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Property Tax Limitation and Racial Inequality in Effective Tax Rates

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Authors

Martin, Isaac William

Beck, Kevin

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Isaac William Martin

Kevin Beck

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Abstract

In the late twentieth century, two thirds of American states enacted policies to limit the growth of local property tax revenues. We examine the effects of property tax limitations on the effective property tax rates reported by homeowners of different racial and ethnic groups. We find that property tax limitations reduce the effective property tax rates of homeowners regardless of their race and ethnicity, but that most forms of property tax limitation exacerbate racial inequality, providing the greatest reduction in effective tax rates to white homeowners. In the aggregate, these inequalities result in substantially unequal tax savings that might not survive democratic scrutiny if they were distributed as direct subsidies. This inequality may be especially problematic insofar as tax privileges for property owners effectively disguise a public benefit as a private property right.

The property tax revolt is back. The return of rapid housing inflation in many urban markets since 2010 has led to rising property taxes, and homeowners have responded, as in previous real estate cycles, with demands for state legislation to roll back their taxes. The state of New Jersey enacted a new property tax limitation in 2010 and the state of New York followed suit in 2011. Several other states enacted new limitations, or strengthened existing limitations, since then, and some cities, including Boston, Philadelphia, Pittsburgh, and Washington, have discussed property tax limitation as a measure for preventing displacement of long-term homeowners from rapidly gentrifying neighborhoods (Standard and Poor's Ratings Services 2013; Williams 2014).

State laws to limit the property tax are sometimes presented with a progressive veneer—as when they are described as a way to preserve housing affordability, to protect low-income homeowners from displacement, or to prevent racial discrimination in property tax assessment (Harris 2004)—but the same policy device also has been used to defend racial privilege. The first legislation to limit the local property tax rate was introduced into the Alabama constitution in 1875 to protect white landowners from bearing the cost of educating black people (Newman and O'Brien 2010). Some white communities may have supported late twentieth-century property tax limits because they sought to preserve low assessments that had arisen through the discriminatory exercise of assessors' traditional discretion in evaluating homes (Kahrl 2015). The best-known property tax limitation is a 1978 amendment to the California state constitution called Proposition 13, which divided the electorate along racial lines and was supported most strongly by white voters who also expressed resentment of African Americans (Sears and

Citrin 1985). Public opinion surveys continue to find that white racial identity is strongly associated with support for Proposition 13 in California (Stempel 2013), and scholars have found similar racial gaps in surveys of public attitudes toward property tax limitation in other states (Courant, Gramlich and Wilson 1980; Ladd and Wilson 1983). In light of this history, it is worth asking whether property tax limitation laws have racially disparate effects.

This paper examines the effect of property tax limitation on the distribution of the self-reported property tax burden among homeowners of different racial and ethnic groups. We find enduring racial inequalities in the effective property tax rates reported by survey respondents. On average, black homeowners report property tax rates approximately two mills greater than the rates paid by comparable white homeowners (where a "mill" is a tenth of a percentage point). The gap is greatest in states with property tax limitations. On average, homeowners of all racial and ethnic groups enjoy property tax savings under a state policy of property tax limitation, but the policy least favors black homeowners, who own relatively low-value homes, and Latino homeowners, who often have purchased homes recently and therefore receive little benefit from property tax limitations that favor long-term owners. The magnitude of the resulting bias may be substantial: in the aggregate, our estimates imply that property tax limitation saved homeowners $62.6 billion in 2011, of which 89% went to white non-Hispanic homeowners.

The unequal savings from property tax limitation may be understood as an implicit public subsidy for property owners. Critical tax theorists have documented many such implicit subsidies in the federal income tax (Moran and Whitford 1996; Brown

1999, 2007; Cain 2000; McCaffery 2007), and social policy scholars have argued that federal income tax exemptions, deductions and credits may add up to a "hidden" or "submerged" welfare state that favors the already advantaged (Howard 1997, Mettler 2011). Such tax privileges are hidden in the sense that they do not appear as direct spending in government budgets, and voters rarely recognize them as government-provided benefits, even though their net effects on government and household budgets may be exactly equivalent to the effects of direct public subsidies. Under reasonable assumptions, the combined magnitude of federal income tax privileges may be equivalent to more than 50% of the total direct spending of American welfare state (Howard 1997).

Our case study of property tax limitation illustrates that such subsidies are not limited to the federal income tax. Local tax privileges also may be consequential for reproducing durable inequalities of wealth and status. The question of how local property tax policy affects the racial gap in housing wealth is particularly important because of the well-documented role that unequal housing wealth plays in reproducing racial inequalities throughout other domains of American society (Conley 1999, Oliver and Shapiro 2006). Selective property tax privileges may also be even more effectively hidden than selective income tax privileges to the extent that property tax privileges arise from the decentralized decisions of independent local governments. By dispensing largesse in the form of a reduced tax burden for selected property owners who would otherwise owe more tax, rather than in the form of a direct expenditure, our system of local property taxation may encourage homeowners to think that they are merely keeping "their own" money, rather than receiving a government benefit. In effect, local property

taxation, and property tax limitation in particular, disguises a racially biased public subsidy as a private property right.

PROPERTY TAX LIMITATION AND THE DEFENSE OF PRIVILEGE

The majority of local governments levy an *ad valorem* tax on real estate, and the majority of states impose one or another form of constitutional or statutory limitation on the authority of local governments to tax property. These property tax limitations come in different forms (see Table 1). *Rate limitations* impose a cap on the maximum rate of tax, typically expressed in mills (or tenths of a percentage point). *Levy limitations* do not limit the rate of tax, but instead impose a maximum allowable rate of increase in the total revenues from property tax levied by a local government. When real estate is appreciating rapidly, local officials subject to a levy limitation may be forced to cut the property tax rate, in order to keep the total tax bill from rising faster than the limitation permits. A levy limitation may be explicit, or it may arise implicitly from the combination of a rate limitation and an assessment limitation. *Assessment limitations* impose a maximum allowable rate of increase on the taxable value that is recorded for any individual parcel. These laws generally permit a property to be reassessed at its market value only when it is sold or transferred, a policy that is sometimes referred to as “acquisition value assessment.” The longer that the owner holds onto a parcel that is appreciating in value, the more that its market value diverges from the value that is recorded for tax purposes under acquisition value assessment, and the greater the tax savings that the owner enjoys. (For more detail on the varieties of local tax limitation, see Mullins and Joyce 1996; Mullins and Wallin 2004.)

[Table 1 here]

Although property tax limitations are facially neutral with respect to race, their effects may be unequal in practice because the property tax itself is unequal. Black and Latino homeowners generally pay higher effective property tax rates than white homeowners (Goodman 2006; Listokin, Listokin and Voicu 2006). This inequality does not arise directly from discrimination in the setting of the tax rate: local officials today generally do not have the discretion to apply different nominal property tax rates to different owners. Instead, racial inequality in effective property tax rates may arise indirectly from discrimination in the valuation of property (Harris 2004, Kahrl 2015). Some residents of mid-century Chicago referred to the excess property tax arising from the relative over-assessment of homes in African American neighborhoods as the "black tax" (Kahrl 2015: 12). Racial inequality in effective tax rates also may arise indirectly from the fact that white homeowners are especially likely to own expensive homes and homes in areas where property values are rising (see Listokin, Listokin and Voicu 2006: 38). Such homes tend to be taxed on a comparatively small share of their value. There are several distinct mechanisms that may account for this bias. First, the assessment of property values takes time, and the assessed values recorded for tax purposes may lag the market by a year or more. Residents of areas where property values are increasing therefore may be under-assessed—and under-taxed—relative to residents of areas where property values are stable or decreasing. Second, owners of expensive real estate may be especially likely to appeal the official valuation of their property, or especially likely to prevail in such appeals. Third, owners of especially valuable property tend to live in the same local jurisdictions; and given any two local jurisdictions, the one that contains the

more valuable real estate will be able raise the same amount of revenue with a lower rate of tax (see Goodman 2006: 16). In the context of a racially segregated housing market, any one of these mechanisms might be sufficient to produce racial inequality in effective property tax rates.

The effects of property tax limitation may vary substantially in light of these inequalities. *Rate limitations*, for example, might be expected to equalize effective property tax rates among racial groups within a state by leveling all property taxes toward zero. On the other hand, they could in principle exacerbate inequalities at the national level if they are more likely to be in force in states where homeowners are disproportionately white. *Assessment limitations*, likewise, might be expected to decrease or increase inequality, depending on the context. On the one hand, assessment limitations may equalize effective property tax rates by constraining official discretion in the assessment of property values. Such discretion has historically been used to discriminate against homeowners of color, and some legal scholars have argued for acquisition value taxation on the grounds that it prevents assessors from abusing their discretion (see Harris 2004). Assessment limitations also may protect urban homeowners, including many black and Latino homeowners, from increases in property tax driven by the in-migration of rich investors to gentrifying areas (Williams 2014). On the other hand, little benefit may accrue to long-term residents of predominantly black low-income neighborhoods, which are less likely to experience gentrification than other low-income neighborhoods (Hwang and Sampson 2014). The greatest tax savings from an assessment limitation may accrue to homeowners in segregated white places where property values are highest or increasing most rapidly. *Levy limitations*, too, might be expected either to decrease or

increase inequality. On the one hand, by limiting local property tax revenues, they may reduce one common incentive for wealthy, white homeowners to segregate themselves: namely, the enjoyment of enhanced spending on local services such as schools. One recent study has found that Massachusetts schools in districts that voted to override property tax levy limitations subsequently became more racially segregated (Zabel 2014). If levy limitations do indeed help to prevent racial segregation, then it is reasonable to hypothesize that they might also reduce racial inequality in the property tax burden. On the other hand, levy limitations might be expected to yield the greatest tax savings precisely for homeowners who already live in high-spending local jurisdictions that are predominantly white. A law such as California's Proposition 13, which imposed a rate limitation, an assessment limitation, and a *de facto* levy limitation, therefore might reasonably be expected to either increase or decrease racial inequality.

The question of the racial incidence of property tax limitation remains unresolved. The few studies that have attempted to quantify the implicit subsidy from property tax limitation and compare its magnitude across racial groups have come to discrepant conclusions. Hayashi (2014: 46), using administrative data, found that homeowners in predominantly white New York City neighborhoods received the greatest tax savings under the state property tax cap, but the available aggregate data did not permit him to draw inferences about the racial or ethnic identity of individual homeowners. Myers (2009: 9), analyzing data from the American Housing Survey, found that white homeowners in California enjoyed greater tax savings than black, Latino, or Asian homeowners under the rules established by Proposition 13. Skidmore, Ballard and Hodge (2010), analyzing original survey data, found no statistically significant gap in tax

savings between white and black homeowners in Michigan under a similar property tax limitation. The findings of these studies are difficult to reconcile because they are single-state case studies. Their conclusions also depend on counterfactual assumptions about how homeowners would be taxed in the absence of property tax limitation that are empirically unsubstantiated inasmuch as none of these studies includes a comparison to a control group of jurisdictions *without* property tax limitations. Listokin, Listokin and Voicu (2006: 35) show that the racial gap in effective tax rates varies substantially from one state to the next, which is consistent with the view that state policy regimes may structure the degree of racial inequality in property taxation, but it is not clear whether any of these state-level differences can be attributed to property tax limitation in particular.

This paper provides the first comparative test of the impact of property tax limitation on racial inequality in effective property tax rates, by analyzing the effective property tax rates reported by homeowners to the Panel Study of Income Dynamics (PSID) in states with and without property tax limitation policies.

DATA AND METHOD

Previous research on racial inequality in effective property tax rates has relied on cross-sectional samples from the American Housing Survey (Myers 2009), the decennial census (Listokin et al. 2006), and the Residential Finance Survey (Goodman 2006). The PSID differs because of its longitudinal data structure, which permits us to distinguish the effects of exposure to changing property tax regimes while holding the individual

homeowner constant. Our data extract includes all available survey years with the requisite data, including annual observations in the period from 1986-1996, and biennial observations in odd-numbered years from 1997-2011. The unit of analysis is the person-year. We limit ourselves to a subset of PSID respondents identified by the survey as heads of household, and our analysis covers only observations in survey years in which the respondent was the head of a household.

Our dependent variable is the effective property tax rate in mills. We computed the effective property tax rate from the property tax paid in the previous year and the total value of the home reported by PSID respondents. Prior research finds no evidence of systematic bias in survey self-reports of property tax payments (Ordeshook 1979), but some evidence that survey self-reports of property values may be slightly biased upward on average. The tendency to overestimate property values does not appear to vary across racial or ethnic groups (Goodman and Ittner 1992). Any general tendency to inflate the denominator of self-reported effective tax rates therefore will tend to bias our estimates of inequality towards zero, providing a conservative test of the hypothesis that property tax limitation increases inequality in effective property tax rates.

Both home values and property tax are top-coded in certain waves of the PSID. We dealt with eight observations that had top-coded house values by fitting a Pareto curve to the upper half of the distribution in each survey year, using estimated parameters of the cumulative distribution function to compute the expected value above the top code, and imputing this expected value to all top-coded observations. We followed the analogous procedure for thirteen observations that had top-coded values of property tax.

After computing effective property tax rates, we inspected the data for outliers, and omitted observations with effective property tax rates at the 99.5th percentile and above.

Several independent variables measure the effect of property tax limitation policy at the state-year level. First, we include a dummy variable for homeowners who live in states that limit the maximum property tax rate that a homeowner can be charged. We expect that effective property tax rates will be less in states that limit the nominal rate of property tax. Second, we include a time-dependent covariate for exposure to a levy limitation, which measures the number of years that a levy limitation has been in force in the state. Because levy limitations constrain the annual increase in the total property tax levy, their effects are cumulative, and they may be expected to reduce the effective property tax rate more the longer that they have been in force. Third, we include a time-dependent covariate for exposure to an assessment limitation, which measures the number of years that a homeowner has lived in his or her current home under an assessment limitation. Assessment limitations will tend to constrain the effective property tax rate only as long as the owner retains a particular parcel, because assessment limitations generally permit homes to be reassessed at market value at the time of sale or transfer. Our data on all three types of property tax limitation come from Mullins and Wallin (2004), updated with data from the Lincoln Institute of Land Policy's *Significant Features of the Property Tax* database (Lincoln Institute of Land Policy 2014), and supplemented by other sources identified in the note to Table 1.

We also introduce interaction terms to test whether the effects of these property tax limitations vary by the race and ethnicity of the homeowner. We treat white non-Hispanic as the reference category, and include dummy variables for black; non-black

Hispanic; and other non-white, non-Hispanic ethnicity. Although longitudinal studies have shown that these racial and ethnic identities are fluid over the life course (Penner and Saperstein 2008, Smith 2014), not all of the questions necessary to identify these racial and ethnic categories were asked in every wave of the PSID. We therefore treated race and ethnicity as a time-invariant characteristic of persons, coding respondents as black if they described themselves as black in any wave of the survey; then as Hispanic, if they described themselves as Hispanic in any wave of the survey; then as other non-white if they described themselves as any other non-white racial or ethnic identity in any wave of the survey.

We control for gender, age in years, marital status, the number of children in the family, weeks of unemployment in the previous year, income (logged), and years since the last residential move. Descriptive statistics for all of these variables are reported in Table 2.

[Table 2 here]

The sample is limited to person-years in which respondents were homeowners. Because the data structure includes multiple observations of the same survey respondent over time, we fit a hierarchical linear regression model with both person-specific and observation-specific error terms. All models also include fixed effects for survey year and state.

ESTIMATING THE SIZE OF THE SUBSIDY

Our models, summarized in Table 3, reveal persistent racial inequality in effective property tax rates. Model 1 shows the relationship between homeowners' personal characteristics and their self-reported effective property tax rates. On average, black homeowners report higher property tax rates than white non-Hispanic homeowners. The gap in effective property tax rates, controlling for the observed covariates, is 1.8 mills. This gap represents the expected difference between the property tax rate paid by a black homeowner and a white non-Hispanic homeowner of the same age, gender, marital status, family size, employment status, income, and duration in residence, who is living in the same state, in the same year. Both Hispanic and other nonwhite homeowners also report higher property tax rates than white homeowners on average, although these gaps are smaller (0.3 mills for Hispanics and 1.1 mills for other nonwhite homeowners) and are not statistically significant.

[Table 3 here]

The inequality in property tax rates between black and white homeowners is greater than other inequalities that might be socially salient. For example, Model 1 also shows that older respondents and low-income respondents report lower effective property tax rates than younger and high-income respondents—in part, presumably, because many states have property tax relief programs that explicitly provide property tax reductions for elderly and low-income homeowners—but the inequality in effective tax rates paid by otherwise identical black and white homeowners is greater than the inequality that would be associated with an age gap of 48 years, or a ninefold difference in income. Married homeowners report comparatively low effective property tax rates, but the inequality associated with marital status is less than that associated with racial identity.

We introduce measures of property tax limitation in Model 2. The model shows that living in a state with a property tax rate limitation is associated with an effective property tax rate approximately 7 mills lower than it would be otherwise. Exposure to an assessment limitation is also associated with a lower effective property tax rate. (The coefficient of -.135 mills per year in residence under an assessment limitation effectively cancels out the positive association of +.084 mills per year between length of time in residence and the effective property tax rate.) The inclusion of these covariates does not change our estimate of the racialized inequality in effective property tax rates.

We test whether the effects of property tax limitations vary by race by including interaction terms for black, Hispanic, and other non-white ethnicity with each form of property tax limitation in Model 3. Although most of the interaction terms taken singly are not statistically significant, a test of joint statistical significance shows that the interaction terms are jointly different from zero (χ^2=22.5, 9 d.f., $p<.05$), providing evidence that the effects of property tax limitation differ by race and ethnicity. Most of these coefficients are consistent with the interpretation that white homeowners derive the greatest benefit from property tax limitation. The positive interaction terms for rate limitation with black, Hispanic and other non-white ethnicity indicate that homeowners of color generally receive less benefit from rate limitation than white homeowners do. For example, a white homeowner in a jurisdiction with a rate limitation can expect to owe about 7 mills less than an otherwise identical white homeowner in a jurisdiction without a rate limitation; for an average Hispanic homeowner, benefit of living in a jurisdiction with rate limitation is only about 5 mills (or -7.2 + 2.0 = -5.2). The positive interaction terms for levy limitation with the dummy variables for black, Hispanic and non-white

ethnicity indicate that the longer a levy limitation is in force, the greater the effective tax rate paid by homeowners of color relative to white homeowners. The exception to the overall pattern of white advantage concerns assessment limitation. Although Hispanic homeowners report more property tax relative to white homeowners the longer that they are subject to assessment limitation, this pattern is reversed for black and other non-white homeowners, who report less property tax relative to white homeowners the longer that they are subject to assessment limitation, all else being equal.

In order to illustrate the net effect of property tax limitations on racial inequality among homeowners, we compute predicted property tax burdens for similar respondents of different racial and ethnic groups, both with and without a property tax limitation. As a baseline, Table 4 illustrates the racial inequality in property tax burdens in a hypothetical alternative 2011 California that had never enacted property tax limitation. The predicted tax rates are computed from Model 3, allowing race to vary and holding all other characteristics constant. These predicted values assume a 65-year-old married man of average income, with no children in the house, who has been living in his home since 1978. In order to demonstrate how unequal rates can translate into subsidies for some homeowners and penalties for others, we multiply these predicted property tax rates by the median home values reported by senior citizens of each racial/ethnic group for the period 2007-2011. In the absence of property tax limitation, our model implies that homeowners from every other group would report more property tax than black homeowners because they own more expensive homes, but black homeowners would report the highest effective rate of tax.

[Table 4 here]

The high effective tax rate faced by black homeowners translates into a substantial tax penalty for black homeowners—or, conversely, a substantial tax subsidy for non-black homeowners, relative to black homeowners. Assume that a hypothetical black homeowner with the specified characteristics, who owned a home of median value for a black senior citizen, were taxed at the effective rate predicted for an otherwise identical *white* homeowner: in this scenario, he would owe $130 less in property tax. We may conceptualize this amount as the property tax penalty that this hypothetical senior citizen pays for being black. (More precisely, it is the penalty he pays for living in a place that levies taxes on homes at a rate that is average for a black homeowner with his characteristics.) Now assume that a white homeowner, with a home of average value for a white homeowner, were taxed at the effective rate predicted for an otherwise identical *black* homeowner: he would owe an additional $260 in property tax annually. We may regard this value as the average property tax subsidy that this hypothetical senior citizen receives for being white instead of black. The subsidy would be even larger if we compared this hypothetical senior citizen to a Hispanic or other non-white homeowner. To be sure, an annual tax of $260 is small relative to some other racial inequalities, and it also suggests much less racial inequality than black homeowners experienced in the heyday of the "black tax" in mid-twentieth-century Chicago (Kahrl 2015). Nevertheless, a subsidy of even this magnitude would offend norms of fairness if it were allocated explicitly on the basis of race.

What if the homeowners were subject to a property tax limitation like California's Proposition 13? This 1978 ballot measure combined a limitation on the property tax rate, a limitation on the annual increase of assessments, and (implicitly) a limitation on the

annual growth of the total property tax levy. Given this combination of policy parameters, and the sheer number of interaction terms in the regression model 3, the effects of a policy like this are difficult to read off of the regression coefficients. We therefore transform these regression coefficients into predicted property tax burdens reported in Table 5. These predictions apply to hypothetical homeowners with the same characteristics as in Table 4, but we use model 3 to compute expected property tax rates and property tax burdens 33 years after enactment of Proposition 13, assuming that the homeowner has lived in the same home since the assessment limitation was first implemented. As expected, this property tax limitation reduces the effective property tax rates for all homeowners. It does nothing, however, to reduce racial inequality. To the contrary, it further advantages white homeowners relative to others. The net gap in predicted property tax rates between white and black homeowners widens from 1.3 to 2.5 mills. Property tax limitation opens up a new gap between white and Hispanic homeowners: without property tax limitation, our statistical model shows a gap of 1.8 mills in favor of our hypothetical Hispanic homeowner, whereas after 33 years under a combined property tax limitation there is a gap of 3.9 mills in favor our hypothetical white homeowner. Also, the gap between white homeowners and homeowners in the "other race" category grows as a result of a policy like Proposition 13—and, again, the change favors white homeowners. The gap would grow from 2 mills in favor of the hypothetical "other race" homeowner in the absence of property tax limitation, to 3.3 mills in favor of the hypothetical white homeowner after 33 years of a property tax limitation like Proposition 13.

[Table 5 here]

The last three columns of Table 5 show that the net reduction in property tax associated with property tax limitation, and the resulting tax savings, vary by race. The predicted savings from a tax limitation would be $1,010 for our hypothetical black homeowner, and $2,260 for a hypothetical white homeowner with the same characteristics. If our hypothetical black homeowner had been taxed at the expected tax rate for a comparable white homeowner, he would have enjoyed savings of $1,260 from property tax limitation, or approximately $250 in additional tax savings. The gap between Hispanic and white homeowners is more dramatic. A hypothetical Hispanic homeowner with the same characteristics would enjoy tax savings of $1,036 from property tax limitation, compared to $1,758 if he were taxed at the expected tax rate for a comparable white homeowner. The greatest tax savings from property tax limitation are predicted to accrue to a hypothetical homeowner in the "other race" category, because survey respondents in this category report the highest house values—but this hypothetical homeowner would enjoy even greater tax savings from property tax limitation ($5,580 instead of $3,600) if he had been taxed at the rates associated with white homeowners.

[TABLE 5 HERE]

These biases appear small in the case of any individual homeowner, but they may amount to substantial sums in the aggregate, both because home ownership rates differ substantially by race and ethnicity, and because white homeowners, the most advantaged group, are also the most numerous. To compute the aggregate tax savings from property tax limitation, we applied our estimates from model 3 to predict the expected property tax rate for every respondent in the sample in 2011, conditional on his or her observed characteristics. We also predicted a second, counterfactual property tax rate for each

respondent by setting all property tax limitation variables (including interaction terms) to zero, and leaving the values of all other variables unchanged, to simulate the expected tax rates if no property tax limitations were in force anywhere in the United States. We then applied these predicted property tax rates to respondents' self-reported house values to yield predicted property taxes with and without the property tax limitations that currently exist, and we computed weighted sums of these values by applying the 2011 cross-sectional weights from the PSID, which include a post-stratification adjustment to match selected population totals from the Current Population Survey. The results of these computations are reported in Table 6.

[Table 6 here]

This accounting exercise yields the conclusion that the total tax savings to homeowners from homestead property tax limitation in 2011 amounted to $62.6 billion dollars, of which 89%, or $56 billion, went to white homeowners. For a few points of comparison, this amount was more than half of the value of the home mortgage interest deduction ($88.7 million) (see Budget of the United States Government for Fiscal Year 2012, Table 17-2) and exceeded total federal outlays on housing assistance ($54.4 billion) in 2011. It exceeded total federal spending on Temporary Assistance to Needy Families in 2011 ($21.3 billion) (see Budget of the United States Government 2015, Table 11.3).

White homeowners enjoy a majority of the savings from property tax limitation because they own a majority of the housing wealth in the affected states. But they also acrue *excess* savings because white people enjoy especially favorable tax rates under property tax limitation, by virtue of the places that they live. Our model implies that white homeowners enjoyed 89% of the tax savings from property tax limitation, or $56

billion. Had the tax savings from property tax limitation been distributed across racial and ethnic groups in proportion to their share of the property tax burden, then white homeowners would have enjoyed only 85% of the total property tax savings, or $53.2 billion. The difference of $2.8 billion may be conceptualized as the excess savings accruing to white homeowners by virtue of the racial bias of property tax limitation. This "excess savings" exceeds *all* of the estimated property tax savings enjoyed by nonwhite homeowners under property tax limitation. It is approximately equivalent to the sum of all federal outlays for refugee assistance in 2011 (Budget of the United States Government 2015, Table 11.3).

The racialized gap in effective property tax rates is hidden from public scrutiny because it does not arise from obviously discriminatory rate-setting by tax authorities. Instead, it arises from racialized patterns of wealth ownership, interjurisdictional segregation, and differences in the tax treatment of inexpensive and expensive homes. One underlying mechanism is revealed when we introduce the value of the house (logged) as a control variable in Model 4 (see Table 3). In a model that controls for the value of the respondent's home, the expected gap in average effective tax rates between white and black homeowners in a state without property tax limitation is attenuated. These findings are consistent with the interpretation that the racialized pattern of property tax incidence arises partly from the segregation of black homeowners in low-property-value jurisdictions that levy high property tax rates. Even when a black homeowner owns an expensive home, he or she is likely to be segregated in a jurisdiction where most *other* real estate is relatively inexpensive, and where the diminished tax base means that everyone must pay higher property tax rates for a given level of public services. Model 4

also shows that holding home values constant attenuates, but does not eliminate, many of the other racial biases associated with property tax limitation. The benefit of property tax limitation is allocated unequally across racial and ethnic groups because it interacts with structural inequality in the housing market. American homeowners do not benefit equally from property tax limitation because Americans are sorted by race into different wealth classes, and because homeowners are sorted by race *and* wealth into different taxing jurisdictions with different effective tax rates.

THE FOG OF TAX AND THE TIP OF THE ICEBERG

Property tax limitation is sometimes presented as a progressive response to racial inequality. Harris (2004) has argued that acquisition value assessment, by removing discretion from property assessors, will reduce racial bias in property taxation. We find the opposite is true. Because most racial inequality in property tax rates arises from interjurisdictional segregation rather than from discrimination in property assessment, property tax limitations do not fix the problem. Instead, they tend to entrench, and even to exacerbate, structural features of local property taxation that favor white property owners, most especially the bias in favor of long-term owners of high-value homes.

By describing the extra tax savings that white homeowners derive from property tax limitation as a subsidy relative to the property tax owed by homeowners of color, we do not mean to imply that there is a direct transfer from homeowners of color to white homeowners. Homeowners of all racial and ethnic groups derive some tax savings from property tax limitation. The question of who pays for these tax savings is an important and unresolved question of tax incidence. Part of the increased property tax savings,

especially for high-income homeowners, may be captured by state and federal income taxes. And some of the tax savings may be capitalized in the price of housing. To the extent that the average white homeowner can afford to pay more to live in places with limited property tax burdens, then property tax limitation may be said to have created a racially stratified market for insurance against the risk of unpredictable property tax increases (cf. Anderson 2006). If the unequal savings that result from property tax limitation are an injustice, then that injustice may be best conceptualized as exclusion rather than exploitation—like the racially stratified welfare states of the 20th century that taxed white people to pay for insurance for white people, thereby effectively exempting people of African descent from paying social security contributions, but also excluding them from a social safety net (see, e.g., Katznelson 2005, Lieberman 1998, Lieberman 2003).

A complete answer to the question of who pays for the property tax subsidy to white homeowners under property tax limitation would also require us to look beyond homeowners entirely, to the renters and others who pay a price in lost public services when the growth of the public sector is constrained by law. Local governments have few other revenue-raising options that can yield as much revenue as the property tax, and property tax limitations therefore tend to reduce local public spending in general. The consequences may be particularly damaging to public schools (Downes, Dye and McGuire 1998; Figlio 1997; Figlio and Rueben 2003).

The racial disparity in the savings from property tax limitation is hardly the greatest racial inequity in the United States today. It is nevertheless important as one example of a broader category of hidden biases in state and local tax law. Many critical

legal scholars have argued that the cognitive complexity of tax law may have the effect of concealing substantial biases that would not survive open scrutiny in a democratic society. McCaffery (2009) refers to this concealing function as the "fog of tax." We have been inspired by critical tax scholarship by legal scholars such as Moran and Whitford (1996), Cain (1999), and McCaffery (2007) that has uncovered race and gender biases in the federal income tax code. But our approach differs from much of the critical legal scholarship on tax, which focuses on the federal income tax biases that are most visible through the fog, perhaps because the Internal Revenue Code, as a mountain of legible text, looms so large in the legal academy. Given the textualist training of critical legal scholars it is understandable that critical tax theory tends to focus on the race and gender biases of tax privileges that can be read in the federal statutes. We hope our case study of property tax limitation persuades more critical tax scholars to attend also to biases in state and local taxation. More than 40% of all tax revenues are raised by state and local governments. Biases in the local property tax may be particularly inaccessible to democratic scrutiny inasmuch as many of them are not a matter of black-letter law. They are structural biases, such as the bias that rewards expensive real estate with lower effective tax rates, which arise from the interaction of racial segregation, stratified property markets, and local variation in tax rules. Many of these biases are invisible in the tax rules of any local jurisdiction because they arise in the interstices *among* local jurisdictions (see Lipsitz 1995).

These biases should draw the scrutiny of critical sociologists. Even small biases in property taxation may compound over the years into more substantial inequalities in property values. Unequal home ownership is important for the intergenerational

transmission of inequality. As Thomas Piketty has argued, the problem of the twenty-first century may be the problem of wealth inequality (Piketty 2014). The property tax, as the only substantial tax on wealth in the United States, is likely to be a particularly important flashpoint in debates about the distribution of capital in the twenty-first century.

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Table 1.

Years subject to residential property tax limitation that covers all local taxing units (cities, counties and school districts, as applicable), by state

State	Rate limitation	Assessment limitation	Levy limitation
Alabama	1916-	...	...
Alaska	1972-	...	1972-
Arizona	1980-	1980-	1980-
Arkansas	1883-	2001-	1981-
California	1978-	1978-	1978-
Colorado	1913-	...	1913-1969
Connecticut	...	...	...
Delaware	...	...	...
Florida	1968-	1995-	2008-
Georgia	...	...	...
Hawaii	...	...	...
Idaho	1967-	1980-1982	1979-1992
Illinois	1961-	...	...
Indiana	...	...	1973-
Iowa	...	1978-	...
Kansas	1933-1989	...	...
Kentucky	1946-	...	1965-
Louisiana	1974-	...	1978-
Maine	...	...	...
Maryland	...	1957-	...
Massachusetts	1980-	...	1980-
Michigan	1949-	1994-	1978-
Minnesota	...	1973-1979, 1993-2009	...
Mississippi	...	...	1983-
Missouri	1875-	...	1980-
Montana	1971-	...	1987-
Nebraska	1957-	...	...
Nevada	1936-	...	2005-
New Hampshire	...	...	...
New Jersey	...	...	2007-
New Mexico	1914-	2001-	1979-
New York	...	...	2012-
North Carolina	1973-	...	...
North Dakota	1929-	...	1981-
Ohio	1929-	...	1976-
Oklahoma	1933-	1996-	1996-
Oregon	1991-	1980-1985, 1997-	1916-
Pennsylvania	1965-	...	2006-
Rhode Island	...	...	1985-
South Carolina	...	2007-	1995-
South Dakota	1915-	...	1997-
Tennesseee	...	...	...
Texas	1883-	1998-	1982-
Utah	1929-	...	1969-1986

Vermont	...	...	...
Virginia	...	...	...
Washington	1944-	...	1979-
West Virginia	1932-	...	2004-
Wisconsin	...	...	2005-
Wyoming	1911-	...	...

Table 3. Results from Hierarchical Linear Regression of Effective Property Tax Rates

	Model 1	Model 2	Model 3	Model 4
Black	1.803**	1.796**	1.294**	-0.082
	(.272)	(.272)	(.430)	(.403)
Hispanic	.285	.248	-1.783	-1.299
	(.401)	(.401)	(1.006)	(.943)
Other	1.144	1.135	-1.964	-2.218
	(.687)	(.686)	(1.280)	(1.200)
Female	.088	.102	.096	-.475
	(.310)	(.310)	(.310)	(.291)
Age	-.0373**	-.036**	-.036**	.011
	(.007)	(.007)	(.007)	(.007)
Married	-1.126**	-1.111**	-1.108**	.240
	(.212)	(.212)	(.212)	(.201)
Number of children	.0279	.015	.015	.198**
	(.0586)	(.059)	(.059)	(.055)
Weeks unemployed last year	.0176	.018	.018	.004
	(.0096)	(.010)	(.010)	(.009)
Logarithm of income	-.188**	-.195**	-.193**	.739**
	(.067)	(.067)	(.066)	(.065)
Time in current residence	.0527**	.084**	.084**	-.030*
	(.0131)	(.014)	(.014)	(.014)
Logarithm of House Value		...	...	-6.311**
				(.0938)
Exposure to an assessment limitation		-.135**	-.140**	-.110**
		(.024)	(.027)	(.025)
Limit on property tax rate		-7.149**	-7.183**	-5.720**
		(0.937)	(0.938)	(.891)
Years in jurisdiction with a tax levy limit		.024	.014	.009
		(.016)	(.016)	(.015)
Black x Assessment Limitation			-.002	-.008
			(.051)	(.048)
Black x Rate Limitation			.461	-.245
			(.532)	(.499)
Black x Levy Limitation			.022	.037*
			(.019)	(.018)
Hispanic x Assessment Limitation			.091	.100
			(.082)	(.078)
Hispanic x Rate Limitation			1.975	.905
			(1.077)	(1.012)
Hispanic x Levy Limitation			.023	-.016
			(.025)	(.023)

Other race x Assessment Limitation			-.017	-.039
			(.141)	(.134)
Other race x Rate Limitation			1.745*	3.270*
			(1.565)	(1.471)
Other race x Levy Limitation			.124**	.073
			(.043)	(.040)
ρ	.38	.38	.38	.37
N person-observations	41,127	41,127	41,127	41,127
N persons	7,617	7,617	7,617	7,617

Notes: All models include year and state fixed effects. Numbers in parentheses are standard errors. * p<.05, ** p<.0

Table 4
Predicted property tax burden for a 65-year-old in a hypothetical 2011 California without property tax limitation

Homeowner	Median House Value by Race	Predicted tax rate	Annual property tax	Annual property tax at predicted tax rate for *black* homeowners	Net tax *subsidy* compared to black homewners	Annual property tax at predicted tax rate for *white* homeowners	Net tax *penalty* (subsidy) compared to white homeowners
White	$200,000	1.87%	$3,740.00	$4,000.00	$260.00	$3,740.00	$0.00
Black	$100,000	2.00%	$2,000.00	$2,000.00	$0.00	$1,870.00	$130.00
Latino	$185,000	1.69%	$3,126.50	$3,700.00	$573.50	$3,459.50	($333.00)
Other race	$600,000	1.67%	$10,020.00	$12,000.00	$1,980.00	$11,220.00	($1,200.00)

Note. - The table above assumes the homeowner is a married and employed man aged 65 who has been living in his home for 33 years. Median house values as reported by senior citizens (age 65 and older) over the 2007, 2009, and 2011 waves of the PSID.

Table 5
Predicted savings from property tax limitation for a 65-year-old homeowner in 2011 California, by race

Homeowner	Median House Value by Race	Predicted tax rate, had there been no limitation	Predicted tax rate, assuming 33 years of tax limitation	Annual property tax, had there been no limitation	Annual property tax, assuming 33 years of tax limitation	Annual tax savings from property tax limitation	Annual tax savings at predicted rates for white homeowners
White	$200,000	1.87%	0.74%	$3,740.00	$1,480.00	$2,260.00	$2,260.00
Black	$100,000	2.00%	0.99%	$2,000.00	$990.00	$1,010.00	$1,260.00
Latino	$185,000	1.69%	1.13%	$3,126.50	$2,090.50	$1,036.00	$1,757.50
Other race	$600,000	1.67%	1.07%	$10,020.00	$6,420.00	$3,600.00	$5,580.00

Table 6
Aggregate predicted savings from property tax limitation, in millions

	White	Black	Latino	Other	Total
Predicted property tax for entire sample	$161,751	$9,884	$10,602	$7,883	$190,120
Predicted property tax, assuming no limitations	$217,713	$12,163	$13,829	$9,046	$252,751
Aggregate savings from property tax limitation	$55,962	$2,278	$3,226	$1,162	$62,628

Note: Predicted property tax is computed for the entire estimation sample using the coefficients from model 3.

sample using the coefficients from model 3.