1971

The Property Tax--A Withering Vine

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Recommended Citation

Available at: https://uknowledge.uky.edu/klj/vol60/iss1/12
THE PROPERTY TAX—A WITHERING VINE

I. IN THE BEGINNING

The property tax has its foundation deep within the history of civilized man. A land tax was levied in Athens as early as 596 B.C.,\(^1\) and the Holy Roman Empire used a system of land taxation to supplement the tributes received from conquered subjects.\(^2\) The medieval period in Europe witnessed a variety of taxes to gather revenue from several sources, one of which was the property tax.\(^3\) And, Adam Smith noted that the famed Doomsday Book, which achieved historical prominence as the first comprehensive census in England, was probably made to secure valuations of leases for tax purposes.\(^4\) However, the property tax did not prosper; with the passage of time the emphasis was shifted to other revenue sources such as income and consumption taxes. Today there is little remaining dependence on property tax in Europe.\(^5\)

In America the property tax was introduced to the colonies by early English settlers and its use spread throughout colonial government as a primary source of revenue.\(^6\) The early property

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\(^1\) R. Lindholm, Property Taxation USA 8 (1967).
\(^2\) Id. at 9.
\(^3\) R. Lindholm, supra note 1, at 9.
taxes were specific in nature. A property owner was taxed on the number of acres of land, slaves, or other items he owned; he was not taxed in proportion to the value of the property. Later, the ad valorem principle recognizing a system of graduated taxation became popular. This principle involved valuation of the property, with taxation at a percentage of the established value. Tax rates were then set by the governing authority so as to meet its revenue needs.

In 1792 Kentucky's first governor, Isaac Shelby, advised the Kentucky General Assembly of the necessity of raising adequate revenue for public exigencies. The General Assembly responded with its first revenue measure in June of that year. The most important provision in the act was a provision for a property tax patterned after Virginia's which involved specific valuation rather than the ad valorem approach. Specific valuation assessment under this act was quite simple since the assessor's only task was to make an inventory of the property, by amount and type, without valuing each item. During 1793, its first full year as a state, Kentucky secured more than 86 percent of its income from this source. However, specific valuation was short-lived for in that same year an ad valorem tax was enacted. This measure divided land into three classes, according to its quality, with a different tax rate for each class of property. The assessor had to determine

(footnote continued from preceding page)

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9 Id. at 28-29.

10 Id. at 28.


12 Property Tax Assessments, supra note 7, at 1.


14 Id.; History of State Revenue in Kentucky, supra note 11, at 16-17; Property Tax Assessments, supra note 7, at 1.

15 Report of the Dept. of Revenue 1950, supra note 7, at 28. "First rate land was taxed at three shillings (50 cents) per 100 acres; second rate land at one shilling, six pence (25 cents) per 100 acres, and third rate land at nine pence (12 cents) per 100 acres. The rich land of Fayette County was considered the standard for the first rate land." See also Property Tax Assessments, supra note 7, at 1.
which land belonged to a particular class, but if he could not acquire sufficient information he was to list the land as second class property. This system, while based on the ad valorem principle, nevertheless retained many aspects of specific valuation since each parcel of land was placed into one of the three categories rather than valued on an individual basis as would be done in a true ad valorem system. This method of classification was also short-lived; in 1805 the legislature arbitrarily divided all land in the state into three classes. For example, the land around Flemingsburg, Cynthiana, Lexington, and Richmond was designated as first class property.

In 1814, Kentucky accepted completely the ad valorem principle of property taxation which for the most part remains intact under present Kentucky law. All property was to be valued for taxation with the exception of certain machinery, and land was to be valued with improvements. Thereafter, new demands for revenue were met by increasing the property tax rate or by ancillary revenue measures.

Kentucky's property tax did not win acclaim during the 19th century because of various inadequacies, such as uneven assessments and the fact that a great amount of property was escaping taxation. It was not long until the cry for reform began, result-

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16 Property Tax Assessments, supra note 7, at I.
17 Id. at 1-2.
18 Id. at 2.
20 The present Kentucky Constitution provides:
All property, not exempted from taxation by this Constitution, shall be assessed for taxation at its fair cash value, estimated at the price it would bring at a fair voluntary sale; and any officer, or other person authorized to assess values for taxation, who shall commit any willful error in the performance of his duty, shall be deemed guilty of misfeasance, and upon conviction thereof shall forfeit his office, and be otherwise punished as may be provided by law. Ky. Const. § 172 (1891).
See also, Kentucky Revised Statutes [hereinafter KRS] §§ 132.440 et seq.; History of State Revenue in Ky., supra note 11, at 18.
21 See note 19 supra.
22 Property exempted from taxation included "machinery moved by steam and factories which processed hemp, cotton, flax, wool, iron, paper, and fermented and distilled spirits." Report of the Dept. of Revenue 1950, supra note 7, at 29-30.
23 Id.
24 Id. at 30.
25 One such measure was the lottery, which enjoyed some degree of popularity until its prohibition by section 226 of the Kentucky Constitution of 1891. See Report of the Dept. of Revenue 1950, supra note 7, at 31.
26 Governor after governor complained about defective assessments. In 1869 (Continued on next page)
ing, in 1886, in the first major revision of the tax laws. Yet, this reform failed to correct the major shortcomings of the property tax. The next century witnessed the establishment of various special commissions to study the problem and recommend change. The first of these commissions was the Special Tax Commission of 1906. The major recommendations of the commission's report concerned measures to secure a more complete listing of property and forfeiture of land for nonpayment of taxes. The next commission failed to recommend any constructive reform.

The third commission, the Special Tax Commission of 1912-14, was a truly professional undertaking. Its report is startling and what may best be termed precocious in its recommendations. The commission secured the services of Professor Carl C. Plehn, a professor of finance and statistics at the University of California; he had also served as the expert for the California tax commission...
of 1906, which had reformed the tax system of that state.\textsuperscript{35} The Special Tax Commission of 1912-14 in its final report\textsuperscript{38} noted that assessing property is analogous to taking an inventory of the stock in a great department store. Applying this analogy the commission asked what businessman would employ a “green” clerk for such an inventory and give him no instructions on the value of the various items and no more equipment than last year’s inventory and a list of new purchases. When the clerk had gained sufficient experience he would be replaced with another similarly inexperienced clerk.\textsuperscript{37} This was how the commission felt the property tax system operated since the tax assessor was not required to have any training, nor was any given,\textsuperscript{38} and at that time the tax assessor was prohibited from succeeding himself in office.\textsuperscript{39} The only supervision of the assessor was by the State Board of Equalization\textsuperscript{40} which actually dealt with the county clerk rather than directly with the assessor.\textsuperscript{41}

The special commission also noted that an assessor was subject to political influence in his capacity as an elected official; an efficient assessor was apt to make enemies and for that reason he was unlikely to be judged by his record for efficiency and skill \textit{as an assessor}.\textsuperscript{42} To eliminate this undesirable influence, the commission recommended that assessors be appointed under civil service rules.\textsuperscript{43} The commission attacked other inequities in the system such as the fact that the assessor had no tools to aid him in his job\textsuperscript{44} nor maps to assure that all property was included

\textsuperscript{35} Id. at 6.
\textsuperscript{36} The house resolution creating the commission required two reports: House Resolution No. 24, of the Kentucky General Assembly 1924. However, the first report was filed one month later than the date established by the General Assembly. \textit{TAXATION IN KY.}, supra n. 28, at 50.
\textsuperscript{37} \textit{REPORT OF THE SPECIAL TAX COMMISSION 1912-14}, supra note 5, at 37.
\textsuperscript{38} Id. at 36.
\textsuperscript{39} “No person shall be eligible to the office of assessor two consecutive terms.” \textit{KY. CONST.}, § 104 (1891). However, the General Assembly was given the power to abolish the office of assessor. Id.
\textsuperscript{40} Equalization is “the process by which an agency increases or decreases by a uniform percentage the assessed valuation of all property or all property of a particular class within a single tax or assessment district.” Pardue, State Supervision of the Property Tax in Kentucky (hereinafter State Supervision of the Property Tax in Ky.), 19 (Unpublished thesis in University of Kentucky, King Library 1947). For a history of the Board of Equalization in Kentucky see Id. at 21-25. \textit{See also TAXATION OF PROPERTY}, supra note 5, at 66.
\textsuperscript{41} \textit{REPORT OF THE SPECIAL TAX.COMM’N 1912-14}, supra note 5, at 36. \textit{See also TAXATION IN KY.}, supra note 28, at 103.
\textsuperscript{42} \textit{REPORT OF THE SPECIAL TAX.COMM’N 1912-14}, supra note 5, at 37.
\textsuperscript{43} Id. at 38.
\textsuperscript{44} Id. at 36.
on the tax rolls.\textsuperscript{45} Further, the commission noted that there were 120 county districts and numerous other local assessment districts, many of which were too small or too poor to provide remuneration sufficient to attract a professional assessor. These inadequate salaries resulted in attracting men who were less than competent to administer an office that required some degree of professional expertise.\textsuperscript{46} To remedy the above defects and others too numerous to mention the Special Tax Commission of 1912-14 made several recommendations and drafted legislation to enact the recommendations into law.\textsuperscript{47}

The fourth special tax commission was created in 1916.\textsuperscript{48} This commission's report was not as extensive as that of its 1912-14 predecessor, but it did recommend the creation of a central tax board to supervise the administration of property tax assessment by the county tax assessors.\textsuperscript{49}

The Kentucky General Assembly did not enact all or even most of the recommendations of the four special tax commissions, but significant improvements were made.\textsuperscript{50} In 1917 the legislature created a permanent tax commission\textsuperscript{51} which was to take over the duties of the State Board of Equalization, that had been created in 1883.\textsuperscript{52} The commission was given broad supervisory powers\textsuperscript{63} including the duty to confer with and advise the county tax assessor, county board of supervisors,\textsuperscript{54} and other county

\textsuperscript{45} The commission expressed the view that tax maps were the \textit{sine qua non} for a complete assessment of lands. The commission noted there were three reasons for the scarcity of the tax maps: (1) They were not required by law; (2) the expense involved; and (3) there was no incentive to make the maps since the assessor could serve for only one term and the map would not in all likelihood be completed by the end of his term. \textit{Id.} at 36-37.

\textsuperscript{46} \textit{Id.} at 38.

\textsuperscript{47} A summary of these recommendations is set out in the Special Tax Commission's report. \textit{See, Report of the Special Tax Commission of 1912-14, supra} note 5, at 9-11.

\textsuperscript{48} \textit{Ky. Acts}, ch. 137 at 726 (1916).

\textsuperscript{49} \textit{See generally, Kentucky Tax Commission, Report of the Kentucky Tax Commission} 4-10 (1916). \textit{See also, Taxation in Ky., supra} note 28, at 50-51; \textit{History of State Revenue in Ky., supra} note 11, at 135-36.

\textsuperscript{50} \textit{See generally, Taxation in Ky., supra} note 28, at 47-51; \textit{History of State Revenue in Ky., supra} note 11, at 127-37.

\textsuperscript{51} \textit{Ky. Acts}, ch. 1 (1917).

\textsuperscript{52} \textit{See note} 40 supra.

\textsuperscript{53} \textit{Taxation in Ky., supra} note 28, at 55-56.

\textsuperscript{54} The chief role of the County Board of Supervisors was to review the assessments of the assessor, and to make such changes as necessary to effect a fair assessment of property within the county. For a description and history of the duties of the County Board of Supervisors \textit{see} State Supervision of the Property Tax in Ky., \textit{supra} note 40, at 14-19.
officials as to their duties relative to taxation. The commission was also to supervise these officials in the performance of their duties. It was empowered to prescribe forms for tax books and other uses, and to examine any books and papers of taxpayers deemed necessary for the purposes of assessment or taxation. The permanent tax commission was to direct legal steps to be taken for failure to comply with the tax laws and to effect the removal of local tax officials for misconduct. The legislature also provided that the commission was to conduct an annual conference for the county tax assessors which all county assessors were required to attend.

From its inception the permanent tax commission advocated further property tax reform, thereby serving as a continuing legislative research commission in the area of taxation. In its first report, in 1917, the commission recommended that provisions be enacted to remove the office of county tax commissioner from the political arena by making the position an appointed one rather than elective. In 1923, the commission recommended single assessment for all assessment districts within a county.

Another reform enacted by the Kentucky General Assembly occurred in 1918 when the office of county tax assessor was abolished and replaced by the county tax commissioner. The commissioner remained as an elected official, but, unlike the assessor, was allowed to succeed himself in office. This reform attempted

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57 Taxation in Ky., supra note 28, at 55.
61 The county tax assessor was from 1792 until 1850 appointed by the county court. Since 1850 he has been elected by popular vote. The assessor's term of office has varied from ten months to four years. History of State Revenue in Ky., supra note 11, at 9.

The Kentucky Constitution provides:
The general assembly may abolish the office of assessor and provide that the assessment of property shall be made by other officers; but it shall have power to re-establish the office of assessor and prescribe his duties. No person shall be eligible to the office of assessor two consecutive terms. Ky. Const. § 104.

Apparently the legislature relied on that part of the constitution as provided above,
to correct a flaw of the prior system which, as the 1912-14 commission had noted, did not allow the continuance of experienced personnel in the office of tax assessor. There was also added the requirement that candidates aspiring for the new office pass an examination prescribed by the state tax commission before such candidate could be elected as a tax commissioner. With few other exceptions the tax commissioner performed generally the same duties as did his predecessor.

As the demand for government service in all areas increased, a corresponding increase in demand on revenue was felt. This latter demand was met by the imposition of a state-wide tax on gross receipts. At the same time the state levy on real estate was reduced to a nominal rate to relieve property owners of their heavy tax burden. For one year the sales tax was the mainstay of the state government, but it produced public opposition and in 1936 was repealed as part of a sweeping reform of the state tax system. In its stead, a tax on individual and corporate income was levied. In addition, consumer taxes were placed on such items as alcoholic beverages, cigarettes, amusements and utility receipts. These new taxes subsequently came to domi-

(footnote continued from preceding page)

that allowed the office of the tax assessor to be abolished, to enact legislation that would permit the assessor to succeed himself in office. See Ky. Stat. § 4042a-1 (Carroll’s vol. III, 1918). The legislature acted again in 1968 to change the title of the office of tax commissioner to property valuation administrator. KRS § 132.370(1)(2) (1968). Apparently a change in title was all that was affected by this action. Cf. KRS §§ 132-370 et seq. (1960).


See KRS § 132.380 (1960) (the original statute was Ky. Stat. § 4042a-11 (Carroll’s 1918)). This method of qualifying an assessor for office is considered by tax authorities as a compromise between the elective method of selecting assessors (i.e. by popular vote) and the appointive method (i.e. the assessor is selected under civil service rules or by other appointment procedures). See Subcomm. On Tax Assessments of the North Central Land Tenure Comm., Improving Property Assemsments in the Midwest 3-29 (1954).

See History of State Revenue in Kentucky, supra note 11, at 10.


Ky. Stat. § 4019 (Carroll’s 1934).


See Ky. Stat. §§ 4281v-1 et. seq. (Carroll’s 1936).

See Ky. Taxes and Fiscal Policies, supra note 11, at 2; Report of the Dept. of Revenue 1950, supra note 7, at 27.


Ky. Stat. §§ 4281c-1 et. seq. (Carroll’s 1936).

Ky. Stat. §§ 4281f-1 et. seq. (Carroll’s 1936).

Ky. Stat. §§ 4281f-1 et. seq. (Carroll’s 1936).

nate the revenue of the state,\textsuperscript{75} and property tax receipts dropped from 27 percent of the revenue, in 1930, to ten percent in 1948.\textsuperscript{76} In addition to these changes, the Government Reorganization Act of 1936\textsuperscript{77} created the Department of Revenue\textsuperscript{78} to assume the role of administering the tax laws. Previously the Administrative Reorganization Act of 1934\textsuperscript{79} had created a Department of Revenue and Taxation for the purpose of a limited administration of revenue laws.\textsuperscript{80} The 1934 act had continued the functions of the Kentucky State Tax Commission,\textsuperscript{81} but the Governmental Reorganization Act of 1936 made the tax commission chiefly a review board for tax assessments\textsuperscript{82} and granted the administrative duties of the tax commission to the Department of Revenue.\textsuperscript{83}

As a result of the changes in 1936, the state was no longer dependent on property tax.\textsuperscript{84} Severing the state from its dependency on local revenue sources was not a new concept nor

\begin{footnotes}
\footnote{75 See REPORT OF THE DEPT. OF REVENUE 1950, supra note 7, at 37.}
\footnote{76 Id. at 32-33. There are charts here showing the sources of revenue within Kentucky for various periods from 1793 to 1950.}
\footnote{77 KY. STAT. §§ 4618-68 et. seq. (Carroll's 1936) (This reorganization should not be confused with the less far reaching Administrative Reorganization Act, KY. STAT. §§ 4618-1 et. seq. (Carroll's 1934)).}
\footnote{78 KY. STAT. §§ 4618-91 et. seq. (Carroll's 1936).}
\footnote{79 KY. STAT. §§ 4618-1 et. seq. (Carroll's 1934).}
\footnote{80 KY. STAT. §§ 4618-30 (Carroll's 1934).}
\footnote{81 KY. STAT. §§ 4618-31 (Carroll's 1934).}
\footnote{82 KY. STAT. §§ 4618-93 (Carroll's 1934).}
\footnote{83 Id. (The commissioner of the Department of Revenue was also to be the head of the tax commission in its new role.) See also DEPT. OF REVENUE, 18th ANNUAL REPORT DEPT. OF REVENUE COMMONWEALTH OF KY. 1935-36, Preface (1936). The first commissioner of the Department of Revenue, James W. Martin notes here that:}
\footnote{84 See note 76 supra. In the tax year 1960-61, the property tax contributed less than six percent of general fund revenue. KY. DEPT. OF REVENUE, 25TH ANNUAL REPORT 1960-61, 74 (1961).}
\end{footnotes}
was it peculiar to Kentucky. A partial separation of revenue had occurred in Great Britain as early as 1888, and in 1901, a Royal Commission had recommended a complete separation from local financing. In America, the first state to adopt a system of separation was Delaware. Nor was 1936 the first attempt in Kentucky at separation; a property classification system adopted by the General Assembly in 1917 had achieved a similar effect.

While its importance to the state has greatly decreased, property tax remains a chief source of revenue for local government in Kentucky. Growth of municipal government and expanding educational needs have created new and increased demands for additional revenue. Because of the continuing reliance on property tax it remains in the forefront of the news, as local governments turn to it in vain for this needed revenue. Kentucky is not alone. Throughout the nation attention has centered on the property tax as a source of the ills gripping urban governments and under-financed educational institutions.

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85 Martin, Aspects of the Movement Toward Separation of Sources of State and Local Revenue, Taxes at 3 (Jan.-Feb. 1933).
86 Id.
87 Id. at 4; History of State Revenue in Ky., supra note 11, at 137. This classification was allowed only after a Constitutional amendment in 1915. Ky. Const. § 171. This amendment has been recommended by the Special Tax Commission of 1912-14. See Report of the Special Tax Comm'n of 1912-14, supra note 5, at 70-97. This was one of the few recommendations of the Special Tax Commission enacted into law. Cf. Report of the Dept. of Revenue 1950, supra note 7, at 35.
89 While the amount of property tax revenue has been increasing the increase has not been in proportion to the increased needs of local government and schools. Ky. Dept. of Revenue, Annual Report 1963-64, at 25 (1964). Another department of revenue report stated:

The property tax is the financial mainstay of local governments. At the same time it is perhaps the weakest link in the Kentucky tax system.

The Committee on Functions and Resources of State Government has described the financial plight of local government in Kentucky as "fast approaching the crisis state." Ky. Dept. of Revenue, These Are Your Tax Dollars 5 (1953).
90 See, e.g., Time, May 3, 1971 at 81-82; The Wall Street Journal, Jan. 15, 1971, at 1, Col. 6; The Wall Street Journal, Dec. 29, 1971, at 1, Col. 6. One author noted the property tax, nationwide, accounted for about seven-eights of local governments' revenue and that state and local officials are nearly unanimous in their agreement that many primary urban problems can be satisfactorily resolved if more revenue generating sources can be tapped. Gillispie, (Continued on next page)
questions remain: should the property tax be retained and, if so, what changes are necessary to make it more effective and equitable? This note will attempt to explore and formulate an answer to these questions.

II. CONTINUANCE OR ABANDONMENT?

In examining the validity of any tax it is necessary to examine the principles upon which the tax is based. From Adam Smith91 to present day tax theorists,92 writers have criticized the property tax because of its failure to conform to sound principles of taxation. In 1776, Adam Smith wrote that:

The subjects of every state ought to contribute towards the support of the government, as nearly as possible, in proportion to their respective abilities.93

(Footnote continued from preceding page)

The Property Tax and Urbanization, 21 Ad. L. Rev. 319-30 (1969). See also L. Ecker-Racz, The Politics and Economics of State-Local Finance [hereinafter Politics of State-Local Finance] 76 (1970). The author there notes that nationally the property tax produced about 87% of all locally collected tax dollars, and that this average has remained stable for a number of years; though noting that the average on a state by state basis varied from 51.2% to 99.6%.

91 SMITH, WEALTH OF NATIONS 787 (Random House ed. 1937).

A land tax assessed according to a general survey and valuation, how equal soever it may be at first, must in the course of a very moderate period of time, become unequal. To prevent its becoming so would require the continual and painful attention of government to all the variations in the state and produce of every different form in the country. The governments of Prussia, of Bohemia, of Sardinia and of the duchey of Milan, actually exert an attention of this kind; an attention so unsuitable to the nature of government, that it is not likely to be of long continuance and which if it is continued, will probably in the long run occasion much more trouble and vexation that it can possibly bring relief to the contributors. Id.

92 See, e.g., Politics of State-Local Finance, supra note 90, at 77 (1970) P. Taylor, The Economics of Public Finance [hereinafter Economics of Public Finance] 285 (1953). One author has stated that "[t]he general property tax as actually administered is beyond all doubt one of the worst taxes known in the civilized world." E. SELIGMAN, ESSAYS IN TAXATION 61 (1911). Another authority has stated: "The defects of the property tax are, it would appears, beyond remedy." R. LINDHOLM, PROPERTY TAXATION U.S.A. 424 (1967).

93 SMITH, WEALTH OF NATIONS 777 (Random House ed. 1937). In addition to this principle, Smith sets out the following maxims.

The tax which each individual is bound to pay ought to be certain, and not arbitrary. The time of payment, the manner of payment, the quantity to be paid, ought all to be clear and plain to the contributor, and to every other person. Where it is otherwise, every person subject to the tax is put more or less in the power of the tax gatherer, who can either aggravate the tax upon any obnoxious contributor, or extort by the terror of such aggravation, some present or prerequisite to himself.

Every tax ought to be levied at the time, or in the manner, in which it is most likely to be convenient for the contributor to pay it.

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But the property tax may not actually reflect the ability to pay of those persons assessed with the tax.\textsuperscript{94} The usual meaning of the "ability to pay" principle of taxation is that, in the last analysis, income is the most important source of tax payments and therefore taxes should be apportioned according to the income received.\textsuperscript{95} Thus, in the context of applying the ability principle to property tax, it must be assumed there is a definite relationship between property values and the income of taxpayer before the ability principle can be said to be present.\textsuperscript{96} This means the value of property would have to approximate a capitalization of either its actual or potential income yield.\textsuperscript{97} However, while there may be a correlation between value and capitalization of income for some forms of property, not all property income can be capitalized at the same rate.\textsuperscript{98} Insofar as capitalization rates vary, property taxes will impose unequal burdens upon different incomes.\textsuperscript{99} Thus, property taxes may fall with unequal weight on enterprises of different types since the amount of property required to earn a dollar of net income may vary from industry to industry and even from firm to firm.\textsuperscript{100} In the essentially simple economies from which the property tax had its origin, property could be taken as a satisfactory index of ability to pay; but as the economy became more complex, property tax became a poor index of income as the correlation between the amount of income and value of property owned diminished.\textsuperscript{101} This lack of correlation can be readily seen in service industries where the amount of capital required to earn a dollar is minimal as compared to industries such as the railroads where capital investment is many times

\footnotesize{(Footnote continued from preceding page)

Every tax ought to be so contrived as both to take out and to keep out of the people as little as possible, over and above what it brings into the public treasury of the state. \textit{Id.} at 777-778.

\textsuperscript{94} \textit{See}, \textit{Economics of Public Finance}, \textit{supra} note 92, at 305-07; \textit{Taxation of Property}, \textit{supra} note 5, at 7 (1930); \textit{Ky. Taxes and Fiscal Policies}, \textit{supra} note 11, at 18-19.

\textsuperscript{95} \textit{Taxation of Property}, \textit{supra} note 5, at 7; \textit{See also} \textit{Ky. Legislative Research Comm'n, Problems of Additional General Fund Revenue} 13 (1956).

\textsuperscript{96} \textit{Taxation of Property}, \textit{supra} note 5, at 7.

\textsuperscript{97} \textit{Id.}.

\textsuperscript{98} \textit{Id.} \textit{See also} \textit{Taxation in Ky.}, \textit{supra} note 28, at 87; \textit{Economics of Public Finance}, \textit{supra} note 93, at 305; \textit{Ky. Taxes and Fiscal Policies}, \textit{supra} note 11, at 18-19.

\textsuperscript{99} \textit{Taxation of Property}, \textit{supra} note 5, at 7.

\textsuperscript{100} \textit{Id.}; \textit{Taxation in Ky.}, \textit{supra} note 28, at 85-87.

\textsuperscript{101} \textit{Economics of Public Finance}, \textit{supra} note 93, at 304-05; \textit{cf.}, \textit{Report of the Dept. of Revenue, 1950} \textit{supra} note 7, at 28; \textit{Ky. Taxes and Fiscal Policies}, \textit{supra} note 11, at 18.
higher per dollar of earned income. Further, the ability principle implies the existence of available income for tax payments, but this principle ignores the reality that "the large family should have a large house and yet the capacity to pay taxes is clearly not indicated by the size (assessed value) of the house." The property tax also fails to comply with another of Adam Smith's principles of taxation—"simplicity of administration." Administration has been the single most important factor that has caused the property tax to become inequitable. Administrators, because of the elective nature of their office, may be motivated by political influence in assessing property rather than by professional principles of property valuation. Then too, the tax is not convenient, as Adam Smith suggested it should be, for taxpayers to pay; it necessitates payment in lump sums, rather than a less painful, gradual withholding of tax. Thus, the taxpayer is required to accumulate or borrow sufficient funds to meet this lump sum payment which may be most inconvenient, especially if he does not have sufficient liquidity to accommodate such payments. Further, the property tax is not (compared to other taxes) an economic one to administer as, again, Adam


103 Economics of Public Finance, supra note 93, at 305. See also Ky. Taxes and Fiscal Policies, supra note 11, at 18-19; Politics of State-Local Finance, supra note 90, at 77.

104 See note 91 supra.


107 See note 93 supra.

108 Politics of State-Local Finance, supra note 90, at 77. See also The Wall Street Journal, Jan. 15, 1971, at 1, col. 6.
Smith suggested it should be. To illustrate, in 1964 the Kentucky Department of Revenue spent some four million dollars to administer some 300 million dollars of nonproperty taxes while state and local governments, combined, spent about six million dollars to administer a mere 130 million dollars of property taxes.\textsuperscript{109}

Today there are additional principles of taxation gaining acceptance throughout the United States that further indicate the incompatibility of the property tax with any theoretical justification for its continued existence. One such principle may be best termed the "economic effect." This principle holds that a tax should not be designed to kill the goose that laid the golden egg, i.e., the tax should not financially cripple the taxpayer or drive him out of business or out of the taxing authority's jurisdiction.\textsuperscript{110} The property tax may discourage beneficial activities and encourage undesirable ones.\textsuperscript{113} An example, of special concern to urbanologists, is that property tax is thought to contribute to urban blight,\textsuperscript{114} suburban sprawl and disappearing open spaces.

\textsuperscript{109} See note 93 supra.

Everyone will agree that the cost of tax compliance and enforcement should be kept as low as possible. Generally speaking, a tax system consisting of a few highly productive taxes is more desirable from this point of view than a tax system with a multiplicity of taxes, each entailing separate compliance and enforcement costs. \textit{Ky. Legislative Research Comm'n, Problems of Additional General Fund Revenue} 16 (1956).

\textsuperscript{110} \textit{Ky. Dept. of Revenue, Property Tax Problems and Possible Solutions} 4 (1964).

This disparity of economies in the administration may be reduced by improvements in property tax assessment at the local level. \textit{See note 197 infra} and accompanying text.

\textsuperscript{113} E.g. A California assemblyman stated he expected a number of his fellow legislators to join him in opposing the enfranchisement of eighteen years olds in state election contests because the assemblymen were uncertain of the effect of the eighteen year old vote on property owners who are bearing the burden of taxation in California. Courier-Journal (Louisville), Feb. 7, 1971, \textsection A, at 12, Col. 6. The property tax may also contribute to zoning laws that exclude low cost housing from the suburbs and thereby contribute to racial and economic segregation. \textit{See The Wall Street Journal}, Nov. 27, 1970, at I, col. 6. \textit{See also A. Becker, LAND AND BUILDING TAXES} 135 (1969).

\textsuperscript{114} "Urban blight is in part, the deterioration of industrial commercial and residential structures." Stickney, \textit{Coming of Age in America: The Need for Property Tax Reform} 21, Ad. L. Rev. 325, 327-28 (1969).

One proposal designed to minimize urban blight is site valuation. This method of assessment values the property as if it were unimproved, i.e. the assessed value of a parcel is based on locational advantages and other characteristics of the land such as its development possibilities. It is thought that site valuation would remove the present tax disincentive on building investments and would increase

(Continued on next page)
The tax is thought to discourage high density land use in urban areas of high property tax rates and to encourage escape to urban

(Footnote continued from preceding page)
the returns on investments in improvements. However, site valuation has its critics as some authorities feel that it cannot produce sufficient revenue to replace the present tax. Id. at 331-337. Such a system does encourage high density land use but vacant lot owners in urban areas will be forced to bear an onerous burden until development is accomplished. Pittsburgh adopted a compromise between site valuation and a traditional system. Improvements were taxed at 50% of the rate for land. However the results have not been viewed as entirely successful. Id. at 338-339. See also, PROPERTY TAX REFORM supra note 2 at 115-118.

In 1969 the Kentucky Constitution was amended to provide:
Notwithstanding contrary provisions of Sections 171, 172, or 174 of this Constitution—
The General Assembly shall provide by general law for the assessment for ad valorem tax purposes of agricultural and horticultural land according to the land value for agricultural or horticultural use. The General Assembly may provide that any change in land use from agricultural or horticultural to another use shall require the levy of an additional tax not to exceed the additional amount that would have been owing had the land been assessed under Section 172 of this Constitution for the current year and the two next preceding years.
The General Assembly may provide for reasonable differences in the rate of ad valorem taxation within different areas of the same taxing districts on that class of property which includes the surface of the land. These differences shall relate directly to differences between non-revenue-producing governmental services and benefits giving land urban character which are furnished in one or several areas in contrast to other areas of the taxing district.—Ky. CONST. § 172A (1891) (as amended).
The General Assembly promulgated statutes to effectuate the provisions in the above amendment. KRS § 132.010 was amended to define agricultural and horticultural lands (and other terms pertinent to changes in the amendment dealing with these lands). KRS § 132.450 was amended to provide in effect that agricultural and horticultural lands (as defined in KRS § 132.010, and used as such for five years) for taxation by all assessing units must be taxed on its current use and not its projected or potential use (e.g. commercial or residential use) in the future. These provisions would appear to prevent site valuation of agricultural and horticultural lands. (This statute has met recent attack from timber owners who protect that timber should not be taxed annually as is agricultural land because timber is harvested only every 80 or 40 years. See Courier-Journal (Louisville), Feb. 25, 1971, § B at 13, col. 1.
The second paragraph of § 172A supra, was promulgated in KRS 82.085, which provides:
(1) The legislative body of each city of the first, second, third, fourth, fifth, and sixth class may provide by ordinance, for reasonable differences in the rate of ad valorem taxation within different areas of the same taxing district on that class of property which includes the surface of the land. Those differences shall relate directly to differences between non-revenue-producing governmental services and benefits giving the land urban character which are available in one or several areas of a taxing district in contrast to other areas of the same taxing district in which those services and benefits are not available.
(2) These non-revenue-producing governmental services and benefits shall include, but not be limited to police protection, fire protection, streets, street lighting, sidewalks, water service, and sewer facilities.
(3) This section shall be effective notwithstanding any other statute relating to the uniformity of ad valorem tax assessment.—KRS 82.085 (Balwinds Supp. 1970).
This provision would appear to allow a form of site valuation in cities that would be related to the government services made available to the land rather than a site valuation based on potential use of the land.
fringe areas where property tax rates are lower and thereby contributing to suburban sprawl.\textsuperscript{115} Further, since valuation of the property will be increased by any improvements to the property, the property tax may discourage improvements because of the increased cost to property owners making improvements,\textsuperscript{116} which may in turn lead to urban blight, as buildings decay without maintenance and improvement.\textsuperscript{117}

Another accepted principle of taxation may be referred to as the "yield principle." This theory would require that a tax be flexible enough to allow municipalities to produce more or less revenue, as needed.\textsuperscript{118} The property tax with ceiling rates established by constitution\textsuperscript{119} or statute\textsuperscript{120} does not provide such flexibility.\textsuperscript{121} This inflexibility is further increased by the fact that the assessor may use the assessment process to thwart any increase in rates by simply assessing at less than full market value.\textsuperscript{122}

Still another theory of taxation is the "benefit principle" which would place the cost of government services on those who receive the benefits of the service.\textsuperscript{123} For this principle to be satisfied, in the context of the property tax, the benefits received from government would have to be proportionate to the property holdings of the taxpayer.\textsuperscript{124} Such a premise ignores the fact that all property is not socially or economically homogeneous.\textsuperscript{125} Nevertheless, justification for the property tax has come to rely

\textsuperscript{116} "The tax on improvements to land has the following effects: It reduces (1) the total volume of such improvements because demand falls when the tax is passed on, in part to its occupants; (2) probably the extent of concentration in central cities ... (3) the density of improvements ..." A. BECKER, LAND AND BUILDING TAXES 115 (1969). See also TIME, May 3, 1971, at 82 col. 3: The Wall Street Journal, July 20, 1971 at I, col. 6.
\textsuperscript{117} See 21 AD. L. REV., supra note 115, at 327-28.
\textsuperscript{118} KY. TAXES AND FISCAL POLICIES, supra note 11, at 7. See also POLITICS OF STATE-LOCAL FINANCE, supra note 90, at 77.
\textsuperscript{119} See, e.g., KY. CONST. § 157 (1891).
\textsuperscript{120} See, e.g., K.R.S. §§ 132.010, 020, 023, 200 (Baldwin's 1969).
\textsuperscript{121} POLITICS OF STATE-LOCAL FINANCE, supra note 90, at 83.
\textsuperscript{122} The Department of Revenue noted that constant pressure was required to prevent locally made assessments from falling below the level of the preceding year. KY. DEPT. OF REVENUE, 20th ANNUAL REPORT 1937-38, at 10 (1938). Cf. POLITICS OF STATE-LOCAL FINANCE, supra note 90, at 83.
\textsuperscript{123} POLITICS OF STATE-LOCAL FINANCE, supra note 90, at 7. See also ECONOMICS OF PUBLIC FINANCE, supra note 93, at 305.
\textsuperscript{124} TAXATION OF PROPERTY, supra note 5, at 6.
\textsuperscript{125} TAXATION IN KY., supra note 28, at 86-87.
on the benefit principle.\textsuperscript{126} Property tax advocates list such benefits as police and fire protection, streets, sidewalks, sewers, garbage, snow removal, and public education as being benefits peculiar to property owners.\textsuperscript{127} In contrast opponents of the tax argue that, while these benefits do benefit property owners, it can no longer be said that they accrue peculiarly to property, because in today’s commuter society such public benefits are principally general in nature.\textsuperscript{128}

Perhaps the real basis of the property tax today is a mixture of tradition,\textsuperscript{129} legislative inertia\textsuperscript{130} and lack of an alternate revenue source\textsuperscript{131} rather than any accepted theoretical principle of taxation.\textsuperscript{132} Such reasons are hard to justify in view of the fact that local governments throughout the United States are being driven to bankruptcy by the continuance of this outmoded, inefficient and ineffective method of taxation.\textsuperscript{133}

The greatest obstacle to elimination of the property tax, and thus perhaps the principle reason for its continuance, is the difficulty of finding an alternative revenue source.\textsuperscript{134} Today the problem of inadequate revenue for local government has reached the forefront of American politics both on the state\textsuperscript{135} and national level.\textsuperscript{136} On the federal level, the Nixon Administration has been promoting a plan of revenue sharing involving the return of

\textsuperscript{126} \textit{Economics of Public Finance, supra} note 33, at 305.
\textsuperscript{127} \textit{Id.}
\textsuperscript{128} \textit{Id. See also Taxation in Ky., supra} note 28, at 87; \textit{Taxation of Property, supra} note 5, at 6. (It is noted here that usually there can be found no direct relationship between the performance of governmental functions and the market values of property); \textit{Politics of State Local Finance, supra} note 90, at 77.
\textsuperscript{129} \textit{See Politics of State Local Finance, supra} note 90, at 77; \textit{Economics of Public Finance, supra} note 93, at 306.
\textsuperscript{130} \textit{Economics of Public Finance, supra} note 93, at 313.
\textsuperscript{131} \textit{Time, May 3, 1971, at} 83, col. 1.
\textsuperscript{132} \textit{See Economics of Public Finance, supra} note 93, at 295.
\textsuperscript{134} \textit{See Politics of State Local Finance, supra} note 90, at 78. \textit{See also} note 131 supra. \textit{For a brief discussion of possible attentatives see Property Tax Reform supra} note 2, at 118-20.
\textsuperscript{135} \textit{See} note 133 supra. Consumer Advocate Ralph Nader has launched a nationwide project to uncover inequities in the property tax and deficiencies in its administration. \textit{Courier-Journal (Louisville), Nov. 8, 1970, § A at 8, col. 1; see} \textit{Property Tax Reform, supra} note 2, at 103-05.
\textsuperscript{136} \textit{The property tax has caused such concern in Congress that Senator Edmund Muskie’s subcommittee on intergovernmental relations plans to hold hearings on the property tax in several cities. Time, May 3, 1971, at 81. See Property Tax Reform, supra} note 2, at 103-05.
federally collected funds to local governments to be used with minimum federal restrictions. The merits of this plan are debatable and beyond the scope of this note. Suffice it to say that this revenue sharing plan demonstrates the present inability of local governments to raise revenue sufficient to meet governmental demands; the implication of such an observation is that the property tax, on which most local governments depend, is insufficient to meet their present needs.

137 See Politics of State-Local Finance, supra note 90, at 191. This plan was first advanced by Walter Heller in 1964 who was then chairman of the President's Council of Economic Advisors. It was subsequently examined in depth by a presidential task force chaired by Joseph Pechman of the Brookings Institute. This is why the plan is frequently cited as the Heller-Pechman plan. Id. at 186.

138 See, e.g., Courier-Journal (Louisville), June 20, 1971, § A, at 2, col. 4; N.Y. Times, March 23, 1971, at 18, col. 1. The chief opponent of the plan is representative Wilbur Mills of the powerful House Ways and Means Committee, on whose support the plan may depend. See N.Y. Times, Jan. 27, 1971, at 1, col. 6. The ranking minority member of the Committee Rep. John Byrnes also opposed the plan and along with Mills has stated that hearings will be held to kill the plan. N.Y. Times, Jan. 26, 1971, at 1, col. 4. As an alternative Rep. Mills has proposed a "piggy-backing" scheme in which the states could collect an income tax equal to any specified percentage of the federal income tax paid by state residents. See, Courier Journal & Times (Louisville, Ky.) July 5, 1971, § A, at 1, col. 3 [Two Kentucky School districts are planning to piggyback a surtax on the state income tax. See, Courier-Journal (Louisville, Ky.) July 31, 1971, § A, at 5 col. 3.].

139 The search for alternate revenue sources has taken some rather strange courses as witnessed by the following report:

Like most other states, Rhode Island is in financial trouble. A proposed personal income tax, the state's first, might help, but it has also promoted general rancor. Democratic State Legislator Bernard Gladstone whimsically hit upon an idea to solve the fiscal crisis. He introduced a bill to abolish the income tax and instead exact a $2 levy upon every act of sexual intercourse performed in the state. Banking on either gallantry, male chauvinism or both, Gladstone suggested that only men should pay, and on a voluntary basis. Otherwise, he speculated, tax inspectors might find the law difficult to enforce. By some inscrutable formula, Gladstone announced that for every male Rhode Islander, his tax would bring in $2 a week. Before long the outcry against Gladstone's "bad taste" was loud enough to force him to withdraw his modest proposal. Which may be a shame. As things go in local and state government, Gladstone's sex tax is not only original, but, with proper promotion, might have become more productive than lotteries. Time, Jan. 25, 1971, at 10, col. 2.

New York in its search for alternative revenue sources has established a lottery. N.Y. STATE FINANCE LAW § 92-C (McKinney 1971). Also, an Off-Track Betting Corporation was instituted in New York City. N.Y. UNCONSOL. LAWS § 8081 (McKinney 1971). (For an account of off track betting see The Wall Street Journal, July 19, 1971 at 3, col. 6;]; there is also a "hot dog tax" on meals of less than one dollar. See The Wall Street Journal, Aug. 4, 1971, at 1, col. 5. South Carolina has enacted a 20% levy on admission to X-rated movies. The state expected to collect $274,000 a year. See The Wall Street Journal, July 7, 1971, at 1, col. 5. Oregon, perhaps unable to find an alternate revenue source, is eliminating a property tax exemption for disabled veterans of the Mexican War, Civil War, and Indian Wars. See The Wall Street Journal, July 14, 1971 at 1, col. 5. New Mexico has apparently just experienced a windfall in relation to an existing tax:

(Continued on next page)
Since income is universally accepted as the best indication of ability to pay and is one of the more efficient and convenient taxes to administer, local governments have been increasingly taxing incomes as a means of supplementing property tax revenue. However, before a local government can acquire dependence on an income tax it must contend with the ever present limitation on government taxation—taxpayer resistance. Documentation is not necessary to establish the courage and tenacity of American taxpayers in opposing taxes they believe to be unjust or onerous; the Revolutionary War serves as an example. Thus, while the withholding of taxes from a taxpayer's wage envelope

(Footnote continued from preceding page)

Almost 2 million horses in nine states have been vaccinated against a mosquito-borne form of sleeping sickness blamed for the deaths of thousands of horses in the United States and Mexico.

An Associated Press survey yesterday showed inoculation programs under way in Texas, Louisiana, Oklahoma, Arkansas, New Mexico, Florida, California, Arizona and Mississippi. The U.S. Department of Agriculture said similar programs will begin in Alabama and Georgia later this month. 

The inoculation program produced at least one unexpected result. New Mexico discovered it had more horses than it thought. The state recorded only 24,245 horses last year in its tally for the annual tax on livestock. But 70,000 horses already have been inoculated and the State Livestock Board estimates the total will be 80,000 or 90,000.

A tax assessor said, "We plan to get a record of each shot. We're going to have a very good account of where these horses are and why they're not being taxed."

The average tax valuation for a horse is $30, the assessor said, and the tax is about 90 cents in most counties.


See note 95 supra; POLITICS OF STATE-LONGAL FINANCE, supra note 90, at 47; KY. TAXES AND FISCAL POLICIES, supra note 11, at 19.

Cf. note 110 supra and accompanying text. The four million dollar administrative cost figure there includes the administrative cost of the income tax.

POLITICS OF STATE-LONGAL FINANCE, supra note 90, at 48.

Louisville adopted the first local income tax in Kentucky in 1948, and 18 other Kentucky cities by 1967 had followed suit. (One other city levies a 1% tax on the net profits of businesses and professions.) See KY. LEGISLATIVE RESEARCH COMM., RESEARCH REPORT No. 44, STATE AND LOCAL TAXES ch. 1, at 5 (1967).

The following account is of a much more contemporary approach for those opposing unpopular taxes:

Tax protest groups in Pennsylvania plan to pass the hat for contributions outside factory gates tomorrow, where many workers get their first paychecks with the state's new income tax withheld. The protestors say the money will be used to challenge the tax in court. 

This determined resistance apparently met with success as the Supreme Court of Pennsylvania has declared this income tax to be in violation of Pennsylvania's constitution. The state appears to be facing a financial crisis as a result because monies collected under the income tax have already been spent by the state. See
is one of the least painful methods of taxation, at some point the income tax will become highly visible. The results, then, will be taxpayer resistance, especially in view of the fact that the taxpayer is free to examine his weekly wage statement. To avoid taxpayer resistance one tenet of tax policy has long been to seek revenue from several alternate sources. A principle reason for such a policy is to conceal from the taxpayer the amount of taxes he actually pays. Therefore, while theoretically the income tax may be the most desirable alternative, it may not as a practical matter be available to local governments on a scale sufficient to maintain governmental services.

Because wealth today may no longer be reflected by a taxpayer's property holdings, alternative revenue sources of a more equitable nature become increasingly desirable. These alternatives, however, must be closely examined for problems of their own, aside from natural taxpayer resistance. For example, how will a suburban bedroom community efficiently collect an income tax when most of its residents derive their income outside

(Footnote continued from preceding page)

Other states are considering removing the financing of school systems from local control because of the rising anti-tax attitude at the local level. See The Wall Street Journal, July 14, 1971, at 28, col. 1.

See generally W. Schultz, American Public Finance 315 (3d ed. 1946); Politics of State-Local Finance, supra note 90, at 38. One current Kentucky gubernatorial candidate has described this principle in the context of Kentucky Taxation as:

- The tax system was devised like a man going about the plucking of a goose . . . they tried to get the most feathers with the least squawking.

Taxpayer resistance appears to be alive and well in Kentucky. The loser of the last Democratic gubernatorial primary attributed his loss to the fact that the people believed he would increase taxes if elected. See Courier-Journal (Louisville), May 26, 1971 § A, at 1, col. 4. See also Id., July 19, 1971, § A, at 6, col. 1; Id., July 31, 1971, § A, at 5, col. 3. (This report makes note of an expected showdown with the General Assembly over the financial crisis in the schools that is due in part to the inability to raise taxes by referendum). Cf. Nat'l Educ. Ass'n in Kentucky: A Legacy of Unkept Promise 108 (1971).


The income tax is thought of as the most equitable tax as those who are most able to pay will be those who bear the greatest tax burden. See Ky. Legislative Research Comm'n, Problems of Additional General Fund Revenue 13 (1956).
its authority to direct payroll withholding? If this obstacle is overcome, might not the suburbanite be subjected to two local tax levies: one from the community where he resides, and another from the place where he works? Possibly revenue sharing with the state or federal government is the answer, but in any event such problems must be considered.\footnote{151}

The need for a stable revenue source for local governments is one of the major domestic problems facing the United States today.\footnote{152} State and local government officials are nearly unanimous in their agreement that many urban problems can be resolved if sufficient revenue can be obtained.\footnote{153} To meet this challenge, sophistication and maturity is demanded of taxpayer and legislature alike in recognizing the primary needs of local

\footnote{151 Such an examination may involve comparison of alternative revenue sources, \textit{e.g.}, the Kentucky Legislative Research Commission examined the advantages of a corporate income tax as opposed to a property tax. The commission noted the property tax fell with unequal weight on enterprises of different types since the amount of property required to earn a dollar of net income varied from industry to industry and from firm to firm. The commission also noted that property taxes are fixed costs that are payable whether or not profits are being earned while the corporate income tax is payable only by concerns which have something left over after their costs. \textit{KY. LEGISLAT. RESEARCH COMM’N PRELIMINARY DRAFT NEW REVENUE SOURCE vi} (1956).}

\footnote{152 See note 133 supra.}

\footnote{153 Gillispie, \textit{The Property Tax and Urbanization} 21 Ad. L. Rev. 319, 320 (1969).}
government for additional revenue and in recognizing the unsuitability of the property tax for raising the needed funds. The Kentucky Department of Revenue noted that tax legislation is the fountainhead of more demagoguery than any other public question. There is no place for emotional appeals to the baser instincts of the taxpayer if a realistic and workable system of taxation is to be developed. The Kentucky General Assembly displayed such maturity in 1936 when the state government was removed from dependence on the property tax. If the state with all its resources could not obtain sufficient revenue to provide adequate government services, how can the limited resources of local governments be expected to do so? There are, of course, the political repercussions of eliminating the jobs of some 120 elected county officers (not to mention their staff) employed in the property tax system. The political influence of these county officials should not be underestimated, but at some point the breakdown in local services and inadequacies in the educational system must outweigh the value of the employment of these county officials.

However, if abandonment of property tax is found to be impossible because of lack of alternate revenue sources or because of political repercussions, there are a number of improvements that would possibly eliminate the more blatant inequities in the existing administration of the property tax.

III. IF NOT ABANDONMENT, THEN REFORM

Perfect equity within an ad valorem property tax system may be unattainable. Even the most ardent advocate of the tax would concede this point. Nevertheless, greater uniformity is possible

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154 DEPT. OF REVENUE, REVENUE ADMINISTRATION IN KY. 9 (1948).
155 See note 69 supra.
156 The power of these officials may be illustrated by the fact that a recent gubernatorial candidate in the democratic primary, to overcome his pro-tax image, chose as a campaign plank the continuation of the property valuation administrator as an elected official rather than advocating making the position appointive. Cf. Courier-Journal (Louisville), May 24, 1971, § A, at 7, col. 2. And a former governor of Kentucky, who is an independent candidate in the next election for governor, has adopted, as part of his platform, the return to local governments of complete control over property taxation. Courier-Journal (Louisville), July 14, 1971, § B, at 1, col. 1.
157 See, KY. TAX REVISION COMM’N, FINAL REPORT 41 (1946); KY. DEPT. OF REVENUE SPECIAL REPORT NO. 3, ASSESSMENT OF REAL PROPERTY IN KY. COUNTIES 11 (1939).
if the legislature would correct a number of defects in the present system. Of these defects, the more important ones will be discussed below.

A. The Assessor

The fundamental flaw of the ad valorem property tax, and most basic reform needed, relates to the elective position of the tax commissioner. The commissioner being an elected officer is subject to intense political pressure from his constituents to lower assessments. Property owners may hold the assessor politically responsible for any increase in their property taxes which results from a decision to raise assessments. Yet, the assessor’s duty was never to determine the amount of the tax, his job was only to list the property and to assess it at fair market value. The amount of the tax is determined by the tax rate established by the tax levying authorities who are subject to constitutional and statutory limits on the rates to be applied. Due to this misdirection of political responsibility, the assessors tend to freeze assessed valuations, taking the position that the local taxing authorities can raise the tax rates if additional property tax revenue is needed to meet budgetary requirements. This leads to an intolerable situation where the assessment district, because of low assessments and increasing demands for revenue, raises its tax rate to the limit allowed by law. At that point revenues are frozen and the assessor becomes in effect the government budget officer who may regulate revenue by raising or lowering his assessments to increase or decrease the assessment district’s income.

159 See note 106 supra.
160 KY. DEPT. OF REVENUE, 20th Annual Report 1937-38 at 11 (1938). The Supreme Court of the United States noted at an early date that local assessing officials were notorious for undervaluing property. See Bi-Metallic Investment Co. v. State Bd. of Equalization, 239 U.S. 441, 445 (1915).
161 KY. DEPT. OF REVENUE, Property Tax Problems and Possible Solutions 5 (1964).
163 See note 119 supra.
164 See note 120 supra.
165 See note 162 supra.
167 KY. DEPT. OF REVENUE, These are Your Tax Dollars 5 (1952). See also, Politics of State-Local Finance, supra note 90, at 83.
In order to remove the undesirable influence of politics from the assessment of property, the assessor should be appointed rather than elected.\textsuperscript{168} This recommendation is certainly not new; such a change was advocated by the Special Tax Commission of 1912-14.\textsuperscript{169} That commission recommended abolishing the office of tax assessor and replacing it with the office of district tax commissioner. The commissioner would be appointed and subject to civil service rules.\textsuperscript{170}

Perhaps foreseeing the necessity and desirability for such a change, the Kentucky Constitution conveniently paves the way in section 104 by providing in part:

The General Assembly may abolish the office of assessor and provide that the assessment of property shall be made by other officers; but it shall have power to re-establish the office of assessor and prescribe his duties.\textsuperscript{171}

The General Assembly made use of this provision in 1918 by abolishing the office of county assessor and replacing it with the office of county tax commissioner.\textsuperscript{172} This change of title permitted the new officer to be eligible for re-election,\textsuperscript{173} as section 104 also prohibited the county assessor from succeeding himself.\textsuperscript{174} By permitting succession in office it was thought that the tax commissioner could cumulate experience and develop expertise that would otherwise be lost if re-election were denied.\textsuperscript{175} Another change in the office was the requirement that each candidate for the office pass an examination prepared by the permanent state tax commission to assure the candidate was qualified for office.\textsuperscript{176} This provision, coupled with a requirement to keep the county commissioner's office open at all reasonable times, has proved to be effective in reducing the political influence in property assessment.

\textsuperscript{168} Leading assessors throughout the country, the U.S. Intergovernmental Advisory Commission and the International Association of Assessing Officers advocate an appointive system for assessors. KY. DEPT. OF REVENUE, PROPERTY TAX PROBLEMS AND POSSIBLE SOLUTIONS 4 (1964). See also, TAXATION OF PROPERTY, supra note 5, at 55; KY. STATE TAX COMM'N, FINAL REPORT 27 (1917); KY. DEPT. OF REVENUE ANNUAL REPORT 1964-65 at 28-29 (1965); Courier-Journal (Louisville), Nov. 8, 1970, § A at 8 col. 1.

\textsuperscript{169} REPORT OF THE SPECIAL TAX COMMISSION OF 1912-14, supra note 5, at 38.

\textsuperscript{170} Id.

\textsuperscript{171} KY. CONST. § 104 (1891).

\textsuperscript{172} KY. STAT. § 4042a-1 (Carroll's vol. III, 1918).

\textsuperscript{173} KY. STAT. § 4042a-2 (Carroll's vol. III, 1918).

\textsuperscript{174} KY. CONST. § 104 (1891).

\textsuperscript{175} See REPORT OF THE SPECIAL TAX COMM'N OF 1912-14, supra note 5, at 35-37.

\textsuperscript{176} KY. STAT. § 4042a-11 (Carroll's vol. III 1918).
times,\textsuperscript{177} was designed to assure professional competence of the assessing officer and to elevate the position from a mere part time to a full time job.\textsuperscript{178} Another change came in 1968 when the title of the county tax commissioner was changed to that of property valuation administrator.\textsuperscript{179}

None of these changes, however, have removed the political pressure from the assessors; they must continue to face the electorate every four years\textsuperscript{180} to atone for any past sins such as raising assessment levels to meet the constitutional requirement of assessment at fair market value.\textsuperscript{181} Nor does the qualification test taken by candidates for the office assure a continuing or even initial professional competence of the assessor, since a professional education is not needed to pass the examination.\textsuperscript{182} Making the assessors' office appointive for a term of years would eliminate the most blatant political pressures while simultaneously encouraging the recruitment of professional assessors to fill the new position. Professional training and expertise would be of more value to an appointed official than political maneuvering, if the position is a career opportunity under civil service rules rather than a mere rung on the political ladder. The new officer should

\textsuperscript{177} Ky. STAT. § 402a-12 (Carroll's vol. III 1918).
\textsuperscript{178} Cf. REPORT OF THE SPECIAL TAX COMM'N OF 1912-14, supra note 5, at 38-39.
\textsuperscript{179} KRS §§ 132.370(1), (2) (1968). However, bills were introduced in the General Assembly in 1962 to make the office appointive. H.B. 476; S.B. 245. See Ky. DEPT. OF REVENUE, ANNUAL REPORT 1963-64 at 25-26 (1964).
\textsuperscript{180} KRS § 132.370(2) (1968). However, bills were introduced in the General Assembly in 1962 to make the office appointive. H.B. 476; S.B. 245. See Ky. DEPT. OF REVENUE, ANNUAL REPORT 1963-64 at 25-26 (1964).
\textsuperscript{181} Ky. CONST. § 172. In Russman v. Luckett, 391 S.W.2d 694 (Ky. 1965), the Kentucky Court of Appeals stated that thereafter this constitutional provision must be positively complied with.
\textsuperscript{182} The Kentucky Commissioner of Revenue stated to the Kentucky Education Association:

that these examinations are "of such comprehensiveness that less than half of those participating are able to pass. In the 1969 examinations only 171 of 421 taking them secured passing grades." Despite this test requirement, neither the salaries offered to tax assessors nor their status as elected officials would encourage the development of professional expertise and the qualities of independent judgment essential for this position. The minimum amount that a county property valuation administrator can earn is $4,500 per annum; the maximum salary is $13,500, except in counties having a property assessment of more than $200 million, excluding the value of livestock and farm machinery. The minimal salary levels offered by many counties are not likely to attract the most experienced and professionally competent personnel. NAT'L EDUC. ASSN IN KENTUCKY A LEGACY OF UNKEEPED PROMISES 103-04 (1971).

The county tax commissioner is neither a professional tax administrator nor a professional appraiser. Under the elective system, most tax commissioners lack the incentive and training to do the systematic, scientific job essential to equitable assessments. KY. DEPT. OF REVENUE, PROPERTY TAX PROBLEMS AND POSSIBLE SOLUTIONS 5 (1964).
be under the supervision and control of the Department of Revenue. This would assure coordination and prevent rivalries between county and state officials that presently exist.\(^{183}\) The new officer's deputies and assistants should be selected through civil service channels to prevent their positions from becoming patronage plums for party faithfuls who might be incompetent to fill such positions. Thus, a needed step toward uniformity of assessments is the removal of undesirable political pressures to assure increased professional competence and assessments determined by value rather than the political influence of property owners.

B. The Assessment District

The second major reform needed to further uniformity of assessments is to increase the size of the assessment district.\(^{184}\) Each county in Kentucky is an assessment district and each county elects a property valuation administrator to administer the assessment of property within the county.\(^{185}\) There are also other assessment districts, such as school districts and municipalities, that may or may not use the county assessment when levying taxes.\(^{186}\) The result is needless duplication and unnecessary expense when the separate taxing units each employ their own assessors to list and assess the same property.\(^{187}\)

As a practical matter duplication of assessments can be attributed to the political influences on the county assessor that

\(^{183}\) Cf. Commonwealth ex. rel. Luckett v. Monson, 465 S.W.2d 719 (Ky. 1971). Professional competence may also prevent another flaw in the administrative process involving the tendency to overassess small property—compared to large properties. Cf. Taxation of Property, supra note 5, at 7; Taxation in Kentucky, supra note 26, at 100. (The author notes the Special Tax Commission of 1916 in Kentucky found such a tendency in assessing these smaller properties.); Ky. Dept. of Revenue, 22nd Annual Report 38 (1940); Ky. Dept. of Revenue, Special Report No. 3 Assessment of Real Property in Kentucky Counties 30 (1939); Ky. Taxes and Fiscal Policies, supra note 11, at 13-19. (This report stated this underassessment as compared to large properties may be due to the fact that the assessor is more familiar with properties of lower value).

\(^{184}\) See Taxation of Property, supra note 5, at 53; Politics of State-Local Finance, supra note 90, at 48; Report of the Special Tax Commission of 1912-14, supra note 5, at 38; Nat'l Educ. Ass'n in Ky.: A Legacy of Unkept Promise 103 (1971).

\(^{185}\) KRS § 132.370(1) (1968).

\(^{186}\) A city may by ordinance elect to use the county assessments for city property but the city must contribute to the expense of the county office. KRS § 132.285(1) (1966).

\(^{187}\) Ky. State Tax Comm'n, 6th Annual Report 17 (1923); Taxation of Property, supra note 5, at 88-89.
cause the county assessments to be less than the fair market value. When the property is assessed below fair market value the property may not provide the needed revenue for the local tax unit when that unit is levying the tax at the maximum rate allowed by law. At that point the only way to increase the local unit's revenue is by a higher assessment, which is obtained by the local unit's own assessors rather than by using the county assessments. Thus, the property may have more than one fair market value when the county assessment differs from that of another governmental subdivision contained within the county. This discrepancy would seem to be a clear violation of the Kentucky Constitution. All tax units should be required to use the same assessment data. The low assessments of the county assessor (being the result of political pressure) can be rectified by making the county assessor an appointed official. When the assessment is made by a professionally qualified assessor, his decision should be the only fair market value of the property, subject of course to a review process. The assessor's duty is to list and assess the property at its fair market value, not to determine the amount of the tax. Therefore, the counties and other assessment districts will be deprived of nothing but unnecessary expense and unequal treatment if they are required to rely solely on professional assessments made by a tax assessor who is professionally qualified and free from political motivations. However, the problem is greater than one of duplicate assessments alone.

Kentucky presently has 120 counties varying in size, geography, population and development. Many of these counties are too small to be effective assessment districts. Assessment districts should be large enough to achieve economics of scale and to provide a sufficient collection of revenue to justify paying the higher salary that would be necessary to attract professionally qualified assessors. To avoid the unnecessary expense of the small district and to allow the hiring of professional qualified

190 See KY. LEGISLATIVE RESEARCH COMM’N REPORT NO. 44, STATE AND LOCAL TAXES ch. 2, at 4 (1967).
191 REPORT OF THE SPECIAL TAX COMMISSION OF 1912-14, supra note 5, at 51.
192 Id. at 51-52; POLITICS OF STATE-LOCAL FINANCE, supra note 90 at 80; STATE SUPERVISION OF THE PROPERTY TAX IN KY., supra note 40, at 9.
assessors, the assessment district could be increased to an optimal size by joining several counties into an economically sound unit. The constitution prohibits the splitting of county lines and, therefore, any district would necessarily have to include entire counties. More importantly, counties should not be divided in making such a district because the district’s function would be to supply the county with assessments and not to make the assessments for the district’s own use. The Special Tax Commission of 1912-14 recommended that the state be divided into some fifteen assessment districts each headed by a district tax commissioner who would be the legal deputy of the Department of Revenue and be appointed to his office. The size of districts recommended by the special commission was arrived at through the consolidation of the thirty-four judicial districts, but the commission felt the problem of drawing up the districts should be ultimately resolved by a permanent tax commission, which would now be the Department of Revenue. The commission felt that this recommendation should be enacted into law and then changed by legislative amendment as economic conditions and assessment problems dictated. Perhaps determination of the size of the districts should best be left entirely with the Department of Revenue since the Department would be familiar with the assessment problem of the counties, from many years of supervision under the present system, and could make adjustments as needed. Such authority would allow desirable flexibility in making adjustments for population and other fluctuations without the need for legislative action each time a change became necessary.

Under this new system of district assessments there would be a number of districts composed of several counties and local governmental units. The local units, whether county, municipal or school district, would levy their taxes at a rate authorized by law, but the taxing unit would rely on the district tax commissioner to supply the assessments made with some professional competence undiluted by political influence. The taxpayer would no

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193 See Ky. Const. § 64 (1891) (A county may be split upon a majority vote to that effect by residents of the county).
195 Id.
196 Id.
longer be confronted with the anomalous and undesirable situation of having two or more fair market values for his property when separate assessments are made by different governmental units. As already noted, another benefit would be the reduction of the high cost caused by duplication of assessments.197

C. Tax Maps

Another urgently needed reform concerns the completion of tax maps for the entire state.198 Tax maps are made through the use of aerial photographs. The photographs are made into a composite and all acreage tracts are measured, with the owner's name and address being obtained by field agents.199 The map assures the assessor that he has an accurate inventory of all property.200

The importance of tax maps can be well illustrated by a look at Kentucky tax history. The Special Tax Commission of 1912-14 estimated that 1.9 million acres of land were escaping taxation out of a total land area of 25.7 million acres.201 After publication of these facts, it would seem that the condition would have been corrected. However, instead of a reduction, 834,269 more acres escaped taxation in 1918 than had in 1912.202 Nor did matters improve substantially in the next thirty years. A 1950 Department of Revenue publication notes that: "Finding all property sounds simple, but there are one and a quarter million acres of Kentucky land not on the tax rolls of any county."203 A 1945 survey of land ownership in Kentucky had found one county assessing 51 percent more land than could actually be found in the county while another county had only 65 percent of its land listed for assessment.204 In Magoffin County alone 70,000 lost acres were added to the tax rolls and the over listing of more than 3,000 acres

197 See note 110 supra and accompanying text.
201 Report of the Special Tax Comm'n of 1912-14, supra note 5, at 211.
202 See Taxation in Ky., supra note 28, at 90.
was corrected in Garrard County through the use of tax maps.\textsuperscript{205} A Marshall County project revealed that approximately 12 percent of the land in the county could not be found listed on the tax rolls.\textsuperscript{206}

Today tax mapping projects for the counties can be instituted only upon the request of the fiscal courts in the individual counties.\textsuperscript{207} Even though the state bears the expense of such projects, including the cost of personnel, only 41 counties had completed or had underway a tax mapping project as of June 30, 1969.\textsuperscript{208} Property that escapes taxation places a heavier burden on those properties that are listed and thereby creates inequalities that should not be tolerated in any tax system.\textsuperscript{209} A taxpayer's burden of taxation should be disproportionate only for strong reasons of policy (such as his greater ability to pay) not because he has been fortunate enough to go undetected by the tax assessor. Tax mapping would effectively correct this situation and it should be made the duty of the Department of Revenue to assure prompt and accurate completion of maps for the entire state.

D. Research and Development

The Department of Revenue, during 1969, undertook a pilot-project to determine the feasibility of computerizing some property tax procedures. The procedure concerned the preparation of the tax rolls and bills. Five counties were chosen for the project and a contract was made with a private corporation to do the data processing. The Department reported that the new methods were both economical and efficient. The experiment was considered so successful that the same company was to prepare property tax bills in 62 counties in 1970.\textsuperscript{210} There are of course other innovations as yet untried to which the Department could direct itself in the future. A complete analysis of the tax administration system by a competent private firm would be desirable though possibly futile; under the present arrangement between the county property valuation administrators and the Department,

\begin{footnotes}
\item[205] Id.
\item[206] KY. DEPT. OF REVENUE, ANNUAL REPORT 1959-60 at 7.
\item[207] See KRS § 132.605 (1942).
\item[208] KY. DEPT. OF REVENUE, ANNUAL REPORT 1968-69 at 46-47.
\item[209] KY. DEPT. OF REVENUE, GUIDE TO PROPERTY ASSESSMENT 2 (1950).
\item[210] KY. DEPT. OF REVENUE ANNUAL REPORT 1968-69 at 45-46. See also A. LYNN, THE PROPERTY TAX AND ITS ADMINISTRATION 45 (1963).
\end{footnotes}
the county official is autonomous and may not be receptive to efficiency arguments because of the political influences that may hamper his decision.

E. Taxpayer Appeals

A taxpayer should be given a simple means to appeal any assessment of his property which he feels is inequitable or incorrect. The appeal should initially be to an administrative board. The board should be independent of the assessment process to avoid any possible conflicts of interest. The appeal procedures should be simple and informal to allow the taxpayer to initiate the appeal and argue his case before the board without incurring the often prohibitive cost of an attorney. Appeal from the board’s decision should be to the circuit court and from there to the Court of Appeals. This process would have broad appeal to disgruntled taxpayers as it would give them their day in court (or at least a day before the board) without great expense.

F. Tax Exemptions

The property tax is characterized, as are many revenue measures, by various exemptions for certain groups or individuals. The Kentucky Constitution established several such exemptions.212

211 POLITICS OF STATE-LOCAL FINANCE, supra note 90 at 80.
212 The Kentucky Constitution provides:
There shall be exempt from taxation public property used for public purposes; places actually used for religious worship, with the grounds attached thereto and used and appurtenant to the house of worship, not exceeding one-half acre in cities or towns, and not exceeding two acres in the country; places of burial not held for private or corporate profit; institutions of purely public charity, and institutions of education not used or employed for gain by any person or corporation, and the income of which is devoted solely to the cause of education, public libraries, their endowments, and the income of such property as is used exclusively for their maintenance; all parsonages or residences owned by any religious society, and occupied as a home, and for no other purpose, by the minister of any religion, with not exceeding one-half acre of ground in towns and cities and two acres of ground in the country appurtenant thereto; household goods of a person used in his home; crops grown in the year in which the assessment is made, and in the hands of the producer; and all laws exempting or committing property from taxation other than the property above mentioned shall be void. The General Assembly may authorize any incorporated city or town to exempt manufacturing establishments from municipal taxation, for a period not exceeding five years, as an inducement to their location. KY. CONST. § 170 (1891).
In November of 1971 the voters of Kentucky will pass on a proposed addition to the above exemptions, viz. "A homestead, which is a single-unit residential

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Their theoretical justification is that the organizations or activities not being taxed are a general public benefit or are otherwise deserving of exemption. However, one authority feels that exemptions from property tax, as those in the Kentucky Constitution, have become so large, loose and inconsistent as to cause hardship on other property owners. He based his views on estimates that some 600 billion dollars of real estate, comprising nearly one-third of the total taxable property in the United States, is not taxed at all. The loss in revenue is estimated to be $310 per year per family in the United States. To prevent abuses and to ease hardships on local governments with shrinking tax bases, the legal definition of exempted property should be narrowed. For those exemptions allowed, the state should be required to reimburse local governments for the resulting tax loss, since the local government's need for revenue may outweigh its need to encourage charitable and religious organizations.

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property maintained by the owner, who is sixty-five years of age or older, as his personal residence, up to the assessed valuation of sixty-five hundred dollars on said residence and contiguous real property, except for assessment for special benefits" Ky. Acts. ch. 186, at 688 (1970).


214 See TIME, May 3, 1971 at 81, col. 3.

Cities with an unusually high proportion of tax-exempt land likewise find it difficult to raise adequate revenue through the property tax. The plight of Newark, N.J., may be the most desperate of any American city. Mayor Kenneth A. Gibson told the congressional Joint Economic Committee, Jan. 23, 1971, that Newark anticipated a deficit equal to 43 per cent of its current operating budget despite a property tax of $8.44 per $100 assessed valuation—one of the highest in the nation. Around 60 per cent of the land area of the city—including Newark Airport—is tax-exempt.

Almost exactly the same proportion of land in the District of Columbia, 60.2 per cent, is exempt from taxation but the city government receives a contribution from Congress each year to offset part of the loss of revenue from federal property. In New York City, where 34 per cent of the property is tax-exempt, such an enormous commercial structure as the Chrysler Building falls into this category. "Owned by the Cooper Union for the Advancement of Science and Art," Harold B. Meyers commented in Fortune, "the world's third-tallest building is tax-exempt—a towering symbol of what is coming to be recognized as a national scandal."

Americans United for Separation of Church and State, a Washington-based foundation, sponsored an analysis of the 1967-68 tax rolls of 14 cities to try to determine how much potential revenue is involved in tax-exempt property. Extrapolating from the figures for those cities, Dr. Martin A. Larson and his collaborator in the study, Dr. C. Stanley Lowell, concluded that at least 32.6 per cent of the real estate in the United States—$569 billion worth—was exempt from property taxation. Had the property been taxed, it is estimated, local government collections would have been $12 billion fatter in 1968. PROPERTY TAX REFORM, supra note 2, at 108-09.

Perhaps the least justifiable exemptions are those made to industry as an inducement to locate within the taxing jurisdiction. The Kentucky Constitution\(^{216}\) allows municipal tax authorities to exempt manufacturing establishment from the ad valorem property tax for up to five years.\(^{217}\) These constitutional exemptions, and any \textit{ad hoc} concession through unauthorized underassessments, have drawn much criticism from advocates of tax reform.\(^{218}\) The Kentucky Department of Revenue noted in its 1948 annual report that industry, induced to locate in the state through tax favors, is not worth the price. Responsible concerns prefer a location where there will be assurance that an established industrial firm will not have to bear more than its equitable portion of the tax load while new concerns are receiving favored treatment.\(^{219}\) Property taxes raise the cost of production and are payable whether or not profits are earned. If manufacturers are required to bear these fixed costs, stability is a must for accounting forecasts used in planning decisions.\(^{220}\) A Kentucky legislative research commission noted that taxes on industry and on other productive activities should be regulated with a view toward promoting the long run economic interest of all the people of the state.\(^{221}\) The commission noted that tax concessions to new industries increase the tax load on established concerns, discouraging expansion.\(^{222}\) Further the commission felt a prospective industry so weak as to require a tax concession would not be very promising for the future of Kentucky.\(^{223}\)

\(^{216}\) Ky. Const. \S\ 170 (1891).
\(^{217}\) The Constitution provides for the General Assembly to authorize any incorporated town or city to make such exemption. \textit{Id.} This was done by the General Assembly in KRS \S\ 91.260(3) for cities of the first class which provides:
\begin{quote}
The Board of Alderman may by ordinance exempt manufacturing establishments from city taxation for a period not exceeding five years as an inducement to their location within the city limits. See KRS \S\ 92.300 for similar treatment of cities of other than the first class.
\end{quote}
\(^{219}\) Ky. Dept. of Revenue, Revenue Administration in Ky. 9-10 (1948).
\(^{222}\) \textit{Id.} at 14-15.
\(^{223}\) \textit{Id.}

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Another aspect of the exemption problem—exemptions for religious property—was the subject of a recent Supreme Court decision. In *Walz v. Tax Commission of New York*,224 the Court upheld the validity of state property tax exemptions for religious property used solely for religious worship. The Court upheld the exemption after looking to the history of the first amendment's prohibition against establishment of religion by the government.225 Oddly enough the Court rejected the argument that exemptions are constitutional because of the good work churches perform for society. The court felt such a test would lead only to greater entanglement of government with religion. The Court upheld the exemption on the basis of the degree of interference, noting that elimination of tax exemptions would expand church-state involvement in the areas of tax valuations, liens and foreclosures. The exemptions were not found to be subsidies to the church as the Court felt they were merely incidental to preventing excessive church-state entanglements.226 In *Diffenderfer v. Central Baptist Church*,227 a three judge federal court relied on *Walz* to find that a commercial enterprise of the defendant church, exempted from taxation, did not violate the establishment clause of the first amendment.228

These decisions, while upholding the validity of exemptions for church property, do not offer sufficient assurance that such exemptions are desirable. Church exemptions do offer indirect support to parochial schools which, in turn, relieve taxpayers of a sizeable tax burden.229 But other exemptions, such as those for the profit making activities and large land holdings of some churches, are not so easily justified.230 Further, those using the church property consume government services, as when traveling to church on city streets that must be maintained at the city's

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The influx of industry in Kentucky may even result in negative benefits because it fails to provide sufficient revenue (directly or indirectly) to meet the additional demand for government services resulting from the addition of the industry to the community. See, Garrison, Economic Import of New Industry on Small Towns (unpublished thesis in University of Kentucky, King Library 1947).

225 Id. at 677, 684.
229 Id. at 137.
expense. Thus, these exemptions shrink the tax base while encouraging further demand for government services. Perhaps these exemptions can be justified by the desirability of the church's role in the community. But when the government is facing bankruptcy because of an inadequate tax base, the question may well be whether prayer or additional revenue best fills the community's immediate needs.

IV. Conclusion

From a theoretical standpoint, the property tax is hard to justify. For the most part, its longevity is a phenomenon of history. Again theoretically, as the basis for wealth has shifted from real to personal property, the old forms of taxation should give way to newer ones. But in a practical vein, finding an alternative revenue source to the property tax creates new problems. Not only must taxpayer resistance be overcome, but new administrative techniques must be found. Because of the radical changes involved in abandoning the property tax, a compromise (at least initially) may be more palatable. This would consist of reforming the present system. From improvement of the administrative functions, such as assessors and assessment district, to changes in basic policy, as with exemptions, the areas of reform are many.

In the final analysis, many of the problems of our communities today are linked inextricably with the revenue available for their solutions. Sophistication and maturity of taxpayer and legislature alike is needed in recognizing the fiscal needs of local government. Whether the property tax remains, is abandoned or reformed, the citizenry of Kentucky must pay the bill.

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