. Daniels

[Version 3.2 Preliminary. Subject to Revision. Please Do Not Quote]

3. Problems in Administration

3.4 Gaps In the Adjustment Tiers Create Perverse Incentives.

Let us now look at the mechanics involved in the three "tiers" of homeowner tax adjustments from an accounting perspective. Within each tier, the benefit calculation for each claimant works like a surtax on "household income", in that benefits gradually become smaller as income rises.57

The circuit breaker part of the system can be traced back to 1970, when the State began paying income-linked rebates for property tax relief. At the start, only seniors age 65 and over were eligible, and the total paid the first year was just $581,000.58 The age limit was removed in 1974, and rebates increased accordingly: for the next twelve years the annual cost ranged from $4 million to $8 million. Starting in 1987, the income eligibility limits were increased, and the cost grew rapidly, reaching almost $21 million in 1990 and hitting $34.5 million in 1997, the year before Act 60's revisions took effect. As noted above, the claim on State funds has continued to grow: most recently 59 110,348 homeowner claimants received a total of $132.3 million in property tax adjustments, while 12,408 renters also collected $7.2 million in rebates.

32 VSA §6066(1) contains the equations for calculating the adjustments. Legal drafting language usually obscures the way mathematical formulas operate -- the notational systems are just too different -- but the Tax Department has thoughtfully provided a calculator that the public can download to test how the rules work. The user enters a school district number, the "housesite" value, the education

57 For example, if the baseline amount of a property tax reduction or rebate is $1,000, a rule that reduces the benefit by $2 for every $100 of income over some fixed amount is the equivalent of imposing a 2% surtax on the first $50,000 of income above that fixed amount.
59 Property tax year 2007-08, measured by adjustments issued through December, 2008.
and municipal tax amounts from the latest property tax bill, household income, and a few other numbers taken from Form HS-122. The worksheet then estimates the amount of any reduction in property taxes, using calculations that differ depending on which "tier" applies to the claimant's income.

Some examples illustrate the results.

3. 4 A) "John Doe" has $40,000 of "household income" and owns a Burlington housesite assessed at $200,000 that takes up less than 2 acres. For 2008 the City's homestead education tax rate was 1.1094% and the municipal rate was 0.67%, so the property tax before adjustment would be $2,219 + $1,340 = $3,559.

Since household income is less than $47,000, John Doe is eligible for a school tax adjustment, which limits the education property tax in this City to 2.09% of income, or $836. Circuit-breaker relief is then applied, reducing the $2,176 that remains (= $836 + $1,340) down to 5% of income. The result for John Doe is a $1,559 credit against the City's property tax bill, reducing it to $2,000, with the State covering the difference. If household income were $5,000 more, the amount John Doe would have to pay would rise to $2,250, just as though that additional income were taxed at a marginal rate of 5%.60

3. 4 B) "Bob Smith" owns a house just like John Doe's, but is not quite so well off, having only about $25,000 in household income. Below the $25,000 level, the circuit breaker percent-of-income limit changes, becoming 4.5% of income instead of 5%. If income is set at exactly $24,999, the calculator shows $2,434 as the total property tax adjustment, but add one dollar of income and the adjustment amount suddenly falls to $2,309. Going from $24,999 to $25,000 changes the circuit breaker percentage limit from 4.5% to 5%, so earning that marginal income were taxed at a marginal rate of 5%.

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60 The explicit marginal rates for State income tax are:

- 3.6% on the first $32,550 (single) or $54,400 (married)
- 7.2% on the next $46,300 (single) or $77,050 (married)
- 8.5% on the next $85,700 (single) or $68,850 (married)
- 9.0% on the next $193,150 (single) or $157,400 (married)
- and 9.5% on income over $357,700

After adding in the 5% "stealth tax" effect when additional household income reduces the property tax relief, John Doe is in an 8.6% effective State tax bracket -- a higher marginal rate than that explicitly charged someone making three or four times as much.
dollar costs Bob Smith $125 more in tax. "Ouch! Unfair!" cries Bob Smith, who wishes that nasty extra dollar would just disappear. Perhaps Bob Smith will try recalculating income one more time, or start rounding down any "50 cent" entries instead of rounding them up, as a reaction to this tax trap at the point where the adjustment brackets meet.61

3. 4 C) "Theresa Jones" owns a $250,000 house in Burlington, and earns a bit more than Bob Smith-- enough to generate just over $47,000 in household income, which is too high to qualify for any circuit breaker relief. Theresa Jones asks the online calculator a question: "How much will be cut off from my $4,479 property tax bill?". The calculator immediately answers: "$1,792". Theresa Jones is curious, and asks again: "What if I had exactly $47,000 income?" "Then you would save $2,099" is the calculator's cheerful response. "Ouch! unfair!" cries Theresa Jones, in disbelief that one more dollar of household income means $307 more tax to pay. Maybe next year Theresa Jones will be less meticulous in tracking the sort of "household income" that doesn't show up on income tax returns or third party reports, or will not question other household members as vigorously. The tax notch at the $47,000 level where circuit breaker eligibility ends is worse for houses with higher values: if Theresa Jones’s assessment were $500,000 that extra dollar would cost $1,982, because total property tax relief would be cut from $6,548 down to $4,566.

3. 4 D) Betty Brown’s household income is exactly $90,000, which is in the third "consolation" tier for tax adjustment ("$90,000 or more"). Her $360,000 home attracts an education tax of $3,994 and a municipal tax of $2,412. In this third tier, the income limit only applies against the education tax on the first $200,000 of assessed value, which here would be $2,016. Multiplying Betty Brown’s income by 2.09% yields $1,881, and she gets a tax adjustment for the difference -- $135.

Betty Brown is not at all happy to learn how much that last dollar of income has cost. Had income been only $89,999, the income limit would cover the education tax on the full assessed value, instead of just the first $200,000, and with a school tax adjustment of $2,114, Betty Brown would have paid $1,979 less in property taxes. "OUCH! UNFAIR!"

61 A similar notch problem appears when household income rises from $9,999 -- where the percentage limit on property tax is 2% ($200) -- to $10,000, where the 4.5% bracket takes effect. $1 more in income here decreases the tax adjustment -- i.e. increases the tax -- by $250.
she screams, and demands that her tax preparer explain what this "household income" is all about. After hearing the preparer describe how it differs from "taxable income" and the many additional items to be added in, Betty Brown thinks a moment and then asks: "How can they tell?" The tax preparer is at a loss for a good answer.