

# **Taxing Blighted or Abandoned Absentee Landlord Property at a Higher Mill Rate**

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## **Issue**

Can municipalities tax blighted and abandoned absentee-owned homes and apartments at a higher rate than other types of property?

Addressing this issue requires rendering a legal opinion, which the Office of Legislative Research is not authorized to give. Consequently, you should not regard this report as one.

## **Summary**

As a rule, municipalities must strictly follow the property tax statutes, but the statutes are silent as to whether municipalities must tax all property at the same rate, without regard to ownership or a property's use or condition. Without statutory authority, a municipality that taxes absentee-owned property at a higher rate than owner-occupied property could face a court challenge based on a claim that the municipality has no statutory authority to do so.

Even if the legislature were to enact a law authorizing differential tax rates, a property owner who must pay the higher rate could argue that the differential rates violate his or her constitutional rights to due process and equal protection under the law. To succeed, the property owner would have to show that the differential tax rates serve no reasonable purpose and intentionally harm the owner or his or her property.

## Statutory Silence

According to case law, municipalities have only those powers the legislature explicitly granted to them under statutes (see *Old Colony Gardens Inc. v. Stamford*, 147 Conn. 60 (1959)) and, when it comes to assessing and collecting property taxes, must strictly follow the property tax statutes (see *Joseph W. Pepin v. City of Danbury*, 171 Conn. 74 (1976)). But these rules require interpretation when the statutes are silent on a particular point, as the attorney general surmised in a 2006 opinion about municipalities' authority to tax real and personal property (excluding motor vehicles) at different rates. The attorney general found the statutes ambiguous, with "no clear prohibition against the establishment of different mill rates within a tax or sub tax district" and "no clear statutory authority for such action."

The attorney general cited a statute that could be "construed as an implied limitation on the power of municipalities to differentiate among other types of real and personal property." [CGS § 12-122a](#) allows municipalities with separate municipal taxing districts to establish a uniform city-wide mill rate only for motor vehicles. A court could cite this statute as proof that municipalities need explicit statutory authority to tax real property at different rates. Nonetheless, the attorney general concluded that the statutes "should be clarified by the General Assembly" ([Attorney General's Opinion 2006-002](#)).

## Constitutional Challenge

If the legislature adopted a statute allowing municipalities to tax absentee-owned property at a higher rate than other property, an absentee landlord could challenge the statute on constitutional grounds, but court rulings in other states suggest doing so would be difficult. "States have very wide discretion in laying out their taxes. They may classify some property for taxation; may set up different modes of assessment, valuation, and collection; and may tax some lands or property at a higher rate than others, all without offense to the Constitution" (*71 Am Jur 2d, State and Local Taxation*, § 79).

Consequently, the absentee landlord would have to show that the differential tax rate is "unreasonable or arbitrary and clearly, palpably, and plainly violates the Constitution." To meet this challenge, he or she would have to prove that the higher rate is "hostile and oppressive against particular persons or classes" and is not based on any reasonable distinction or difference in state policy (*71 Am Jur 2d, State and Local Taxation*, § 116).

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