

ACT 388 AND PROPERTY TAX RELIEF

AN INTRODUCTION TO... PROPERTY TAX REIMBURSEMENTS

Act 388 is one of three state laws that exempt owner-occupied, residential property (primary residences) from property taxes for school operations.

Three Tiers of Property Tax Relief

The elimination of local property taxes on owner-occupied homes for school operations has occurred through three state laws. School districts receive *property tax relief reimbursements* from the state based on all three laws (tiers).

1. Passed in 1995 and first implemented in 1995-96, the state funds *tax relief for school operations property taxes* on the first \$100,000 of market value of all owner-occupied residential property. State reimbursement to school districts (Tier I reimbursement) has been capped at \$249 million since 2001-02 and each individual school district's Tier I reimbursement is capped. (Greenville County Schools is capped at \$23.4 million.)
2. The Homestead Exemption is a state-funded, *complete exemption of all property taxes* on the first \$50,000 in fair market value of a legal residence for homeowners over age 65, totally and permanently disabled, or legally blind.
3. Passed in 2006 Act 388 eliminated *school operations property taxes* in their entirety for all owner-occupied residential property. Revenue from one cent of the sales tax goes to a fund to reimburse school districts for the remaining property tax relief beyond Tier I and Tier II—the Tier III reimbursement. For 2017-18 Act 388 (Tier III) reimbursement is estimated at \$750 million. (Greenville County Schools' portion is \$63.2 million.) A further description of Act 388 follows.

How Act 388 Works

Homeowners do not pay property taxes on their primary residence for school operations.

School districts assess two types of property taxes: one for school operations and the other for school construction debt service. Act 388 eliminated property taxes for school operations on owner-occupied residential property beginning in 2008. School operation property taxes remain in place for all other property including commercial, industrial, vehicles and second homes. Property taxes for school district construction debt service remain for all types of property.

The state reimburses school districts for lost tax revenue with revenue from one cent of the sales tax.

Revenue from one cent of the state sales tax goes to a fund (the Homestead Exemption Fund) for reimbursing school districts for Act 388 property tax relief—tax relief beyond Tier I and Tier II (see above). The additional one cent tax applies to all taxable items except groceries, accommodations and items with a sales tax cap such as automobiles, boats and aircraft.

There are two types of reimbursement to school districts:

1. All school districts receive a reimbursement based on the Act 388 formula (see below).
2. Some school districts receive an additional reimbursement to ensure that no county receives less than \$2.5 million in property tax reimbursements to school districts in their county. The amount distributed to each school district in the county is based on their proportionate enrollment (135-day average daily membership).

The formula for reimbursing school districts is not a dollar-for-dollar reimbursement.

For school year 2007-08 school districts were reimbursed dollar for dollar for Act 388 (Tier III) lost property tax revenue.

In subsequent years, the distribution to school districts is based on 1) a formula for determining the total statewide amount of money available for

all school districts and 2) a second formula specifying how the statewide amount is distributed to each school district.

The **total statewide amount** equals the first year's amount of sales tax revenue required for the dollar-for-dollar reimbursement to all school districts increased every year by a percentage equal to the percentage increase in state population plus the rate of inflation.

The **amount each school district receives** from this statewide fund will be the first year's dollar-for-dollar reimbursement increased by the district's proportionate share of the increase in the statewide amount. A district's proportion is based on the district's weighted-pupil enrollment as a percentage of statewide weighted-pupil enrollment plus an add-on weighting for students in poverty.

With this distribution formula, after the first year, Act 388 reimbursement is not a dollar-for-dollar reimbursement for lost local property tax revenue. This discrepancy is even greater when capped Tier I and Tier II reimbursements are included.

If sales tax revenue is not sufficient, state General Fund money must cover the shortfall.

If revenue from the one-cent sales tax is not sufficient to meet the mandatory school district reimbursements under the formula, the additional funds needed to meet this obligation comes from money that would otherwise go into the state General Fund annual budget.

Since its inception, revenue from the one-cent sales tax has never met the required amount under the formula. For five years from FY2010 to FY14, the shortfall exceeded \$100 million. Since that time the annual shortfall has steadily decreased. The shortfall for FY17 equaled \$48 million.

If sales tax revenue exceeds the amount required, the excess can be used for local government tax relief.

If revenue from the one-cent sales tax exceeds the amount needed to reimburse school districts under the Act 388 formula, the excess amount can be used to provide county/city property tax relief for owner-occupied residential property.

Sources

- Homestead Exemption, SC Dept. of Revenue, <https://dor.sc.gov/lgs/homestead-exemption>.
- Preamble to H.5206, 2015-16 session of the South Carolina General Assembly.
- “Trust Fund for Property Tax Relief” table, SC Revenue & Fiscal Affairs Office.
- “Homestead Exemption Fund (Tier III) Revenues and Expenditures” table, SC Revenue & Fiscal Affairs Office.
- “Notes to the Financial Statement,” Comprehensive Annual Financial Report, Greenville County Schools, 2016.
- “2017-18 General Fund Budget,” Greenville County Schools.
- “Act 388 Revisited,” Saltzman and Ulbrich, The Jim Self Center on the Future, Strom Thurmond Institute of Government and Public Affairs, Clemson University, November 2012
- “Act 388 of 2006 - The Short Course, Presentation to the House Tax Policy Review Committee,” Cone, House Research, September 27, 2016