

A COMMISSION REPORT

State Constitutional
and Statutory Restrictions on
Local Taxing Powers



ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS
OCTOBER 1962

A-14

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Washington 25, D. C.

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P R E F A C E

Public Law 86-380 places on the Advisory Commission on Intergovernmental Relations the duty, among others, to recommend, within the framework of the Constitution, the most desirable allocation of governmental functions, responsibilities, and revenues among the several levels of government; and to recommend methods of coordinating and simplifying tax laws and administrative practices in order to achieve a more orderly and less competitive fiscal relationship between the levels of government and to reduce the burden of compliance for taxpayers.

This report on "State Constitutional and Statutory Restrictions on Local Taxing Powers" is concerned with the powers of local governments to tax themselves to finance their activities. It is the last of three studies the Commission has undertaken of the restrictions imposed upon local governments by State constitutions and statutory provisions. The other two reports are: State Constitutional and Statutory Restrictions on Local Government Debt, issued in September 1961, and State Constitutional and Statutory Restrictions Upon the Structural, Functional, and Personnel Powers of Local Governments, scheduled for publication in December 1962.

In this report the Commission traces the historical development of constitutional and statutory restrictions on local property and nonproperty taxes, describes the pertinent legal provisions in the several States and respectfully submits to Governors and State Legislatures a number of guidelines for improving the ability of local governments to meet local revenue needs through the taxation of local resources.

This report was adopted at a meeting of the Commission held in Seattle on October 12, 1962.

Frank Bane
Chairman

WORKING PROCEDURES OF THE COMMISSION

This statement of the procedures followed by the Advisory Commission on Intergovernmental Relations is intended to assist the reader's consideration of this report. The Commission, made up of busy public officials and private persons occupying positions of major responsibility, must deal with diverse and specialized subjects. It is important, therefore, in evaluating reports and recommendations of the Commission to know the processes of consultation, criticism, and review to which particular reports are subjected.

The duty of the Advisory Commission, under Public Law 86-380, is to give continuing attention to intergovernmental problems in Federal-State, Federal-local, and State-local, as well as interstate and inter-local relations. The Commission's approach to this broad area of responsibility is to select specific, discrete intergovernmental problems for analysis and policy recommendation. In some cases, matters proposed for study are introduced by individual members of the Commission; in other cases, public officials, professional organizations, or scholars propose projects. In still others, possible subjects are suggested by the staff. Frequently, two or more subjects compete for a single "slot" on the Commission's work program. In such instances selection is by majority vote.

Once a subject is placed on the work program, a staff member is assigned to it. In limited instances the study is contracted for with an expert in the field or a research organization. The staff's job is to assemble and analyze the facts, identify the differing points of view involved, and develop a range of possible, frequently alternative, policy considerations and recommendations which the Commission might wish to consider. This is all developed and set forth in a preliminary draft report containing (a) historical and factual background, (b) analysis of the issues, and (c) alternative solutions.

The preliminary draft is reviewed within the staff of the Commission and after revision is placed before an informal group of "critics" for searching review and criticism. In assembling these reviewers, care is taken to provide (a) expert knowledge and (b) a diversity of substantive and philosophical viewpoints. Additionally, representatives of the American Municipal Association, Council of State Governments, National Association of Counties, U. S. Conference of Mayors, U. S. Bureau of the Budget and any Federal agencies directly concerned with the subject matter participate, along with the other "critics" in reviewing the draft. It should be emphasized that

participation by an individual or organization in the review process does not imply in any way endorsement of the draft report. Criticisms and suggestions are presented; some may be adopted, others rejected by the Commission staff.

The draft report is then revised by the staff in light of criticisms and comments received and transmitted to the members of the Commission at least two weeks in advance of the meeting at which it is to be considered.

In its formal consideration of the draft report, the Commission registers any general opinion it may have as to further staff work or other considerations which it believes warranted. However, most of the time available is devoted to a specific and detailed examination of conclusions and possible recommendations. Differences of opinion are aired, suggested revisions discussed, amendments considered and voted upon, and finally a recommendation adopted (or modified or diluted as the case may be) with individual dissents registered. The report is then revised in the light of Commission decisions and sent to the printer, with footnotes of dissent by individual members, if any, recorded as appropriate in the copy.

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SUMMARY OF FINDINGS AND RECOMMENDATIONS

This is a report on the powers of local governments to tax the resources within their borders. In most States these powers are defined in constitutions and statutes and govern all kinds of local taxes -- those on property as well as those on income, sales, business activity, etc., the so-called nonproperty taxes.

The property tax has always been the major local revenue source and even today provides seven out of eight tax dollars collected by all local governments. Because the property tax dominates local revenue systems, restrictions on its use are a controlling factor in the ability of local governments to respond to the service needs of their citizens. For that reason this study of State restrictions on local taxing powers is largely concerned with property taxation.

Property Taxes

The findings which emerge from our analysis of the history and operation of restrictions on the property taxing powers of local governments are these:

The power of local governments to levy property taxes is subject to constitutional or statutory restrictions or both in most States. In some States statutory restrictions preceded constitutional provisions; in others the restrictions began with constitutional provisions. The few States without either of these restrictions are concentrated in New England.

The restrictions typically take the form of maximum limitations on the allowable tax rate related to the assessed (not the actual market) value of taxable property, although state-wide equalized value is occasionally specified, as in New York and Illinois. Examples have been found also of limitations on the maximum dollar amount of the local government's tax levy (Minnesota) and on the increase in its levy from one year to the next (Arizona, Colorado, and Oregon).

Although restrictions on property taxes have existed throughout the history of the tax, limitations as we know them today originated in the several States at different times after about 1870 and before 1940. Their introduction was generally associated with efforts to reduce or contain local government expenditures under the stress of depressed economic conditions. At times the desire to relieve the

tax burden on property was the primary motivation. At other times this objective was only incidental to an aroused public's dissatisfaction with the conduct of public business by local officials, i.e., a desire for "economy and efficiency" in local government. A few property tax limitations came into being as companion measures to restrictions on the borrowing powers of local governments. The legislative history, albeit incomplete, suggests also that advocates of tax rate limitations expected them to force property tax reforms upon local governments, including the abandonment of fractional for full value assessment.

The initial effect of the imposition of tax limitations was to arrest the growth of local property taxes and in some cases to reduce them, particularly where their introduction came at the beginning of a period of declining property values. The economic collapse of the 1930's produced the most recent flurry of activity aimed at limiting local property tax powers when several States enacted particularly stringent measures, generally by amending their constitutions.

Confronted with curtailed property tax revenues local governments had to cut budgets sharply, often crippling governmental services severely. In some cases total collapse of local government was averted only by increased State fiscal aid financed for the most part from new consumer taxes. Many of the State general sales taxes now in use were enacted as crash programs during the early 1930's. All seven States which imposed stringent property tax limitations in 1932 and 1933 (Indiana, Michigan, New Mexico, Ohio, Oklahoma, Washington and West Virginia) almost immediately enacted broad-based sales taxes to permit greater State participation in such functions as education and welfare and enlarged financial aid to local governments.

Although it is not feasible to isolate the effect of tax limitations from the numerous other influences which were at work, recent property tax revenue trends suggest that the long run effect of the limitations has not been substantial.

Since World War II the property tax has been exhibiting a vitality and a capacity for growth unanticipated by even its most partisan supporters. It has nearly maintained its relative position as a producer of State-local tax revenues and during the immediate past has actually forged ahead. It has almost managed to keep pace with total tax collections during a period in which many States introduced new consumer and business taxes, most increased their existing taxes, and some enabled their local governments to embark on nonproperty taxation for the first time. Annual property tax collections increased from \$5.0 billion in 1946 to \$18.0 billion in

1961. During the most recent decade property tax collections actually increased at a slightly faster rate than nonproperty taxes, and their share of total State and local tax revenue has exhibited a noticeable upward trend:

Year	Collections (in millions)			Property as percent of total
	Total	Property	Nonproperty	
1946	\$ 10,094	\$ 4,986	\$ 5,108	49.4
1948	13,342	6,126	7,216	45.9
1952	19,323	8,652	10,671	44.8
1957	28,817	12,864	15,953	44.6
1960	36,117	16,405	19,712	45.4
1961	38,861	18,002	20,859	46.3

The larger part of the postwar growth in property tax revenue, to be sure, was the result of new construction, higher property values, and improved administration. Because they had been assessing property for tax purposes at a fraction of its market value, local assessors have been able to increase the property tax base by merely raising assessment ratios. About one-third of the increase in property tax collections, however, probably represents higher tax rates.^{1/} Encouraged by favorable court decisions and liberalizing State legislation, supported by taxpayer approval at the polls, and aided by administrative ingenuity, local governments have been able to stretch tax rate limits and to develop a substantial amount of slack within them.

This generalization pertains to national and State averages which doubtless obscure numbers of taxing jurisdictions hard-pressed by tax limits. Typically, however, the governments which

^{1/} U. S. Bureau of the Census, Property Tax Assessments in the United States, Preliminary Report No. 4 of the 1962 Census of Governments (August 1962).

have experienced less than average increases in property tax collections since the War appear to have been handicapped more by a paucity of taxable resources than by tax limitations. The States with the lowest property tax rates and burdens are typically those in which per capita State and local expenditures and per capita total taxes are low. Conversely, the States with high property tax burdens are the wealthier industrial States which have tended to provide more local governmental services at a higher cost.

The fact that local governments have managed to double their property tax collections in ten years and quadruple them in twenty years despite State imposed tax restrictions does not gainsay the damaging effect of the restrictions.

They have stimulated the creation of special districts for the primary purpose of gaining additional taxing authority, aggravating the proliferation of local governments.

They have necessitated recourse to short-term financing to cover operating deficits which ultimately had to be funded.

They have encouraged long-term borrowing for activities which might have been financed out of current revenue.

They have necessitated quantities of special legislation in some States to relieve individual jurisdictions, thereby, in effect, shifting the local governing bodies' appropriating function to State legislatures.

They have impaired the ability of local officials to budget effectively where specific limitations apply to particular governmental functions.

They have imposed onerous burdens on administrative agencies and added to the already overcrowded dockets of the courts.

Finally, where property tax limitations are especially rigid and communities have reached their tax limit, assessors are often subjected to conflicting pressures from governing bodies seeking additional property tax revenue or fearing revenue losses when property values drop, and from taxpayers who wish to prevent property taxes from rising. Politically sensitive assessors

have often taken the path of least resistance and resorted to the practice of repeating assessments from year to year, disregarding value concepts which have been developed and generally accepted by the assessing profession. Furthermore, an elected assessor, with little or no responsibility to the governing body, can thwart the budget-making authorities by refusing to raise assessments or even by arbitrarily decreasing them. The assessor is thus in the policy-making position of determining the level of local government spending.

The fact that local governments have contrived to expand their property tax revenues despite State imposed tax restrictions condones neither the restrictions nor the techniques employed to circumvent them. If the case against property tax limitations on the basis of their crippling effect on local revenue is not compelling, it is all the stronger on the basis of universally accepted principles of sound public administration and the essential ingredients of our federal system of government.

The case against State imposed restrictions on the taxing powers of local governments is that they are incompatible with responsible local government responsive to the needs of a rapidly growing, constantly changing, mobile community. Furthermore, the imposition of uniform restrictions ignores the variations that exist among local governments in the demand for public services and the availability of taxable resources. The financing of civilian government (as distinguished from national defense and foreign relations) is largely a State and local responsibility. The division of these responsibilities and of the tax sources used to finance them between the State and its local governments is the individual responsibility of each State. A State evades part of that responsibility when, in the face of constant change in the relative needs of different functions and different jurisdictions and in the relative size of the different tax bases, it freezes one of the tax bases but allows all other tax bases and factors affecting revenue needs to change.

On several earlier occasions this Commission has expressed the conviction that the strength of our federal form of government as intended by the Constitution depends in large measure on the vitality of local and State governments; these governments can remain responsive to the service needs of a dynamic population only if they possess the powers and facilities essential for these tasks. Without the means to help themselves they can choose only between defaulting on the needs of their citizens or seeking relief from higher levels of government.

Local government is strongest when it is free to use its local resources to solve its problems in ways it deems appropriate. The agency for local self-determination is the freely elected local governing body operating under such general powers and with such requirements for referral to the voters as they (the voters) themselves prescribe. Governing bodies should not be diverted from their primary policy-making task by institutional arrangements which oblige them to dissipate their resources by applying their ingenuity to devise methods for circumventing State prescribed restrictions.

The comprehension level of the electorate, the competence of public officials, and the general quality of the entire apparatus of local government have made great strides since constitutional and statutory limitations on local taxation were first invented to safeguard property owners against bureaucratic and political abuse. Modern communication media provide public officials with tools to inform their constituents. An informed electorate can insist on high quality and efficient governmental performance. It no longer needs the kind of protection that is purportedly afforded by crude and cumbersome property tax limitations.

The Commission recommends the lifting of constitutional and statutory limitations on local powers to raise property tax revenues.

The case against State imposed limitations on local property tax rates revealed by our investigations is strong. Such limitations are inimical to local self-government and should be lifted. We recognize, however, that after nearly a century of custom, some States may not be prepared to release the stranglehold of these institutional practices on short notice. It may take a little time for legislators and the general public to become convinced that tax rate limitations serve no useful purpose and have great potential for mischief. Legislators' receptiveness to change will be affected also by the quality of property tax administration and of public accounting, budgeting, and reporting practices. Each improvement in these areas improves the case for lifting arbitrary tax limitations. The case will be further enhanced as public participation in the conduct of local governments becomes more widespread.

States which find it impractical to eliminate property tax limits in the immediate future are urged to consider partial steps toward relieving the pressure on their local governments. We recommend the following guidelines for liberalizing the property taxing powers of local governments:

(1) Statutory limitations are preferable to constitutional limitations.

Constitutions should be limited to governing principles, to the exclusion of administrative detail. The solution of problems generated by the accelerating pace of American society cannot await the time consuming process of constitutional amendment. We concur with the National Municipal League that: "Ideally, a constitution should be silent on the subject of taxation and finance, thus permitting the legislature and the governor freedom to develop fiscal policies for the State to meet the requirements of their time." ^{2/}

(2) Tax rate limitations, if imposed, should be in terms of the value of taxable property equalized to full market value rather than fractional assessed value.

In most States assessed valuation as distinguished from actual valuation is without legal foundation. Limitations in terms of actual value rather than assessed value, i.e., in terms of "effective" tax rates (calculated on the basis of actual property value) rather than "nominal" rates, would eliminate the influence of inter-community differences in the ratio of assessed to market values. Under the usual procedure of applying tax rate limitations to locally assessed values, the assessor is actually a policy maker, since he determines a locality's property tax revenue by determining the assessment ratio. The fixing of tax rate limitations in terms of effective rates presupposes that an appropriate State tax agency is charged with the duty of compiling valid assessment ratio data on a continuing basis so that local assessments can be equalized to full value.

(3) Broad limitations in terms of all local functions of government are likely to be less damaging than those in terms of individual specific functions.

A local governing body should be free to determine how its jurisdiction's aggregate revenue resources can be distributed most effectively among competing service needs. Specific limitation on the revenue that may be raised for particular functions interferes with orderly budgeting and handicaps good budgetary practice.

(4) Limitations on taxing powers, if imposed, should be restricted to the financing of operation and maintenance costs and should exclude requirements for servicing capital improvement debt and for pay-as-you-go capital outlays.

^{2/} National Municipal League, Salient Issues of Constitutional Revision (1961), p. 136.

Limitations on the availability of tax sources for servicing debt tend to increase the cost of borrowing, because the more comprehensive the asset backing of a bond the lower the investor's risk. This is true whether a bond issue is payable solely from the earnings of a revenue producing facility or from a limited property tax levy. Local governments with sound borrowing policies and practices have no need for limitations on debt service levies. ^{3/} Furthermore, capital improvement expenditures tend to fluctuate from year to year, and the extent of such fluctuations cannot be anticipated when limitations are set. Limitations on levies for capital improvements without parallel limitations on debt service will exert pressure for debt financing in preference to financing out of current revenue.

While requirements for capital financing should be excluded from property tax limitations, taxes levied to service short-term debt or debt issued to fund current deficits should be within the limitation. Exclusion of such taxes only encourages deficit financing.

(5) If limitations are imposed, provision should be made for relief (a) administratively by a State agency and (b) by reference to the electorate.

A property tax limitation law, however well conceived, cannot possibly allow for all the differences that exist among governments--even governments of the same type in the same State. Neither can it anticipate all future contingencies. Therefore, administrative procedures must be provided (typically a State agency) for exceeding limitations in case of a demonstrable need. Furthermore, the governing body of a community should always have recourse to its electorate if, as a result of demands made upon it by its constituents, it finds it necessary to exceed statutory limitations.

(6) The electorate should always have the authority to initiate by petition a vote on proposals to exceed prescribed tax limitations.

Where the governing body of a local government is free to avail itself of the administrative machinery recommended above for exceeding statutory limitations, the electorate should be empowered to initiate a vote on the question.

^{3/} Our recommendations on the restriction of local government debt were covered in an earlier report, State Constitutional and Statutory Restrictions on Local Government Debt (September, 1961).

(7) If property tax limitations are imposed and if governing bodies and citizens have the latitude to adjust them in compelling circumstances as we here recommend (Nos. 5 and 6), then tax limits should embrace all overlapping local taxing jurisdictions.

Local governments vary considerably in their needs and the taxable resources available to meet them. We believe, however, that an overall limitation embracing all overlapping taxing jurisdictions set at a realistic level and subject to the kinds of adjustments suggested above is likely to be less damaging to the quality of local government than a series of specific limitations applicable to different classes of local governments. An overall limit affords the possibility of varying the allocation of the total allowable levy among the several layers of government to reflect variations in program requirements and taxable resources in different parts of the State. It will also discourage the formation of special districts to evade the limitation.

The level of an overall property tax limitation and possible variations within the State should take account of the functional responsibilities vested in local governments, the way the property tax is utilized in various taxing jurisdictions, the availability of nonproperty taxes, and the role of State financial aids.

(8) Home rule charters should be exempted from the application of property tax limitations imposed by general law.

① Home rule properly embraces the responsibility for financing local government services, including the obligation to determine locally the degree of responsibility delegated to the elected officials and the limitations imposed on their taxing powers.

② It follows that wherever local governments have been granted home rule powers, their right of self-determination implicit in such a grant should not be abridged by saddling them with statewide property tax limitations.

Nonproperty Taxes

Our survey of the restrictions on local nonproperty taxes can be summarized as follows:

The use of major nonproperty taxes by local governments is a relatively recent development. A few large cities, notably New York, New Orleans, and Philadelphia, levied sales or income taxes to meet

emergency conditions in the 1930's. The rising demand for local government services after World War II to "catch up" on war-deferred needs and to provide for a rapidly growing and increasingly urbanized population sparked a rash of nonproperty tax enactments. Some of the new taxes were levied under specific legislative authority; others under the taxing powers implicit in home-rule provisions; and still others under taxing powers implied by general constitutional or statutory authorizations.

New York and Pennsylvania granted broad nonproperty taxing powers to their local governments in 1947. A few municipalities in Ohio adopted income taxes and a number of California cities retail sales taxes under local home rule or general licensing powers. Several Kentucky cities levied income taxes under occupational license powers.

Mississippi pioneered the local supplement to a State sales tax in 1950. California, Illinois, and New Mexico followed five years later and Utah in 1959. These are the five significant attempts to coordinate State and local taxes. ^{4/}

Local nonproperty taxation has been confined to a relatively small number of States and still provides only \$2.4 billion of local government tax revenue annually. This represents 12.3 percent of the tax revenue of all local governments. Except in a few States (notably Alabama, California, Illinois, New York, Pennsylvania, and Utah), local nonproperty taxation is primarily a municipal phenomenon. In 1961, about four-fifths of the revenue from this source was accounted for by cities.

General sales taxes are now used by local governments in 12 States, cigarette taxes in 9 States, and income and gasoline taxes in 6 States each. Local admissions taxes are levied in about a dozen and alcoholic beverage excises in about a half dozen States. In many States, municipalities tax also the gross receipts from local utility services, frequently under general regulatory powers rather than specific authorizations.

State constitutions are silent, in the main, on the question of local nonproperty taxes. Many, however, authorize the legislatures

^{4/} A 1961 effort in Colorado to coordinate a 2 percent local general sales tax in the four-county Denver metropolitan area to finance capital improvements was declared unconstitutional by the State Supreme Court.

to regulate local taxation. In 11 States there are no specific provisions -- either constitutional or statutory -- concerning local utilization of any of the nonproperty taxes; another six States prohibit only local gasoline taxes. Where both constitutions and statutes are silent, it has generally been assumed that localities' nonproperty taxing powers are limited to licensing.

Statutory authorizations are usually specific and carry with them limitations as to maximum rates, kinds of local governments that can use them, voter approval, and tax base. In some States (Kentucky, Michigan, and Ohio), however, local income taxes have been enacted under powers implicit in general enabling acts or home rule provisions relating to the levy of local business and occupation licenses or excise taxes. Local sales taxes have been levied in a few other States (for example, Alabama, Arizona, California, and Colorado) under similar implied powers. Others are presumed to possess such implied authority, but have not used it. Use of these implied taxing powers has generated litigation, but except where there has been clear-cut pre-emption by the State or specific statutory or constitutional prohibition against specific nonproperty taxes, local ordinances imposing them have been upheld by the courts.

In contrast to the situation noted in our analysis of property tax limitation laws, the nonproperty tax picture is considerably more clear and orderly. Thus, practically all the specific provisions concerning local nonproperty taxes are statutory, not constitutional. In this area, the States have by and large followed the sound principle of keeping administrative detail out of their constitutions. ^{5/}

Most States that have enabled their local governments to impose nonproperty taxes have restricted the authority to particular local governments and with respect to particular taxes. Pennsylvania is the conspicuous exception. It has authorized practically all local governments, except counties, to impose a wide variety of taxes. In consequence, several thousand income, admissions, per capita, and real property transfer taxes are now being collected by Pennsylvania cities, boroughs, townships, and school districts. In a number of instances, cities and school districts have established joint collection systems. New York authorizes almost as wide a variety of

5/ See recommendation (1) under "Property Taxes", above.

nonproperty taxes as Pennsylvania but is more restrictive as to which local governments may use them. It assigns prior rights to the counties for certain taxes and to cities for others. It allows joint county-city administration of any of the taxes authorized and provides for State technical assistance to localities. The New York practice, however, falls short of the coordinating influence present in the local supplement to State sales tax in use in five States which is closely akin to State-imposed taxes shared with local governments.

Under this federal system, it falls to the State to divide the responsibility for financing governmental services between its local governments and itself. That division will necessarily vary from State to State and may vary among different parts of the same State. It follows that no single taxing pattern can apply to all local governments within a State, much less to different States. The Commission's present study of State restrictions on local taxing powers and its earlier study on local nonproperty taxing powers leave no doubt, however, that State constitutions and statutes tend to restrict the taxing powers of local jurisdictions and, more particularly, that they make inadequate provision for the coordination of local nonproperty taxes. These restrictions, developed for local government conditions, practices, and problems prevalent generations ago, are no longer appropriate. Each advance toward urbanization makes them more intolerable and less compatible with contemporary needs. In the interest of strengthening local government to enable it to serve as the fulcrum of strong State government, so that it in turn may serve as the keystone of a dynamic federal system, the Commission urges upon Governors and State legislators maximum adherence to the following basic principle in granting nonproperty taxing powers to their local governments beyond those implicit in home rule provisions:

Most local governments are smaller than the economic area in which they participate and therefore are handicapped in individually making use of income, sales, excise, and similar nonproperty taxes. Accordingly, local governments should be enabled to use these taxes only where required in the interest of the desired distribution of the combined State-local tax burden among the several bases of taxation (property, income, consumption, and business activity), and more specifically, only where increasing demands for local services cannot be reasonably met from available

property tax sources or where property already bears an inordinate share of the local tax burden. Where these conditions necessitate the use of nonproperty taxes by local governments, it is incumbent upon the State to help those local governments to overcome the handicaps which necessarily attach to independently administered nonproperty taxes.

Efficiently and equitably administered, the property tax is particularly suited as a source of local government revenue. Many States are taking a fresh look at their property tax and are finding that, with improved administration, it can be made even more productive without appreciably increasing effective rates. ^{6/}

Some communities, particularly the major urban centers with rapidly growing "bedroom" suburbs, may be approaching a saturation point in property taxation. In their case the need for nonproperty taxes is self evident. With a view to evaluating the proper role of nonproperty taxes in local government financing, we recommend the following guidelines: ^{7/}

- (1) Provisions relating to the use of nonproperty taxes should be statutory rather than constitutional, and they should be specific as to the kinds of taxes authorized, the particular local governments authorized to use them, their structure (tax base, exemptions, etc.), and administration.

As stated earlier, details of tax administration have no place in constitutions -- whether they relate to property taxes or to nonproperty taxes. If local governments were given specific authorization to levy certain well-defined nonproperty taxes, they would not need to resort to general licensing or home rule powers in imposing new taxes with the attendant threat of litigation. Furthermore, specific authorization as to kinds of taxes, their structure, and their administration minimizes the variety that otherwise develops.

^{6/} The Commission's recommendations on the administration of the property tax are currently being formulated.

^{7/} Recommendations marked with an asterisk (*) were contained in our earlier report, Local Nonproperty Taxes and the Coordinating Role of the States (September 1961).

- (2) The electorate should always have the authority to initiate by petition a vote on proposals for new nonproperty taxes.

Principles of local self determination require that the authority granted local governing bodies to enact nonproperty tax ordinances and to prescribe the detailed provisions of these taxes consistent with their enabling legislation should be paralleled by authority for the voters to initiate by petition a referendum on the question.

- (3)* Individual States' tax policy should aim to limit local government to the more productive taxes.

Local jurisdictions should be discouraged from levying many kinds of taxes, none of which produces enough to warrant reasonably good enforcement. Extensive tax diversification is not practicable at the local level, especially in the smaller jurisdictions. Current experience suggests that income and general sales taxes are appropriate only for large jurisdictions; admissions and cigarette taxes, as well as gross receipts taxes on local utility services may well be suitable for smaller jurisdictions; and areas frequented by tourists and other transients may find admissions and hotel occupancy taxes practicable.

- (4)* The case for most nonproperty taxes is strongest in the large urban places.

Even in large urban places nonproperty taxes are best imposed cooperatively by a group of economically interdependent jurisdictions. Therefore, the city and the other major jurisdictions comprising an economic area should be provided with uniform taxing powers and authority for cooperative tax enforcement. The States should take active leadership in promoting the pursuit of coordinated tax policies and practices by these economically interdependent jurisdictions.

- (5)* In States where a particular tax, such as the sales or income tax, is in widespread use by local governments and is simultaneously used also by the State, the most promising coordinating device is the local tax supplement to the State tax.

This device gives local jurisdictions access to the superior enforcement resources of the State and eases taxpayer compliance but leaves the decision to impose the tax to local initiative. However, tax sharing should be considered under such circumstances. Although the tax sharing device may run a poor second to grants-in-aid where

the objective is to provide State financial assistance to local units on a stable basis, it has distinct advantages as a substitute for locally imposed taxes where they are widespread within the State, especially if the independently imposed local tax rates tend to be uniform.

- (6)* In situations where a particular nonproperty tax is widely used locally but the State does not itself use the same tax, the State can nonetheless help local jurisdictions by facilitating the pooled administration of the separate local taxes by a State administrative agency; alternatively, it can authorize local jurisdictions to join in creating such an administrative agency for themselves.

When numbers of adjoining or overlapping jurisdictions levy an identical tax, efficiency of administration can be improved and costs of administration and taxpayers' compliance reduced by pooling enforcement resources. This is especially so when the same income recipient, employer, merchant, etc., is liable for several jurisdictions' taxes. In these situations the pooled administration of several jurisdictions' nonproperty taxes is indicated. It cannot, however, be realized without the required legislative authority.

- (7)* States should provide their local units with technical assistance by serving as a clearinghouse of information on tax experience in other parts of the State and country, by furnishing model legislation and promulgating standard regulations, by providing training facilities for local tax personnel, by giving them access to State tax records, and where appropriate, by employing sanctions against State taxpayers who fail to comply with local tax requirements.

The case for State technical assistance to local jurisdictions, particularly the smaller ones with limited personnel possessing specialized skills, requires no articulation. The potential usefulness of State sanctions against taxpayers who fail to comply with local tax requirements can be demonstrated with reference to motor vehicle registration. Since all States license motor vehicles, they could ensure compliance with local ordinances by requiring evidence of such compliance as a condition of issuing a State license for the particular vehicle.

Chapter 1

INTRODUCTION

The power to tax is conferred on local governments by State constitutions and legislative enactments. No local tax can be imposed without such authorization. Indeed, no local government can exist without the specific or general authorization of the State constitution, its legislature, or both. Traditionally, local power to tax has been confined to the property tax and, under the general police powers, to various types of business and non-business regulatory license taxes.

Local governments are empowered to impose nonproperty taxes as revenue-raising (as opposed to regulatory) measures, either by means of specific statutory authorization or by interpretation of constitutional or statutory provisions as to home rule powers, city charters, and general taxing powers. Most State constitutions are silent on the matter of specific nonproperty taxes, and many local nonproperty taxes have been enacted for revenue purposes and upheld by the courts simply because they are not forbidden by the constitution or pre-empted by the State. Thus, in the nonproperty tax area a particular local government generally either does or does not have the power to impose a particular tax as a revenue measure. ^{1/}

Despite a few outstanding exceptions, such as the depression-born authorizations to a few large cities to impose local sales or income taxes, the California sales taxes and the Ohio income taxes adopted under local home rule provisions or general licensing powers, the 1947 legislation in New York and Pennsylvania authorizing various local taxes, and the post-World War II enactments authorizing local retail sales taxes in a few States (notably Illinois and Mississippi), local taxation is still confined almost exclusively to the property tax. Nonproperty taxes provided only 12.3 percent of all local tax revenue in 1961. More than half of the \$2.4 billion local nonproperty tax revenue in 1961 was collected by the 51 cities with populations of over 250,000. In local governments other than municipalities nonproperty tax revenue is still a mere trickle.

^{1/} Where explicit authorization to levy nonproperty taxes does exist, it generally carries with it a maximum limitation on the tax rate, as in the case of the property tax. See Chapter 5.

Constitutional and statutory limitations on local property taxing powers are not of the "all or none" variety. With very limited exceptions, all local governments have the power to levy property taxes. The exceptions consist almost entirely of special districts financed by special assessments or charges for services.

Although virtually all local governments are empowered to levy property taxes, they are circumscribed by a variety of constitutional and statutory restrictions that almost defy categorization. Only seven States can be said to have no property tax limits written into their body of law -- five of the six New England States (the exception is Rhode Island), Maryland, and New Jersey. The remaining 43 States have some kind of property tax limitation in their constitutions, their statutes, or both.

State restrictions on local property taxation are typically in terms of the maximum rate that may be imposed. The rate limitation may be expressed as a percent of assessed valuation, a number of dollars per thousand dollars of assessed valuation, a number of cents per hundred dollars, or a number of mills per dollar. For our purposes, all rate limits have been converted to mill rates and are so expressed.

The State limitation on local property taxes is sometimes in terms of a maximum percentage by which a local levy or an appropriation can exceed the previous year's levy or appropriation. Another form of limitation -- usually applied to a particular governmental unit or activity -- is a restriction of the amount that can be levied to an absolute dollar or per capita amount.

Because of the dominant position of the property tax in the local government revenue structure, this report deals primarily with the constitutional and statutory restrictions on local property taxation. Its purpose is to examine these restrictions in some detail and to assess their effect on local taxation and finance in order to uncover some policy guidelines for enhancing the abilities of local governments to meet their financial needs out of their local resources. The major nonproperty taxes available to local governments are also examined and some recommendations made regarding their use.

Chapter 2

THE PROPERTY TAX IN STATE AND LOCAL REVENUES

The property tax has been the mainstay of American local government finances since colonial times. It started as a selective tax on enumerated classes of property, but early in the history of the Republic State constitutions adopted the principle that all property, unless specifically exempt, must be included in the tax base and taxed uniformly within each taxing jurisdiction. By the Civil War period the "general property tax" had evolved as the dominant feature of American State and local taxation.

Table 1 traces the development of State and local government general revenue since 1902. At the turn of this century property taxes still provided the major portion of both State and local tax revenue. Since that time, however, State governments have turned more and more to other tax sources, relinquishing the property tax to their local governments. Thus, while State governments derived more than half of their tax revenue from property taxes in 1902, the property tax portion had dropped below one-quarter by 1927, to about one-sixth by 1932, and below 4 percent by 1952, where it has remained for 10 years. Even though 45 States still (1961) receive some revenue from the property tax, it is yielding as much as 5 percent of total State tax revenue in only 15, and of these 15 States only two derive more than 15 percent of their tax receipts from that source.^{1/}

In the local tax structure the property tax always has been, and remains today, the most important source of tax revenue. In fact, if one considers local tax revenue alone, the proportion borne by property taxes was almost the same in 1961 as in 1902 -- 87.7 percent and 88.6 percent, respectively. Local governments other than municipalities rely almost entirely on the property tax for their locally raised tax revenue. Table 2 shows that in 1961 municipalities raised 73 percent of their taxes from property taxation; practically all school district tax revenue came from this source; 94 percent of county taxes and 96 percent of township and special district taxes were derived from this source.

^{1/} U. S. Bureau of the Census, Compendium of State Government Finances in 1961.

Table 1. - State and Local Government General Revenue, by Source and by Level of Government:
Selected Years, 1902 - 1961
(Dollar amounts in millions)

Year	Total general revenue	Intergovernmental		Taxes			Charges and miscellaneous general revenue		
		Amount	As percent of total general revenue	Total	Property		Amount	As percent of total general revenue	
					Amount	As percent of - Total general revenue			Total taxes
STATE AND LOCAL ^{1/}									
1902	\$ 986	\$ 7	0.7	\$ 860	\$ 706	71.6	82.1	\$ 119	12.1
1913	1,912	12	0.6	1,609	1,332	69.7	82.8	291	15.2
1927	7,271	116	1.6	6,087	4,730	65.1	77.7	1,068	14.7
1932	7,267	232	3.2	6,164	4,487	61.7	72.8	871	12.0
1942	10,418	858	8.2	8,528	4,537	43.5	53.2	1,031	9.9
1952	25,181	2,566	10.2	19,323	8,652	34.4	44.8	3,292	13.1
1957	38,164	3,843	10.1	28,817	12,864	33.7	44.6	5,503	14.4
1960	50,505	6,974	13.8	36,117	16,405	32.5	45.4	7,414	14.7
1961	54,037	7,131	13.2	38,861	18,002	33.3	46.3	8,045	14.9
STATE									
1902	\$ 190	\$ 9	4.7	\$ 156	\$ 82	43.2	52.6	\$ 25	13.2
1913	376	16	4.3	301	140	37.2	46.5	59	15.7
1927	2,015	158	7.8	1,608	370	18.4	23.0	249	12.4
1932	2,423	267	11.0	1,890	328	13.5	17.4	266	11.0
1942	5,132	858	16.7	3,903	264	5.1	6.8	370	7.2
1952	13,429	2,485	18.5	9,857	370	2.8	3.8	1,087	8.1
1957	20,382	3,927	19.3	14,531	479	2.4	3.3	1,923	9.4
1960	27,363	6,745	24.7	18,036	607	2.2	3.4	2,583	9.4
1961	28,693	6,782	23.6	19,057	631	2.2	3.3	2,854	9.9
LOCAL									
1902	\$ 854	\$ 56	6.6	\$ 704	\$ 624	73.1	88.6	\$ 94	11.0
1913	1,637	97	5.9	1,308	1,192	72.8	91.1	232	14.2
1927	5,903	605	10.2	4,479	4,360	73.9	97.3	819	13.9
1932	5,690	811	14.3	4,274	4,159	73.1	97.3	605	10.6
1942	7,122	1,836	25.8	4,625	4,273	60.0	92.4	661	9.3
1952	16,952	5,281	31.2	9,466	8,282	48.9	87.5	2,205	13.0
1957	25,406	7,539	29.7	14,286	12,385	48.7	86.7	3,580	14.1
1960	32,866	9,953	30.3	18,081	15,798	48.1	87.4	4,831	14.7
1961	35,899	10,904	30.4	19,804	17,370	48.4	87.7	5,192	14.5

Note. - Due to rounding detail will not necessarily add to totals.

^{1/} To eliminate duplication, transactions between State and local governments are excluded from State-local aggregates, so that total intergovernmental revenue of State and local governments is from the Federal government only.

Source: U. S. Bureau of the Census, Historical Summary of Governmental Finances in the United States, (Vol. IV, No. 3 of the 1957 Census of Governments), Governmental Finances in 1960, and Governmental Finances in 1961.

Table 2. - State and Local Government General Revenue,
by Type of Government: 1961

(Dollar amounts in millions)

Type of government	Total general revenue	Tax Revenue			
		Total	Property taxes only		
			Amount	As percent of general revenue	As percent of total tax revenue
State & local	\$54,037 ^{1/}	\$38,861	\$18,002	33.3	46.3
State	28,693	19,057	631	2.2	3.3
Local	35,899 ^{1/}	19,804	17,370	48.4	87.7
Counties	7,819	3,867	3,620	46.3	93.6
Municipalities	12,429	7,617	5,580	44.9	73.3
School districts	13,686	6,834	6,746	59.3	98.7
Townships & special districts	3,199	1,486	1,423	44.5	95.8

Note. - Due to rounding detail will not necessarily add to totals.

^{1/} To eliminate duplication, transactions between State and local governments are excluded from State-local aggregates, and transactions among local governments are excluded from local aggregates.

Source: Bureau of the Census, Governmental Finances in 1961, supplemented with unpublished data.

The historical trend is somewhat different when local property taxes are viewed within the framework of the combined State-local tax structure. Since, as mentioned above, most States have virtually relinquished property taxes as a source of State revenue and have developed new taxes, the yield of which has long since surpassed the amount derived formerly from State property taxes, total State and local reliance on the property tax has declined considerably. Thus, in 1902 property taxes provided 82 percent of State and local taxes; by 1932 this fraction had declined to 72.8 percent; and by 1952 to 44.8 percent. The property tax portion of the State and local tax take has increased slowly since that time to 46.3 percent in 1961.

Table 3. - The Property Tax in the State and Local Tax Structure, by State: 1932, 1942, and 1961
(Dollar amounts in millions)

State	Tax revenue of State and local governments						Property tax revenue as a percent of total tax revenue		
	Total			Property taxes			1932	1942	1961
	1932	1942	1961	1932	1942	1961			
United States	\$6,164 ^{1/}	\$8,528	\$38,861	\$4,487 ^{1/}	\$4,537	\$18,002	72.8	53.2	46.3
Alabama	53	81	399	32	26	83	60.4	32.1	20.8
Alaska	N.A.	N.A.	45	N.A.	N.A.	11	N.A.	N.A.	24.4
Arizona	26	34	295	21	17	134	80.8	50.0	45.4
Arkansas	34	56	237	20	17	68	58.8	30.4	28.7
California	427	668	4,889	311	334	2,432	72.8	50.0	49.7
Colorado	55	83	444	44	47	217	80.0	56.6	48.9
Connecticut	106	144	582	74	82	328	69.8	56.9	56.4
Delaware	16	16	97	5	4	22	31.2	25.0	22.7
District of Columbia	30	46	171	25	26	62	83.3	56.5	36.3
Florida	75	116	989	48	52	402	64.0	44.8	40.6
Georgia	66	100	595	41	41	181	62.1	41.0	30.4
Hawaii	N.A.	N.A.	165	N.A.	N.A.	21	N.A.	N.A.	12.7
Idaho	24	30	130	19	18	62	79.2	60.0	47.7
Illinois	407	589	2,262	333	327	1,225	81.8	55.5	54.2
Indiana	173	202	889	140	111	492	80.9	55.0	55.3
Iowa	122	154	632	94	85	363	77.0	55.2	57.4
Kansas	96	106	538	79	64	325	82.3	60.4	60.4
Kentucky	67	95	450	48	45	140	71.6	47.4	31.1
Louisiana	73	122	625	51	41	144	69.9	33.6	23.0
Maine	43	51	182	29	32	93	67.4	62.7	51.1
Maryland	78	107	650	54	62	274	69.2	57.9	42.2
Massachusetts	306	358	1,314	220	241	776	71.4	67.3	59.1
Michigan	307	371	1,841	244	196	915	79.5	52.8	49.7
Minnesota	148	196	822	112	110	453	75.7	56.1	55.1
Mississippi	48	73	292	33	30	83	68.8	41.1	28.4
Missouri	136	186	744	100	93	343	73.5	50.0	46.1
Montana	29	39	158	23	26	90	79.3	66.7	57.0
Nebraska	61	65	264	47	45	186	77.0	69.2	70.5
Nevada	8	11	84	6	7	30	75.0	63.6	35.7
New Hampshire	30	34	113	22	21	71	73.3	61.8	62.8
New Jersey	301	346	1,412	236	261	932	78.4	75.4	66.0
New Mexico	14	25	174	10	9	46	71.4	36.0	26.4
New York	1,048	1,386	4,989	780	809	2,230	74.4	58.4	44.7
North Carolina	98	146	665	56	46	188	57.1	31.5	28.3
North Dakota	30	44	128	23	30	65	76.7	68.2	50.8
Ohio	349	435	1,916	276	208	995	79.1	47.8	51.9
Oklahoma	77	115	429	53	41	138	68.8	35.7	32.2
Oregon	61	78	398	41	40	192	67.2	51.3	48.2
Pennsylvania	481	644	2,196	340	329	746	70.7	51.1	34.0
Rhode Island	37	49	183	27	31	87	73.0	63.3	47.5
South Carolina	41	72	317	25	27	73	61.0	37.5	23.0
South Dakota	37	40	149	30	24	86	81.1	60.0	57.7
Tennessee	69	106	493	40	47	161	58.0	44.3	32.7
Texas	207	271	1,606	148	150	782	71.5	55.4	48.7
Utah	22	37	190	17	20	89	77.3	54.1	46.8
Vermont	19	22	83	11	11	37	57.9	50.0	44.6
Virginia	75	112	588	40	44	216	53.3	39.3	36.7
Washington	86	136	696	67	46	219	77.9	33.8	31.5
West Virginia	66	87	276	50	28	80	75.8	32.2	29.0
Wisconsin	181	228	926	125	128	509	69.1	56.1	55.0
Wyoming	13	16	76	10	9	40	76.9	56.3	52.6

See footnotes on next page.

Table 3. - The Property Tax in the State and Local Tax Structure,
by State: 1932, 1942, and 1961 (Concluded)

Note. - Due to rounding detail will not necessarily add to totals.
Totals for 1932 and 1942 exclude Alaska and Hawaii. See
also footnote 1/.

N.A. - Indicates that data are not available.

1/ The National totals for 1932 are as revised for the 1957
Census of Governments, Historical Summary of Governmental
Finances in the United States; the individual State amounts
are from Bureau of the Census, Historical Review of State
and Local Finances, which were not revised in accordance
with the revised National totals for 1932.

Source: U. S. Bureau of the Census, Historical Review of State and
Local Government Finances, (State and Local Government
Special Studies No. 25, June 1948); State and Local Govern-
ment Finances in 1942 and 1957, (State and Local Government
Special Studies No. 43, December 1959); Historical Summary
of Governmental Finances in the United States, (Vol. IV.,
No. 3 of the 1957 Census of Governments); and Governmental
Finances in 1961.

Table 4. - The Property Tax as a Percent of State and Local Tax Revenue; Frequency Distribution: 1932, 1942 and 1961

Size class	Number of States ^{1/}		
	1932	1942	1961
Total	<u>49</u>	<u>49</u>	<u>51</u> ^{2/}
Less than 20%	-	-	1
20.0 - 29.9	-	1	10
30.0 - 39.9	1	10	9
40.0 - 49.9	-	6	14
50.0 - 59.9	5	20	13
60.0 - 69.9	12	11	3
70.0 - 79.9	24	1	1
80% and over	7	-	-

^{1/} Includes the District of Columbia.

^{2/} Includes Alaska and Hawaii.

Source: Table 3

Although property taxes provide less than half of all State and local tax revenue in the nation as a whole, individual States vary considerably in their reliance on it. As shown in Table 3, the portion of State and local tax revenue attributed to the property tax in 1961 ranged from 12.7 percent in Hawaii to 70.5 percent in Nebraska.

Tables 3 and 4 trace the shifts that have occurred since 1932 in the various State and local tax structures between the property tax and nonproperty taxes. In 1932, six States and the District of Columbia obtained 80 percent or more of their tax revenue from property taxation; 24 States relied on that source for 70 to 80 percent of their total taxes. By 1942 no State was in the 80 percent category and only one (New Jersey) in the 70 to 80 percent group. In 1961, there was still one State (Nebraska) relying on the property tax for as much as 70 percent of its State-local tax take. At the other end of the spectrum, only one State (Delaware) obtained less than half of its tax yield from the property tax in 1932. By 1942, 17 States were in that category and in 1961, 33 States (including Hawaii and Alaska) and the District of Columbia relied on the property tax for less than half of their State and local tax receipts.

Although the property tax has remained virtually constant in relation to local tax revenue since 1902, it has lost ground in relation to local general revenue, which includes State grants-in-aid and shared taxes. Referring again to Table 1 we see local property tax revenue maintaining its position relative to local general revenue -- at about 73 percent -- until 1932, and then dropping to about 49 percent by 1952, remaining substantially at that level to the present time. Most of this decline in the position of local property taxes relative to local general revenue can be traced to the increase in State aid -- from 7 percent of local general revenue in 1902 to 30 percent in recent years. In some measure the increase in State aid represents a replacement of local property taxes by State nonproperty taxes. The extent to which property tax limitation may have influenced this trend will be explored in the succeeding chapters.

Chapter 3

STATE CONSTITUTIONAL AND STATUTORY LIMITATIONS ON LOCAL PROPERTY TAXATION

Local governments have relied heavily on the property tax from the very beginning of our Federal system. Because of its widespread use, the property tax has probably received more attention from fiscal experts and economists than any other tax and has certainly been more maligned. It has been condemned for being regressive, inequitable, and impossible to administer. The flood of criticism notwithstanding, it has survived and prospered, and in recent years concerted efforts have been launched to improve it.

Nature of Property Tax Limitations

Except in Hawaii, the property tax is largely locally administered. The local administration, however, is subject to numerous controls and restrictions imposed by State constitutions and legislative enactments. Many of the statutory controls are administrative. They relate to reporting requirements, assessing procedures and standards, use of uniform records, and the like. In addition, there are controls and restrictions that are regulatory in nature. Thus, most States provide for review of local assessments by a State agency and for right of appeal to that agency by taxpayers dissatisfied with the treatment they receive from local assessors. Because of the tremendous variation in assessment levels -- even within States -- such agencies are often charged with equalizing assessments for various purposes.

Rate Limitations

The restriction most commonly found in State laws concerns the amount of revenue that can be raised from the property tax. Although this kind of restriction takes a number of forms, as Appendix A shows, the most common restriction is the rate limitation.

There are two basic kinds of limitations on the rate that can be applied against the value of a piece of property -- an overall limitation and a specific limitation. These are defined as follows:

- (1) Overall limitation. A maximum rate (usually expressed as a number of mills per dollar of

taxable valuation or as a percent) that may be levied by all taxing jurisdictions in the aggregate on the taxable assessed value of property within a given area.

- (2) Specific limitation. A maximum rate (usually expressed as a number of mills per dollar of taxable valuation or as a percent) that may be levied by each of a specified type of local government (e.g., counties, municipalities, and school districts) or that may be levied for each of a number of particular purposes.

As will be seen from the subsequent analysis, there are about as many variants within these two general categories as there are States imposing property tax limitations. Thus, a rate limitation, either overall or specific, may include or exclude debt service. A so-called overall limitation may cover all governments, or it may cover all with some exceptions. Most States provide machinery for exceeding property tax rate limits by local referenda. In a number of States specific countywide mill levies are required for school purposes that are over and above the limitation initially fixed in their constitutions or statutes. In some States specific rate limitations are so detailed in their application to particular local funds and purposes that they are tantamount to an attempt at State budgeting for local governments. Before looking in detail at the various types of limitations intended to restrict the power of local governments to raise property tax revenue, we trace the development of such limitations.

Historical Development of Property Tax Limitations

Limitations on the power of local governments to raise revenue from the taxation of property have existed in one form or another throughout the history of the property tax. However, the property tax limits as we know them today generally had their origin, together with debt limits, in the 1870's and 1880's. The earlier enactments limiting property taxes were usually statutory, and they were, by and large, of the specific kind rather than overall limitation.

Early limitations. Among the first States to adopt overall property tax limitations were Rhode Island (1870) and Nevada (1895). Both of these were statutory, but Nevada later wrote its overall limitation into its constitution. Alabama and New York were among the first to adopt constitutional limitations (1875 and 1884, respectively), but in both cases the limitations were applied to specified groups of local governments. Oklahoma was the first State

to place an overall limit in its constitution, adopting such a provision in 1907. Ohio followed with a similar constitutional provision in 1911.

There was little concern with tax limitations between the time of these earlier enactments and the depression of the 1930's. The limits that had been established do not appear to have restricted actual operations. Assessed valuations, which aggregated \$35 billion in 1902, had doubled by 1912, almost doubled again in the following decade, and reached a peak of \$169 billion in 1930. ^{1/} Thus, during the first quarter of the century State and local property tax revenue could have quintupled merely on the basis of the expansion of taxable assessed valuations. In fact property tax collections rose six-fold between 1902 and 1927 -- from \$706 million to \$4,730 million. ^{2/} It seems clear that, for the nation as a whole, property tax rates rose during this early period in spite of limitations.

Depression-born limitations. The advent of the depression of the 1930's spurred much activity toward tightening existing tax limits and adding new ones. Property owners began to feel the pinch early in the depression: property values declined rapidly and tax delinquency rose sharply during the first three or four years of the depression. Tax assessors eventually took cognizance of the drop in the real estate market, and by 1935 assessed valuations had fallen from their 1930 peak of \$169 billion to \$135 billion. ^{3/} Property tax revenue, which reached \$4.7 billion in 1927 and probably rose well above \$5 billion by 1929, dropped to \$4.5 billion in 1932, to \$4.1 billion in 1934, and probably fell below \$4 billion in 1935 before starting to turn upward again in 1936. ^{4/}

With losses in property values and property income, a drive was begun, largely through the efforts of organized real estate groups, to convince State legislatures and the electorate that property was

^{1/} U. S. Bureau of the Census, Property Taxation 1941, (State and Local Government Special Study No. 22, September 1942), p. 37, and A Decade of Assessed Valuations: 1929-1938, (State and Local Government Special Study No. 14, July 1941), p. 2.

^{2/} See Table 1.

^{3/} U. S. Bureau of the Census, A Decade of Assessed Valuations: 1929-1938, op. cit., p. 2.

^{4/} U. S. Bureau of the Census, Historical Summary, op. cit.

carrying an inordinate share of the tax burden. To relieve the tax pressure on property, it was urged that stringent overall tax limitations be written into State constitutions. Specifically, the National Association of Real Estate Boards proposed that the total amount levied by all governments on a parcel of property be limited constitutionally to 1 percent of the "true value" with no provision for additional authorization by the electorate. ^{5/}

The arguments advanced by the proponents of stringent constitutional limits had their effect by the middle of the depression. Indiana, Michigan, Washington, and West Virginia adopted overall limits in 1932, and New Mexico in 1933. Of these, two of the enactments (Indiana and Washington) were statutory; the other three States adopted constitutional provisions. Also in 1933, Ohio and Oklahoma reduced their overall rate limits to make more stringent the limitations they had placed into their constitutions earlier. Activity in this sphere waned after these enactments and no new overall limitations have been added since. Nevada wrote its statutory limitation (first adopted in 1895) into the constitution in 1936; Washington did the same in 1944.

In spite of the exhortations to adopt stringent constitutional limits with no leeway to increase levies, not even by the voters, none of the adoptions in 1932 and 1933 followed that recommendation. Nevada alone, with its 5 percent (50 mill) overall limitation, has no provision for levies outside the limit.

Recent changes. Although no new overall property tax limitations have been enacted since the 1930's, there has been considerable legislative and judicial action. Even the States with constitutional limitations have found it possible to ease them. ^{6/} In some instances court decisions have had this effect. In Michigan, for example, the State Supreme Court ruled in 1933 that since all cities and villages

^{5/} A. Miller Hillhouse and Ronald Welch, Tax Limits Appraised (Chicago: Public Administration Service No. 55, 1937), p. 3.

^{6/} However, no State having once adopted a constitutional tax rate limitation, has ever abolished it. This was true in 1936 when Mabel Newcomer made a similar statement in "The Growth of Tax Limitation Legislation," in Property Tax Limitation Laws (Public Administration Service No. 36, 1936). It remains true to the present day, even to the abortive attempt described below to remove the 15-mill limit from the Michigan constitution.

were operating under charters containing tax rate limits, they were exempt from the 15-mill overall limitation. ^{7/} In 1954 the Michigan Supreme Court ruled that the 15-mill limitation must be based upon the State-equalized value rather than on locally assessed values or county-equalized values. ^{8/} With State-equalized values 50 percent higher than locally assessed valuations in 1961, the mitigating effect of that court decision is obvious. Cities which had elected to operate under the Michigan 15-mill limitation gained relief by court action that removed debt service from the overall limit. The Oklahoma Supreme Court ruled that taxes levied for debt service are not subject to the overall limit.

Some of the localities in States with constitutional provisions have been able to obtain amendments easing the effect of originally stringent provisions. Oklahoma amended its constitution in 1955 assigning schools no less than 5 mills of the basic limitation and also providing specific additional tax levies for school purposes. Counties were authorized additional specific levies by a 1960 amendment. The West Virginia electorate approved an amendment in 1958 allowing special school rates outside the constitutional limits. In New York a 1949 amendment substituted State-determined full valuation for assessed valuation as the basis for computing the tax limit; and in Alabama a constitutional amendment was approved by the electorate in May 1962 authorizing an additional 5-mill school levy.

In the States with statutory rate limits numerous laws have been passed in recent years which, in general, have been aimed at mitigating the more stringent limitations enacted earlier. These mainly have taken the form of authorizations to perform specific functions, each such authorization carrying its own rate limit. In some States, as in Illinois, these specific function authorizations carried with them the power to establish special single-function districts; e.g., sanitation districts. Actually, these functions could have been conducted by the regularly established taxing units -- counties, municipalities, and townships -- but by taking advantage of the statutory authorizations, such functions could be removed from the general rate limitations, allowing more leeway for financing the remaining functions under the general purpose limitation. In this

^{7/} School District of Pontiac v. City of Pontiac, 262 Mich. 338 (March 13, 1933).

^{8/} School District No. 9, Pittsfield Township, Washtenaw County v. Washtenaw County Board of Supervisors, 341 Mich. 388 (1954).

way the specific function limitations contributed to the proliferation of special districts, adding thereby to the complexity of local government structures.

To ease the pressure of school district limitations, a number of States provided for county wide levies, expressed in terms of a specific number of mills. While these are usually considered together with the more general type of rate limitations, they are, in fact, mandatory property tax levies over and above the general limitations. In other cases specific function levies have been authorized "up to" a specified number of mills. In most instances these maximum mill levies have become minimum levies for all local governments to which they apply.

Recent experience in Michigan. The 15-mill limitation received considerable attention at the 1961-1962 Michigan Constitutional Convention. There had been particular dissatisfaction with the procedure for allocating the 15 mills among the county, townships and school districts. One group, testifying before the Committee on Finance and Taxation of the Constitutional Convention, pointed out:

. . . there are cases where local electors have authorized the levy of taxes for school purposes beyond whatever allocated rate would be authorized for this purpose and that at the next allocation the tax rate allowed to these same school districts would be reduced while the tax rate allowed for other units would be increased. This is obviously a case where electors vote taxes for one purpose and find, because of the workings of an impossible allocation procedure, that their voted taxes have been used for other purposes. 9/

The initial proposal of the Committee on Finance and Taxation retained the 15-mill limit in the Constitution, but in effect allocated the millage among the governmental units participating in it. In submitting the proposal to the Convention, the Committee stated:

This proposal continues the substance of the present 15-mill limit on property taxes now set forth in section 21 of Article X. It is intended to eliminate the present competition between counties, townships, and school districts for their share of the 15 mills, and to avoid

9/ Testimony of the Joint Committee of Michigan Association of School Boards and Michigan Association of School Administrators (December 1961).

diversion of voted millage by tax allocation boards to purposes not intended by the voters. It accomplishes this purpose by establishing separate tax limits for each taxing authority giving each unit which has participated in the 15 mills the highest millage allocated to it during the five years ending December 31, 1961. 10/

The Committee proposal was amended in a subsequent session of the Convention. Then, unexpectedly, a substitute proposal removing the 15-mill limitation from the constitution was submitted to the Convention and adopted by a closely divided vote. The substitute proposal read as follows:

The Legislature shall by general law fix limits on the rates of ad valorem taxes which may be levied by counties, townships, school districts, and other political subdivisions, except where such limits are provided by charter or other applicable Home-Rule provisions. 11/

This, of course, was not the final action of the Michigan Convention. The substitute section, adopted by a closely divided vote (65 to 53), provoked much controversy. Delegates from rural areas, particularly, heard from their constituents that they were against removing the 15-mill limitation from the constitution. Some delegates felt that, although the 15-mill limit may have outlived its usefulness, it should be kept as a brake (albeit not a very effective one) which eventually would force complete tax reform in Michigan. Even the most conservative of the delegates expressed the belief that a State income tax would be enacted sooner or later. 12/

On second reading the proposal to remove the 15-mill limitation from the constitution was replaced by a new section which restored the 15-mill limitation, but with some provisions that can potentially ease the financial pressure on local governments. Under this section -- which will be in the new constitution if approved by the voters -- the electorate of any county can increase the basic limit

10/ State of Michigan, Journal of the Constitutional Convention, No. 69, p. 408 (January 31, 1962).

11/ State of Michigan, Journal of the Constitutional Convention, No. 76, p. 577 (February 9, 1962).

12/ Based on discussion with a number of delegates to the Michigan Constitutional Convention on April 12, 1962.

to 18 mills and allocate the 18 mills among the county, townships, and school districts, thus eliminating the function of the county allocation board. In addition, the new section specifies that the mill limitation applies to the assessed valuation as "finally equalized." It makes it clear also that cities, villages, charter counties, charter townships, and "other charter authorities" are specifically excluded from the overall limitation. Provision for voting excess levies is carried over from the previous constitution. Furthermore, the proposed constitution excludes all debt service from the overall limitation -- not only debt service on bonds issued prior to the adoption of the constitution (as was stipulated in the constitution of 1908). 13/

Reasons for Property Tax Rate Limitations

Some of the reasons for imposing rate limitations have been touched on in the previous section. It will be useful to look more closely at these motivations and to see how they relate to the current situation.

Early limitations. Movements to set limitations beyond which property tax rates could not be increased seem to have had their origin in periods of business depression. Some of the early difficulties experienced by State and local governments arose from an over-expansion of government credit to help finance railroad development. As a result of these difficulties, there was a move to limit State and local indebtedness and concomitantly, to limit property taxation. When the 2 percent tax limit was written into the New York State constitution, it was apparently as an afterthought to a debt limit amendment. It has been speculated that the tax limit was added because of the fear that property taxes might be used in lieu of borrowing once the debt ceiling was reached.

The chief purpose of the early rate limitations was not so much to reduce property taxes as to prevent them from increasing and to stem the rising tide of public expenditures. The "art" of public administration had not been developed by the last half of the 19th century. Local government was often operated for the benefit of the office holders and the merit system of civil service was still unknown. Yet demands for local government services increased with the rise in population and its already developing shift from the rural areas to the cities. Inefficiency and graft in the big cities became common knowledge. The property tax was virtually the sole

13/ State of Michigan, Journal of the Constitutional Convention, No. 133a (April 19, 1962).

source of governmental revenue, and the obvious way to stop the rise in public expenditure was to set a brake on it by means of tax rate limitations.

At the turn of the century the arguments for imposing tax limits became more sophisticated. Some proponents believed that rate limitations would force improvements in the property tax. The Ohio tax limit law of 1911 coincided with the establishment of quadrennial appraisal of real estate and the creation of a State Tax Commission. 14/ A number of other States established commissions and tax equalization agencies during the first two decades of the 20th century.

It was also hoped that property tax limitations would facilitate the raising of assessed valuations to full values, which in turn would encourage uniform valuations and thereby make the property tax more equitable without increasing the tax burden. This view was expressed in a 1917 report of a California special tax commission, as follows:

One of the necessary advances toward equitable taxation is a full value assessment for taxable property. The greatest hindrance to full value assessment, not only in this state but in every other state in the Union, has been the absence of a proper control of tax levies. Obviously it would be unwise to disturb the present percentage of assessed value unless at the same time a complete and positive control in the limitation of tax levies is placed upon the statute books. It has been the experience of every state, where no limitation laws have been in existence, that a sudden change from a partially assessed value to a fully assessed value has greatly increased tax burdens. 15/

Proponents of property tax limitations have also argued that restricting the amount of revenue to be derived from pegged rates would force assessors to do a more thorough job in locating property, especially personal property, and in the long run would result in complete reform of State and local tax systems. This latter argument is still made by advocates of stringent limitations. 16/

14/ Harley L. Lutz, "Motives Behind the Tax Limitation Movement," Property Tax Limitation Laws, edited by Glen Leet and Robert M. Paige, (Public Administration Service No. 36), p. 17.

15/ Ibid.

16/ Several delegates to the recent Michigan Constitutional Convention expressed this viewpoint.

Limitations resulting from the depression of the 1930's. As the Great Depression struck, the property tax base began to decline, as evidenced by the trend of assessed valuations shown in Table 5. Yet, because of the cumbersomeness of the tax assessment process and the practice of local assessors to copy one year's assessments for the next, changes in assessed values lagged considerably behind the drastic shifts in property values. Assessed valuations continued to rise after the 1929 crash to a peak of \$169.3 billion in 1930. The gross national product decreased 12.7 percent between 1929 and 1930.

Assessed valuations dropped steadily between 1930 and 1935 when the national aggregate fell to \$135.4 billion, about 19 percent below the 1929 figure. The gross national product, on the other hand, reached its low point in 1933, at about half of the prosperity peak of 1929, and then started an upward swing as recovery began. Assessed valuations began to edge upward slowly after 1935.

Table 5. - Assessed Valuation of Taxable Property, and
Gross National Product: 1929 - 1938

Year	Amount in billions		Index: 1929 = 100	
	Assessed valuation	Gross national product	Assessed valuation	Gross national product
1929	\$167.6	\$104.4	100.0	100.0
1930	169.3	91.1	101.0	87.3
1931	161.3	76.3	96.2	73.1
1932	150.3	58.5	89.7	56.0
1933	141.3	56.0	84.3	53.6
1934	136.6	65.0	81.5	62.3
1935	135.4	72.5	80.8	69.4
1936	136.2	82.7	81.3	79.2
1937	139.2	90.8	83.1	87.0
1938	139.3	85.2	83.1	81.6

Source: U. S. Bureau of the Census, A Decade of Assessed Valuations: 1929-1938, p. 2 (State and Local Government Special Study No. 14, July 1941); and Department of Commerce, U. S. Income and Output, A Supplement to the Survey of Current Business (G.P.O., 1958).

With the decline in incomes and property values came a rise in tax delinquency. Dr. Frederick Bird, studying the trend of tax delinquency during the '30's and early '40's in 150 of the largest cities, found that the median percentage of current tax delinquency for those cities rose from 10.2 percent in 1930 to 26.4 percent in 1933, with some cities rising above 50 percent. ^{17/} The high rate of delinquency, of course, reflected the sharp drop in income for individual homeowners, business enterprise, and real estate operators. So far as property owners were concerned, there was only one course to be taken: the property tax must be reduced and quickly. The consequences to local government, which relied almost entirely on the proceeds from the property tax, did not matter. If the property tax take was reduced, local governments would necessarily reduce their expenditures by cutting payrolls.

Thus, with the depression of the 1930's came a strong campaign, spurred largely by the real estate groups, to induce State legislatures to impose stringent limitations on tax rates. Unlike the earlier limitation movements which were intended to stop property taxes from rising, the proposed limitations were set low to force reductions in property tax levies. Furthermore, there was pressure to place the limitations in constitutions to insure their perpetuity.

Despite the strong pressure exerted upon State legislatures to impose stringent overall limitations on local property taxes, the results were not particularly noteworthy. As has been pointed out, only three States adopted constitutional overall limitations, two enacted overall limits in their statutes, and two reduced their constitutional limits, as a direct result of this pressure. No new overall limitations have been established since the early 1930's.

The avowed purpose of the depression-born campaign was to reduce property taxes. The objective was realized, at least temporarily, in the States which adopted overall limitations. As will be seen, this had some drastic effects on local government services. Until other revenue sources could be found and implemented, local governments could live within curtailed property tax revenues only by slashing budgets.

It became clear to the State legislatures that they would have to provide revenue to replace the reduced local tax collections resulting from the depression and tax limitations. It is significant that

^{17/} Frederick L. Bird, "The Trend of Municipal Tax Delinquency," Municipal Finance, (Volume XIX, Number 3), February 1947.

two-thirds of the 37 States which now have State general sales taxes adopted those taxes during the 1930's, and 13 of those adoptions were in 1933 alone. Six of the sales tax adoptions in 1933 and one in 1934 (Ohio) were in States with overall property tax limits that were either imposed initially or made more stringent during that period.18/

The new general sales taxes that were enacted in the 1930's were entirely State-administered (except for the New York City and New Orleans sales taxes). To a significant degree they were intended to bolster State government finances which were being strained by rising unemployment and a falling off of established revenue sources. However, in a number of States the new sales taxes were used, at least in part, to offset losses in local property tax revenue. Thus, in Michigan a specific portion of the sales tax was returned to the cities and townships. In Ohio the sales tax went into the "local government fund" which was distributed to the localities. The New Mexico sales tax was earmarked for education. And so it went. As property taxes fell off, State grants and shared taxes, fed mainly from the new State general sales taxes, took up the slack. While intergovernmental revenue accounted for 14.3 percent of local general revenue in 1932, by 1942 it provided more than one-fourth. During the same period the share of the property tax fell from 73 percent to 60 percent. 19/

It is significant that the early efforts to bolster local finances came in the form of State aid rather than as authorization for locally-imposed and administered nonproperty taxes. Thus, the financial difficulties of the depression years resulted in increased dependence on State, rather than local taxation. Except for a few isolated cases (such as the New York City sales tax adopted in 1934 as an emergency relief measure) State authorization of local nonproperty taxes has been a post-World War II phenomenon. 20/

18/ Advisory Commission on Intergovernmental Relations, Tax Overlapping in the United States, 1961 (September 1961), p. 15. (Wisconsin became the 37th sales tax State when its legislature enacted a general sales tax late in 1961, effective February 1, 1962.)

19/ See Table 1.

20/ Advisory Commission on Intergovernmental Relations, op. cit., p. 43 ff.

Detailed Analysis of Property Tax Limitations

As of midyear 1962, 43 States have constitutional and statutory restrictions which limit in varying degrees the power of local governments to raise property tax revenue. Seven States, of which six are located in the northeastern United States (Connecticut, Maine, Maryland, Massachusetts, New Jersey, New Hampshire, and Vermont), do not impose such limitations. In nearly all of the other 43 States the limitations are expressed in terms of maximum property tax rates permitted the local levels of government. Two States (Colorado and Oregon) impose budgetary limitations by specifying the maximum amount of property tax revenue local units may levy in terms of a stated percentage increase over the previous year (or years). New Mexico supplements its constitutional overall rate limitation with a statutory provision limiting a local taxing unit's rate increases to 5 percent over the previous year. Two other States (Arizona and Iowa) impose budgetary limitations on the total county tax levies for all purposes (with certain exceptions for Arizona), but specific rate limits are also imposed in both States for county general purposes. Arizona also imposes a budgetary limitation on the total tax levy for municipal purposes, with certain exceptions; Iowa has specific rate limitations applicable to its municipalities, and both States impose specific tax rate limits on their school districts.

Thirty-seven States limit the property taxing powers of counties for general government purposes. ^{21/} Another State, Virginia, limits county taxing powers for school purposes only, and California imposes tax limits on counties for certain specified purposes (but not for general purposes). South Carolina and Tennessee do not limit the taxing power of their counties, but do provide for limitations on other local government units. Alaska and Rhode Island do not have the county form of government.

Forty-one States impose property tax limitations on municipalities, but in one of these (Virginia) the limit applies only to levies for school purposes. Delaware does not limit municipalities, and the only municipality in Hawaii (Honolulu) functions as a county for tax purposes. Thirty-five States limit the property taxing powers of

^{21/} For some States, the term "general government purposes" is limited in scope due to the numerous provisions for additional specific purpose limitations. For other States, the term has wide scope, including nearly everything except a few specific exclusions such as debt servicing and capital expenditures. As a general rule, "general purposes" can be interpreted to mean current operating expenses.

school districts. Four other States (Hawaii, North Carolina, Rhode Island, and Virginia) do not have independent school districts. In Hawaii and North Carolina the State provides virtually all the funds for financing public schools, but any supplemental school funds raised from local property taxes are within city or county limitations. School property taxes are included in the overall limitations on cities and towns which operate schools in Rhode Island. In Virginia where public schools are operated by cities and counties, those governments have no limitations other than for school purposes. Arizona, Arkansas, Delaware, and Tennessee impose no limitations on local school property taxes.

Most States also authorize the creation of special (functional) districts, often with their own separate taxing power. Property tax limitations are commonly imposed on these special districts by the States, but no attempt has been made here to catalogue them. Several States also restrict the power of townships to levy property taxes, but here again difficulty is encountered in pinpointing the actual number of States (and the rate limitations). The constitutional and statutory limitations on local powers to raise property tax revenue are tabulated in Appendix A.

In the balance of this chapter the current status of State property tax limitations on local governments is analyzed in more detail. A comparison is made between States imposing primarily constitutional property tax restrictions and those having statutory ones and between those States having overall tax limitations versus those with the specific kind. Variations in rate limitations between States and between classes of local taxing units are also shown. The reader is cautioned, however, that, particularly for counties, the States commonly impose local tax limitations on general purpose levies and permit additional tax levies for specified purposes (without voter approval) outside of these limitations.

Constitutional limits. Twenty-one States have clauses in their constitutions restricting the property tax levying powers of local governments. In only sixteen of these States, however, are the limitations comprehensive in scope. The constitutional limitations of the other five States apply only to one class of local government (counties in Illinois, North Carolina, and Nebraska; school districts in Florida and Georgia). Seven of the constitutionally limited States provide for overall rate limitations, applicable to all property taxing jurisdictions, including the State. These are Michigan,

Nevada, Ohio, Oklahoma, New Mexico, Washington, and West Virginia.^{22/} The other nine States with comprehensive constitutional restrictions use the specific kind of property tax limitation. These are Alabama, Arkansas, Kentucky, Louisiana, Missouri, New York, Oregon, Texas, and Wyoming. For all of the 16 States, except Oregon, the limitations are expressed in terms of a maximum property tax rate (commonly mills per dollar of property valuation) permitted particular classes of local governments.

Constitutional overall rate limitations. The maximum rates in the seven overall constitutionally limited States range from 10 mills per dollar of assessed valuation (Ohio) to 50 mills (Nevada). The statutes of all these States, except Oklahoma, also contain property tax limitation provisions. In three States (New Mexico, Washington, and West Virginia) the statutes spell out in specific terms the maximum property tax rates permitted each taxing jurisdiction. The New Mexico statutes further stipulate that increases in a local taxing unit's tax rates shall be limited to 5 percent in excess of the previous year's rate unless approved by the State Tax Commission. The Nevada statutes also specify the maximum rates permitted all taxing units except counties. The Michigan statutes supplement the State's constitution by providing specific maximum millage rates permitted charter and non-charter cities and villages. (The constitutional overall limitation in Michigan excludes cities and villages by judicial interpretation.) In addition, the Michigan statutes list some specific limits applicable to particular purposes, for example, 5 mills for county roads (but within the overall 15-mill limit). The Ohio statutes repeat the State's constitutional tax limitations. In addition, they specify the purposes for which localities may levy taxes and for which voters may approve additional levies in excess of the overall limitations.

The method of allocating the overall constitutional rate limits among the local taxing jurisdictions varies. In Ohio the constitution directs that the local taxing units (primarily counties, municipalities, and school districts) be given the same relative proportion of the 10-mill limit that they previously received from the county budget commissions under the pre-1934 15-mill limit. In that State the allocation of the tax limits, which existed as of January 1, 1934 (the effective date of the new 10-mill limit) and varied from county to county under the old 15-mill limit requiring allocation by the counties, was frozen into law at two-thirds of the former rates. New

^{22/} Two additional States impose overall rate limitations (Indiana and Rhode Island) but these are statutory limitations.

Mexico and Washington also froze, by statute, the allocation of the overall limits. In contrast, the statutes of these two States specify a given rate limitation for each class of local taxing unit, a basic limitation that does not vary among local taxing units of the same class.

West Virginia also froze by statute (in 1933) the allocation of the overall property tax rate limit (adopted by constitutional amendment in 1932) among the various contending taxing jurisdictions. As in Ohio, for different reasons, the rate limit varies for local taxing units of the same type. The constitution of West Virginia classifies property into four broad classes for purposes of taxation. A different overall rate limit is applied to each class. Class I property (intangible personalty and agricultural personalty, including agricultural products while owned by the producer) has a rate limit of 5 mills. Class II property (owner-occupied property used exclusively for residential purposes, farms occupied and cultivated by owners or bona fide tenants) carries a 10-mill rate limit. Class III property (all other property situated outside of municipalities) has an overall 15-mill limit, and Class IV property (all other property situated inside municipalities) has the top limitation of 20 mills. Of the 5 mills allowed on Class I property, municipalities are allocated by statute 1.25 mills; counties receive 1.215 mills; school districts get 2.295 mills; special districts are allotted 0.215 mills; and the State obtains the balance of 0.025 mills. The allotments in the other classes of property are in the same proportion. Depending upon the composition of property in the local taxing units, the maximum property tax can vary from 1.215 to 4.86 mills for counties, 1.25 to 5.0 mills for municipalities, 2.295 to 9.18 mills for school districts, and 0.215 to 0.86 mills for special districts.

Michigan and Oklahoma leave the determination of each local unit's share of the overall rate to county allocation boards. The allocation of Michigan's 15-mill limit deserves a closer look. As initially passed, the 1932 constitutional amendment establishing the overall limit was intended to apply to all local units of government. However, a Supreme Court decision of that State ruled in 1933 that municipalities were not automatically under the overall limit, but could choose to do so by amending their charters. Only eleven cities availed themselves of the opportunity. Subsequently, a 1949 amendment to the General Property Tax Act prohibited a municipality from including a tax limitation in its charter if it would result in reducing the combined taxing power of the other taxing units to less than 15 mills. At the present time the 15-mill limitation is allocated among counties, school districts, and townships. The county allocation board is authorized by the statutes to allocate a minimum of 3 mills to the counties, 4 mills for school districts, 1 mill for townships, and (where applicable)

2 mills for port districts. The board allocates the residue on the basis of need. 23/

The Nevada State Tax Commission apportions the overall rate among the various political subdivisions only when the combined (proposed budget) levies would exceed the 50-mill limit, but the mandatory State and school district rates cannot be reduced. (The specific rate limits in the Nevada statutes total more than 50 mills.)

Comprehensive specific constitutional limitations. As has been mentioned, nine States have rather comprehensive constitutional limitations covering all or most classes of local governments. Only one of these (Oregon) does not use the specific rate limitations. For the other eight States the maximum rates applicable to counties vary from 3.5 to 5 mills in Missouri (depending upon assessed valuations) for county general purposes to 15 mills in New York (but the legislature may provide a method for increasing the county limit to 20 mills). Excluding charter cities with home rule provisions, rate limitations for municipalities in these eight States vary from 5 mills in Alabama to 15-25 mills (depending upon population size) for Texas municipalities. School district limitations vary from 5 mills in Louisiana to 12.5 - 20 mills in New York (those districts having higher rates prior to 1947 than the basic 15-mill limit in New York are permitted to retain them, up to a 20-mill maximum). Arkansas has no rate limitations on school districts but requires voter approval of all school levies. Oregon restricts the total amount of tax that any local government may levy to 106 percent of the amount levied in the highest of the preceding three years.

Of the nine States with comprehensive property tax limitations of the specific kind in their constitutions, seven (all but Louisiana and New York) also have local property tax limitations in their statutes. For six of these States (Alabama, Arkansas, Missouri, Oregon, Texas, and Wyoming) the statutes repeat the constitutional limitations for at least one or more classes of local government. In addition, three of these six States (Missouri, Texas, and Wyoming) and Kentucky impose statutory limitations for certain classes of local taxing units over and above those found in their constitutions. For example, limitations applicable to Kentucky school districts are found only in its statutes and statutory authorizations are provided for some additional levies for specified purposes which are outside the State's constitutional tax limitations for the local taxing units.

23/ See page 32 ff., above, for discussion of the rate limitation provisions included in the proposed Michigan constitution.

All nine of the States imposing constitutional property tax restrictions of the specific kind limit the taxing power of counties and municipalities (by constitution and statutes), but only seven of these States limit school districts generally. New York limits only school districts that are coterminous with or partly within cities having less than 125,000 population. As has been mentioned, school districts in Arkansas are free to determine their own tax levies without limit, but subject to voter approval.

Other specific constitutional limitations. Local property tax rate limitations for the five States with constitutional, specific restrictions applicable to only one class of local taxing unit are: 2 mills for North Carolina county general purposes (numerous special purposes authorized by the legislature are excluded from the limitation); 5 mills for Nebraska counties; 7.5 mills for Illinois counties; 10 mills for Florida school districts; and 20 mills for Georgia school districts. Each of these five States has enacted statutory property tax limitations to fill the void for those classes of local taxing units without constitutional tax rate restrictions. The statutory property tax limits are 5 mills for counties in Georgia and 8 mills for those in Florida. As a supplement to its constitutional tax restrictions on county levies (which are stated in terms of "actual" value of property) Nebraska has imposed a statutory 6-9 mill rate limit (depending upon population) stated in terms of "assessed" value which is defined as 35 percent of "actual" value. The statutory rate limits for school district property taxes are 6.5 to 12.5 mills in Illinois (depending upon grade level, except 15 mills for Chicago schools) and 12 mills in Nebraska. North Carolina school systems do not have separate taxing status, and the counties in that State levying local taxes for school maintenance and debt service are not restricted in the amount or rate of such levies, except for certain supplemental school levies. The maximum permissible rates of municipal property taxes in the five States, as provided by their statutes, are 5 mills for current expenses in Georgia cities (excluding numerous specified cities and towns permitted higher rates and charter cities); 10 mills for Florida municipalities (excluding charter cities); 15 mills for North Carolina cities and towns; and 20-25 mills for Nebraska municipalities (depending upon city class, except for lower rates for Lincoln and Omaha). For Illinois municipalities numerous limits are provided by statute, applicable to different classes of cities and to villages and to particular purposes or funds. For example, the Illinois limitation for corporate (general purpose) levies is 3 1/3 mills for cities and villages other than Chicago and 10 mills for charter cities. Illinois also supplements its constitutional restriction on county tax rates by providing more detailed statutory limits for specified purposes.

Statutory limits. Twenty-two States impose only statutory restrictions on the property tax-levying powers of local governments.

Thirteen of these States lie west of the Mississippi River (Alaska, Arizona, California, Colorado, Hawaii, Idaho, Iowa, Kansas, Minnesota, Montana, North Dakota, South Dakota, and Utah), four are in the South (Mississippi, South Carolina, Tennessee, and Virginia), three are in the East (Delaware, Pennsylvania, and Rhode Island), and two are in the Midwest (Indiana and Wisconsin).

Statutory local property tax limitations are of the overall kind in only two of the 22 States, Indiana and Rhode Island. The overall tax rate applicable to property in Indiana is 12.5 to 20 mills, depending on whether the property is located outside or within incorporated cities and towns. Within the overall (20-mill) rate the Indiana statutes also contain a specific tax rate limitation of 12.5 mills on cities and towns (except first class cities). This specific limitation was enacted prior to the overall limitation but other specific limitations for various taxing units (including cities and towns) have been enacted which are outside the overall limits. County boards of tax adjustment in Indiana have the function of allocating the overall tax rate limit (the State's share is only 0.1 mill) among the local governments. Rhode Island imposes a 35-mill overall limit on the total tax rate applicable to any particular property. Only cities and towns in that State are affected, however. There is no county form of local government in the State, nor are there school systems with separate taxing powers (school systems are under city and town government so that the overall 35-mill limit includes local schools. Rhode Island has no additional statutory provisions supplementing the overall rate limitation.

Of the 20 States with statutory limitations of the specific kind, three (California, South Carolina, and Tennessee) have no limitations on county tax levies for general purposes; Virginia imposes a limit on counties for school purposes only, and Alaska has no county government. The county property tax rate limitations for the remaining 15 States vary from 2-3.5 mills for general purposes in Iowa counties (depending upon assessed valuation) to 20 mills in Arizona and Pennsylvania counties. Two-thirds of these States impose separate rate restrictions on county tax levies for general government purposes and for specified purposes. In addition to the specific rate limit applicable to counties, three of these 15 States (Arizona, Colorado, and Iowa) also impose budgetary restrictions on the total amount of county tax levies for all purposes.

Seventeen of the 20 States with statutory limitations of the specific kind impose general restrictions on the property taxing powers of municipal governments. Virginia limits only the municipal tax rate for school purposes. Delaware does not restrict the power of its cities to levy property taxes. Hawaii has only one municipality, which

functions as a county for tax purposes. Of the 17 States two (Arizona and Colorado) apply the budgetary form of restriction to municipalities; fifteen apply property tax rate limitations to municipalities. These rate limitations on municipalities, excluding cities with separate charter limitations, vary from 7 mills in Iowa for general city government purposes (but 30 mills for all purposes) to 40-50 mills (depending upon city size) in South Carolina.

Fifteen of the 20 States imposing statutory property tax restrictions of the specific kind on their political subdivisions currently limit the taxing power of independent school districts. In one of these, Alaska, the school districts are scheduled to be incorporated into cities (or boroughs) or dissolved. Three of the other five States (Arizona, Delaware, and Tennessee 24/) do not limit the property taxing powers of school districts. There are no separate (tax levying) school districts in Hawaii and Virginia. Tax limitations on school districts for five of the 15 States are not in terms of rate limits. Colorado imposes a budgetary limitation (except for a 10-mill rate limit for union and county high schools) and the tax limitations in Iowa and Minnesota are on a per capita basis. The rate limitations for Mississippi and Utah school districts are expressed as permissible additional tax levies above the minimum school support program. In the remaining ten States property tax rate limitations on school districts range from 15 mills in South Carolina to 75 mills for certain school districts in Pennsylvania.

"Pegged" rates and the earmarking effect of property tax limitations. It has not been possible in Appendix A to list in detail the hundreds of specific rate limitations that have been imposed in certain States on particular functions. Specific function limitations take several forms. One kind of specific function limit is the "pegged" rate--often a mandatory levy for a particular purpose. Thus, in order to provide additional local property taxes for education, a number of States have imposed mandatory county wide property tax levies--outside the general limitation--the proceeds of which are required to be distributed to school districts. This mandatory levy has also been imposed for highway and other purposes.

Probably the most onerous specific function limit is the one which forces segmentation of the local property tax into numerous funds each dedicated to a particular governmental purpose. This trend of specialized limitation has developed over the years,

24/ There are only 14 small school districts in Tennessee where education is provided primarily by city and county school systems.

sometimes in order to ease the burden of a general limitation, and often to further restrict local governments as to the uses to which they can put property tax revenues. In Minnesota this kind of legislative action has resulted in so many restrictions and limitations on local property taxing powers that it takes a 50 page booklet merely to list them all. Such a system is difficult to enforce, and if enforced impairs local government efficiency.

Some of the other States in addition to Minnesota that use this method of segmenting the local property tax are Idaho, Illinois, Iowa, Kansas, Montana, Nebraska, and North Dakota. Although none of these States has gone quite as far as Minnesota in this respect, they all provide for numerous specific function levies which certainly hamstring local governments in any effort to budget their fiscal resources. Appendix A indicates roughly the extent to which specific function levies are permitted outside the general rate limitation, but no attempt has been made to list the individual additional rates that are allowed.

Property classification as a tax-limiting device. Most States require that all property be treated uniformly for general property taxation. A few States, however, have selected certain classes of property for special treatment. In a number of States homesteads are exempt from property taxes up to a specified dollar amount of assessed valuation. Taxable property of veterans is similarly treated in certain States.

Three States classify all real and personal property according to some presumption as to the abilities of different classes of property to pay taxes. The West Virginia system of classifying property and applying different rate limitations to various kinds of property has been described in a previous section. Minnesota and Montana achieve a similar objective by providing for the assessment of different classes of property at varying percentages of "full" or "market" value, rather than by applying different rate limits to the various classes as is done in West Virginia.

The Minnesota property classification statute provides for 13 classes of real and personal property, assessed at from 5 to 50 percent of "full and true" value. Rural electric distribution lines, disabled veterans, certain agricultural products, homesteads, and household personal property are assessed for tax purposes at the lowest percentages of full value. Rural real estate is favored over urban realty; the highest percentage is applied to mined and unmined ore.

Montana groups property into eight classes. As in Minnesota, varying percentages are applied to full value to arrive at a taxable

value -- ranging from 7 to 100 percent. The lowest percentage applies to money and credits, cooperative rural electric associations, unprocessed agricultural products, and new industrial property (for the first three years). The 100 percent rate applies to the net proceeds of mines, mineral rights, and royalties. The value of other kinds of property is cut to 30 percent, 33 1/3 percent, and 40 percent for tax purposes depending upon the classes into which they are placed.

The property classifications in both Minnesota and Montana are superimposed on extremely detailed rate limitation systems, thus complicating property tax administration further.

Varying rate limits by magnitude of taxable resources.

Recognizing that not all governments have the same taxable resources, as measured by total assessed valuation, a number of States (including Colorado, Iowa, Kansas, Mississippi, Missouri, South Dakota, Utah, and Wyoming) specify tax limitations for their counties which vary inversely with the total amount of assessed value. To some extent the use of differential rate limits based on the total assessed valuation available to a taxing jurisdiction may discourage arbitrary and independent raising of assessment ratios to evade general property tax limitations.

Wyoming represents the most extreme example of this practice. In that State counties are permitted, by statute, to levy up to 8 mills for current expenses if assessed valuation totals less than \$4 million and up to 7.5 mills for counties with more than \$4 million assessed valuation but less than \$6 million. The permissible maximum tax rate for Wyoming counties (for current expenses) decreases 0.1 mill for each \$1 million increase in assessed valuation between \$6 to \$20 million and decreases .01 mill per \$1 million increase in assessed valuation above \$20 million. 25/

25/ As the law now stands, there is no lower limit to the permissible tax rate so that, theoretically, if a county's assessed valuation goes high enough it could end up with no allowable tax levy for current expenses. Actually, in 1956 the county with the highest assessed value had a little over \$80 million which would have given it a tax limit for current expenses of 5½ mills.

Chapter 4

EFFECTS OF PROPERTY TAX LIMITATIONS ON LOCAL GOVERNMENT

The effects of property tax limitations on local government varied over time, depending upon the particular economic and political climate when they were imposed. Furthermore their immediate impact differed from their long-run effects. This chapter examines the effects of limitations on the property tax as a source of local government revenue, on the administration of the tax, and on local government operations generally. The discussion necessarily deals with State aggregates and averages; the impact of property tax limitations upon individual local governments will vary from those applying to all local governments in a particular State.

Early Limitations

The property tax limitations imposed prior to the 1930's had little effect on the ability of local governments to finance public services. The limitations were, for the most part, the specific kind applicable to particular classes of local government. Many local governments were often excepted from the limitations. In New York, for example, the 2 percent constitutional limitation of 1884 applied only to cities with populations over 100,000 -- of which there were only three at the time -- and to the counties in which they were located. The maximum rates were usually set well above the average rates in effect prior to the limitation. With property values rising, assessors were able to increase the tax base every year, so that increased dollar levies had little effect on tax rates.

As time went on, however, governmental costs began to outpace the increases in taxable values, and tax rates began to rise to their legal maxima. Nevertheless, demands for public services, particularly municipal services, did not diminish. Faced with limitations on virtually their sole source of revenue, local officials cast about for means of evading them. Since debt service was generally outside the tax limit, deficiency borrowing became common. When the property tax rate reached its legal limit and additional revenue was needed, the difference was made up by short-term borrowing, which was serviced

from property taxes excluded from calculations of the legal tax limit. 1/

Another device to evade the tax limit was the application of utility revenue, such as water charges, to general fund financing. By setting charges for revenue-producing facilities high enough to produce operating surpluses and to service their debt, the profit from these operations could be used to reduce the property tax levy. 2/

Other forms of nontax revenue were used to supplement the property tax. The use of special assessments was widespread during the first three decades of the 20th century as a device for financing public improvements. 3/ While a special assessment is not a tax nor subject to property tax limitation, it is a compulsory levy (usually on a front-foot basis) against property benefited by specific public improvements such as street paving, sidewalks, and sewer connections. The proceeds are used either to finance the improvement directly or to service debt incurred for that purpose.

Special assessment revenue of local governments almost tripled between 1912 and 1932 -- from \$107 million to \$295 million. 4/ The incidence of delinquency in payment of special assessments was at least as great as it was for property taxes during the depression years. Since much of the special assessment financing was through the issuance of nonguaranteed bonds, many of the bond issues went into default and special assessment financing fell into disrepute. By 1941 special assessment revenue of local governments had dropped to \$102 million. 5/ In the post-World War II period municipalities and special districts particularly began to use special assessments

1/ Frank L. Spangler, Operation of the Debt and Tax Rate Limits in the State of New York, Special Report of the State Tax Commission (Albany: 1932).

2/ Ibid.

3/ Clement H. Donovan, "Special Assessments--Their Place in Municipal Finance," in Municipal Finance, May 1957 (Vol. XXIX, No. 4)

4/ U. S. Bureau of the Census, Property Taxation 1941 (State and Local Government Special Study No. 22, 1942), p. 22.

5/ Ibid.

again. Local revenue from this source has risen steadily from \$111 million in 1950 to \$196 million in 1953, \$284 million in 1957, and \$392 million in 1961. 6/

The early use of specific property tax limitations was undoubtedly one of the causes for the proliferation of special districts that started toward the close of the last century and continues at the present time. Since specific limitations were applicable to the established forms of government, the creation of special-purpose districts offers a means of financing services outside the limit. 7/

Immediate Effects of Depression-Born Limitations

With the imposition of stringent overall limitations local governments began to feel the pinch of reduced revenue. The immediate effect in some States was chaos. In West Virginia, for example, where the overall limitation included debt service and where there was no provision for voting excess levies, there was a widespread breakdown of local government. The aggregate of State and local property tax levies in that State dropped from \$43.8 million in 1932 to \$26.0 million in 1933, almost entirely the result of a decline in the average tax rate from 2.6 percent of assessed valuation to 1.7 percent. 8/ Many schools were closed, one city emptied its jail, employees were discharged, and essential municipal services were either curtailed or discontinued. It was not until the State, having levied a broad-based sales tax, came to the rescue by providing financial aid to school districts and taking over support of local roads, that some semblance of order was restored. 9/

The first stringent overall property tax limitation came in Ohio in the form of the so-called "Smith One Percent Law" in 1911. Although it was called a "one percent" law, it actually provided for a 15-mill (1½ percent) limit -- 10 mills plus an additional 5 mills subject to voter approval. The 1911 Ohio law was a serious attempt to

6/ U. S. Bureau of the Census, Summary of Governmental Finances (annual).

7/ See page 31 for a discussion of the effect of limitations on the proliferation of special districts in Illinois.

8/ Hillhouse and Welch, Tax Limits Appraised (Public Administration Service No. 55, 1937), p. 18.

9/ Ibid, p. 28.

improve the property tax. It was passed in conjunction with a State-wide reappraisal program to prevent property tax levies from skyrocketing as assessed valuations were increased drastically. According to one observer the reappraisal program was, in general, unsuccessful toward attaining full market assessments, and the "Smith Law" limitation had little or no effect toward implementing reappraisals. Since assessed valuations were not appreciably raised and the stringent limitation remained, local government services -- particularly municipal services -- suffered. 10/ Deficit financing became the order of the day. It has been estimated that around \$100 million was saddled on subsequent taxpayers during the decade 1911 - 1921 as a result of deficit financing that was directly attributable to the "Smith Law." 11/ By 1919, amendments to the Smith Law were demanded and obtained. School districts were authorized to submit excess levies to the voters in 1919, and municipalities obtained this right in 1920 and 1921. The authority to vote extra millage was particularly helpful to school districts because "Ohio electorates gradually acquired the habit of voting extra tax levies." 12/ Municipalities were not so successful in obtaining extra millage:

Extra levies were regularly voted down in Cincinnati until the advent of the manager regime, with the result that pavements went to ruin and city services became disgracefully inadequate. In 1922, Youngstown voted down an additional city levy, though remaining revenues were only sufficient to maintain police and fire departments, assuming the discontinuance of other services. 13/

The literature of the 1930's abounds with examples, similar to those in Ohio and West Virginia, of drastic curtailment of essential local government services resulting from stringent property tax

10/ R. C. Atkinson, "Stringent Tax Limitation and Its Effects in Ohio," Property Tax Limitation Laws, edited by Glen Leet and Robert M. Paige, (Public Administration Service No. 36, 1936).

11/ Ibid., p. 71.

12/ Ibid., p. 72.

13/ Ibid., p. 72.

limitation. 14/ The limitations had other effects aside from those stemming from the curtailment of revenue. Many of these side effects were related to procedural and fiscal policy matters -- property tax administration, budgeting, debt administration, and general tax policy. One authority summarized the post-15 mill constitutional limit situation in Michigan as follows:

. . . it has tangled property-tax procedure and made equalization impossible; it has reduced budget-making to a hollow form; it has stopped all short-term credit and long-term capital borrowing; it has forced the state to abandon the levy on property and to adopt a retail sales tax; has stimulated a movement for an income tax although greatly complicating the drafting of a constitutional amendment to permit such a tax; and it has forced the schools into the position of demanding a greater state equalization fund or closing their doors. 15/

Long-Run Effects of Property Tax Limitations

The immediate effect of stringent property tax limitation was dramatic, as anticipated by its proponents. Property tax revenue fell off drastically, and until the States provided financial assistance by levying State sales taxes, local government services had to be cut indiscriminately. Nevertheless, demands for public services did not diminish. In fact, the depression years increased demands on local governments to cope with unemployment and widespread poverty.

Trends in per capita property tax collections. It is revealing to group the States roughly according to the stringency of their

14/ A few examples of such writings are: Frank L. Spangler, Operation of the Debt and Tax Rate Limits in the State of New York, Special Report of the State Tax Commission (Albany: 1932); Simeon E. Leland, "Probable Effects of Tax Limitation in Illinois," in The Tax Magazine, January, 1935; Glen Leet and Robert M. Paige, ed., Property Tax Limitation Laws (Public Administration Service No. 36, 1936); A. Miller Hillhouse and Ronald B. Welch, Tax Limits Appraised (Public Administration Service No. 55, 1937); New York State Constitutional Convention Committee, Problems Relating to Taxation and Finance, by Paul Studenski (Albany: 1938).

15/ Harold D. Smith, "Tax Limitation in Michigan," Property Tax Limitation Laws, op. cit., p. 68.

property tax limit laws and to analyze the trends in per capita property tax revenue since the early 1930's. For this purpose, the 48 States for which historical data are available (i.e., excluding Alaska and Hawaii) have been arranged into four groups, as follows:

- I The 7 States with no property tax limitation;
- II The 20 States with specific limitations that affect only certain types of local government, which allow considerable flexibility in the application of the limitations, or which provide relatively high maximum rates;
- III The 12 States with specific limitations applicable to all or to most of their local governments, allowing for little flexibility, or providing relatively low maximum rates; and
- IV The 9 States with overall limitations. 16/

16/ See Appendix B for the States included in each group. Any grouping of this kind is necessarily subjective. With the wide interstate variation in property tax limitation laws, it was not feasible to assign exact statistical weights to the different factors bearing upon the stringency of a particular set of constitutional or statutory provisions. A State was listed in a particular group on the basis of the preponderance of the available evidence as to such variables as the rate ceiling relative to the assessment level, the particular classes of local government included, the treatment of debt service, provisions for exceeding limits, and the like. State-to-State variation in the allocation of responsibility for the provision of governmental services between the State and its localities had to be disregarded.

In most cases, the evidence was sufficiently clear-cut to permit the distinction made between Group II and Group III. Included in Group II, however, are several States, notably Tennessee and Virginia, where the limitations are so "generous" as to make them virtually inoperative. In some borderline cases, arbitrary decisions between Groups II and III were unavoidable. All 9 States with overall limitations are listed in Group IV. With the possible exception of Indiana and Rhode Island, the overall limit States have the most stringent property tax limitation laws -- probably more stringent than those in the 12 States included in Group III.

Table 6, which is based upon Appendix B, summarizes the trend in per capita property tax collections since 1932 for each of these groups.

Between 1932 and 1941, over three-fourths of the States registered declines in their per capita collections of State and local general property taxes. For the Nation as a whole the decrease was 11.4 percent. Yet, five of the seven no-limit States (Group I) evidenced increases, despite a falling off of assessed valuations, and in the other two per capita property taxes fell off slightly. For that group as a whole, general property tax collections rose 5.4 percent on a per capita basis. In the second group only five of the 20 States showed increased property tax revenue relative to population between 1932 and 1941, and for the entire group there was a substantial decline -- 8.9 percent. The third group, taken together, showed

Table 6. - Trends in State and Local Per Capita Property Tax Collections, by Stringency of Limitation Groups: 1932 to 1961

Group ^{1/}	No. of States	Per capita general property taxes					Per capita general and special property taxes			
		Amount			Percent increase or decrease (-)		Amount		Percent increase	
		1932	1941	1957	1932 to 1941	1941 to 1957	1957	1961	1957 to 1961	
U.S. Total ^{2/}	48	\$37	\$33	\$73	-11.4%	122.8%	\$76	\$99	30.7%	
I	7	47	50	99	5.4	97.8	103	130	26.5	
II	20	41	37	80	-8.9	112.7	82	106	28.8	
III	12	23	19	51	-14.4	164.2	52	67	29.8	
IV	9	38	27	66	-28.8	139.7	69	94	35.9	

^{1/} See text for explanation of grouping.

^{2/} Excludes Alaska and Hawaii, for which historical data are not available. Also excludes District of Columbia.

Source: Appendix B.

a still greater decline -- down 14.4 percent, although even here one State registered an increase. Except for Rhode Island, all the overall-limit States showed sharp declines, so that, on the whole, that group evidenced the most drastic falling off in per capita tax collections -- a drop of 28.8 percent between 1932 and 1941.

After the initial impact of the early depression years, property tax collections of State and local governments remained fairly stable -- at 4 to 4½ billion dollars annually -- until the close of World War II. Following the War, State and local government services, which had been held in abeyance because of shortages of materials and personnel, were resumed and expanded to meet the pent-up demands. To finance rapidly increasing governmental expenditures, more tax revenue was needed and was forthcoming, generated in part by an inflationary economy and in part by enactment of new taxes and higher rates.

Local governments experienced the same pressures for increasing their scale of operations as did the States. As the school-age population rose at a rapid rate, new schools had to be built, equipped, and manned. Property taxes, the major revenue source available to local governments, were surprisingly responsive to the situation and since 1948 have maintained, and in recent years even bettered, their position relative to State and local nonproperty taxes. Nationally, since 1948 property taxes have provided around 45 to 46 percent of total State and local tax revenue each year.

As Appendix B shows, all States participated in the increase in property taxes. When related to stringency of property tax limitation, per capita property tax revenue increased at a faster pace in the States with limitations than in the no-limit States between 1941 and 1957. The largest percentage increase -- 164 percent -- occurred in the States with the most stringent limitations (Group III), followed closely by the overall-limit States. During the same period the no-limit States about doubled per capita property tax collections, and the rise in Group II was slightly higher. This trend seems to be continuing. Between 1957 and 1961 per capita property tax collections rose 26.5 percent in the no-limit States, 28.8 percent in Group II, 29.8 percent in Group III, and 35.9 percent in the overall-limit States.

This analysis of the trend in property taxes since the early 1930's suggests three generalizations:

- (1) The immediate effect of the imposition of a stringent limitation is a reduction of property tax revenue when the limit is set below prevailing tax rates;

- (2) Property tax limitations are particularly effective during economic depressions; and
- (3) During periods of inflation and economic expansion property tax revenue can be increased in spite of limitations.

It is impossible to separate the effects of limitations on property tax revenues from the effects of changes in the economy. As can be seen in Appendix B, the base against which property taxes are levied -- assessed valuations -- dropped in almost all States between 1930 and 1940. 17/ The early years of the depression witnessed a drastic increase in tax delinquency. As income fell, property owners found it more and more difficult to pay their taxes. Nevertheless, in the States without property tax limitations, local officials could generally raise their rates sufficiently to offset declines in assessed valuations. In States with limitations already pressing against the ceiling, officials had no way of maintaining property tax revenue in the face of declining tax bases. Taxpayers were loathe to approve excess levies when they could not afford to pay the taxes for which they were already liable. Indeed, as has been noted, in seven States they were persuaded to approve the imposition of stringent overall limitations or to make such limitations more stringent, placing such limitations in some instances in their constitutions.

Despite the fact that, once the depression was over, property tax revenue increased at the greatest rate in the States with the most stringent limitations, the property tax burden, as measured by effective property tax rates, is still higher in the no-limit States than in the stringent-limitation States. This is shown in the following frequency distribution, which relates 1960 effective property tax rates to the stringency of property tax limitation in each State and to their geographic location: 18/

17/ In Iowa, where assessed valuation doubled during the thirties, the Legislature in 1933 changed the property assessment base from 25 percent to "actual value." This was later changed to 60 percent.

18/ The "effective rate" is calculated on the basis of actual property value rather than the fractional assessed valuation.

Effective property tax rate	Total no. of States	Stringency of limitation group				Geographic region							
		I	II	III	IV	N.E.	M.E.	G.L.	Pl.	S.E.	S.W.	R.M.	F.W.
2.0% & over	5	4	1	-	-	3	2	-	-	-	-	-	-
1.5 - 1.9	9	3	4	-	2	3	1	3	1	-	-	-	1
1.0 - 1.4	20	-	12	6	2	-	1	2	6	2	2	5	2
Less than 1.0	16	-	4	7	5	-	1	-	-	10	2	-	3
Total	50	7	21	13	9	6	5	5	7	12	4	5	6

Source: Appendix C.

Four of the five States with the highest effective rates (over 2 percent) have no limitations. The other three no-limit States are in the next highest effective-rate class (1.5 to 1.9 percent). Of the 14 States with effective rates of 1.5 percent or more, six are the New England States, three are in the Mideast, and three are in the Great Lakes section of the country. At the lowest end of the scale (effective rates under 1 percent), 12 of the 16 States are in stringency Groups III and IV and ten of them are in the Southeast.

The correlation between effective property tax rates and geographic location appears to be at least as close as the correlation between effective rates and stringency of property tax limitations. The high effective rate States include the highly industrialized and urbanized States in New England, as well as such industrialized States as New Jersey, New York, Michigan, and Wisconsin. They are States in which per capita property taxes were relatively high even at the beginning of the depression. The low effective rate States are predominantly Southern States, which had extremely low per capita property taxes at the beginning of the depression. They were mainly agricultural States and, despite some improvement in recent years, are still at the low end of the economic scale. Per capita general expenditure and per capita total tax revenue are still considerably lower in the States with low effective property tax rates than in the States with high effective rates, as shown in the following frequency distribution:

Per capita amounts, 1961	States with 1960 effective rates of 1.5% and over		States with 1960 effective rates of 1 - 1.4%		States with 1960 effective rates of less than 1%	
	General expenditure	Total taxes	General expenditure	Total taxes	General expenditure	Total taxes
\$300 and over	9	-	11	-	6	-
250 - 299	5	2	8	1	1	2
200 - 249	-	10	1	9	8	2
175 - 199	-	2	-	7	1	3
150 - 174	-	-	-	2	-	-
Less than 150	-	-	-	1	-	9
Total	14	14	20	20	16	16

Source: Appendix C.

It is also noteworthy that the States with the highest property tax burdens have the strongest tradition of citizen participation in local government. Governmental services are provided to the greatest extent at the local level in these States, and responsibility for financing these services has remained, by and large, with the local governments. Stringent limitation of the property tax would have been folly under such circumstances.

The States with the lowest property tax burden are largely those which, as has been mentioned, have traditionally spent the least on governmental services because of their limited taxable resources. These States have found it necessary to finance their governmental services from taxable resources available to State governments rather than to local governments -- hence the emphasis in these States on nonproperty taxes for aggregate State-local revenues.

Factors Offsetting Property Tax Limitations

As has been shown in the previous section, the property tax has displayed an unexpected vigor in recent years, even in the States with the most stringent limitations. How has this come about?

A number of methods have been used in most States to relax the effects of property tax limitations. The factors which tend to offset property tax limitations have been brought to bear for various reasons: political pressures to exclude particular classes of local government or particular local government activities from the basic limitations, or to raise maximum allowable rates above the rates that were enacted initially; pressures on the part of the banking fraternity and local government officials to exclude debt service from the limitations so as not to impair governmental credit; a desire on the part of legislators to provide leeway for exceeding limits, but subject to voter approval; and individual actions of local assessors to raise assessment levels, as well as action on the part of legislators and the courts to make uniform the effects of tax rate limitations by applying them to State equalized values rather than to locally set valuations. Some of these mitigating devices, such as debt service exclusion and excess-levy referenda, were built into the original tax limitation laws. Others were enacted subsequently.

Some States have recognized the additional need for revenue arising from increased population -- particularly for municipalities -- by providing a sliding scale of maximum rates tied directly to population size. On the other hand, a number of States provide a sliding scale of maximum rates which bears an inverse relationship to the level of assessed value, apparently in an effort to avoid the windfall effect of drastically increasing the level of local assessments.

Appendix A provides detail on the exclusion from property tax limitations of particular classes of local government and of debt service, as well as information concerning provisions for exceeding basic limitations and for special purpose levies outside the basic limitations.

Exclusion of particular types or classes of local government. As indicated earlier, seven States do not impose limitations on the property taxing powers of their political subdivisions, and a few more States exclude one or more classes of local government from such limitations.

Counties are excluded in South Carolina and Tennessee; California imposes only certain special purpose tax limits on counties, and Virginia limits county taxes only for school purposes. Municipalities

are excluded from property tax limitations in Delaware and are restricted only for school purposes in Virginia. More than a dozen States imposing limitations on municipalities also exclude home rule municipalities. Included in this group are California, Colorado, Florida, Kansas, Minnesota, Ohio, and Tennessee. Five other States, including Illinois, Louisiana, and Michigan, have established separate maximum tax rates applicable to charter municipalities. Local taxes for school purposes are not limited in Arizona, Arkansas, Delaware, North Carolina (except for certain supplemental school levies), and Tennessee, but the levies are subject to voter approval in the first three mentioned States.

Exclusion of debt service. Only two of the 43 States with property tax limitations have no provision for excluding debt service from the basic limitations -- Hawaii and Idaho. The remaining property tax limit States either exclude all debt service from their limitations (29 States); or exclude debt service from the limitations applicable to at least some types of local governments (8 States); or exclude debt service applicable to particular kinds of debt, e.g., debt issued prior to enactment of the property tax limitation (4 States). The 29 States that exclude all debt service from their property tax limitations comprise the two States with overall statutory limitations, four of the seven States with overall constitutional limitations, nine of the 14 States with specific constitutional limitations (on one or all classes of local government) and 14 of the 20 States using specific statutory tax limitations.

The widespread exclusion of debt service from property tax limitations is probably the most significant of the factors that have tended to offset their restrictive effect. More than any other factor, it has afforded opportunity for abuse over the years. Particularly in the early history of property tax limitations, the exception of debt service levies made it possible to evade general purpose limitations by deficit financing. In the long run, of course, this device has resulted in added interest costs.

Provisions for excess levy referenda. Ten States give unqualified authorization to all classes of local governments for voter approval of tax rate increases above the limitations. Only two of the States imposing overall constitutional limitations (Washington and West Virginia) are in this group. Five more States grant unqualified authorization for such levies to at least one class of local taxing units, commonly school districts. On a qualified basis another six States permit all classes of local governments to submit tax increases to voters for approval. In these States the authorization typically restricts the rate, purpose, or term of the additional levy. Ohio and Oklahoma are in this last group: the former spells out in

great detail the purposes of the additional levies and the machinery for obtaining voter approval; the latter specifies the purposes and the rates. Similar qualified authorizations for voter-approved increases are granted to at least one class of local governments in eight additional States.

Provision of specific levies outside the general limitations. To some extent approximately a dozen States authorize all or nearly all of their local governments to levy additional taxes for certain specified purposes outside the limitations for general operating expense. Sometimes this authorization may be without rate limitation, but typically maximum rate limits are provided for each specific levy. For some States (e.g., Illinois, Iowa, Minnesota, and North Dakota) extensive use of this practice, as mentioned earlier, has become tantamount to State budgeting for local governments because of its earmarking effect. Over a dozen more States authorize additional (specific purpose) taxes for at least one class of local government. States in the latter group include Idaho, Kansas, and Montana. On the other hand, at least 12 more States make no provision for special purpose levies outside the authorized limitations. Six of these latter States have overall property tax limitations.

Legislative easing of rate limitations. In an effort to meet emerging problems facing their local governments, some States have tended to increase the rate limit ceilings or to provide additional authorizations for special purpose levies. Among the States which make moderate to heavy use of legislation are Alabama (through numerous constitutional amendments for specific localities), California, Idaho, Illinois, Kansas, Minnesota, Montana, Nebraska, South Dakota, Texas, Utah, and Wyoming. States which have made few if any legislative changes in tax rate limitations or related provisions are Arizona, Delaware, Florida, Kentucky, Michigan, New York, South Carolina, and West Virginia. By and large the States with statutory restrictions have found it most feasible to amend their property tax limit laws.

Increase of local assessment levels. Except in Hawaii, where the property tax is administered directly by the State Department of Taxation, the base against which property taxes are levied has traditionally been under the control of the local governing bodies (albeit subject to definitions and standards laid down by State law and State tax agencies). The taxable value of each piece of property is determined by a locally elected or appointed official -- usually the assessor -- who is responsible in varying degrees to the local governing

body. In most States property assessment is the responsibility of the county. 19/

The assessed value of taxable property in a particular jurisdiction is first of all increased as a result of new construction and major additions to established properties. Beyond that the increases in the tax base are at the discretion of the local governing body or the assessor. Thus, the local assessor has it within his power to increase property tax revenue without raising the tax rate, simply by raising the assessment level of property under his jurisdiction. By the same token, an elected assessor with little or no responsibility to the governing body, can thwart the budget-making authorities by refusing to raise assessments to provide needed funds. If a community has reached its property tax limit, the assessor is then in the policy-making position of setting its level of governmental spending.

The State of California adopted an interesting variant on the procedure for raising the assessment level by amendment of its municipal tax limit law, effective September 1, 1961. Its municipalities have the option of assessing their own property or availing themselves of the county's facilities. Since a city may assess property at a higher ratio of assessed to market value than the county, an adjustment is permitted in the city tax rate to allow for any such difference in assessment level when the city turns the assessment function over to the county. The California law reads as follows:

For the fiscal year in which a city avails itself of the general laws relative to the assessment and collection of city taxes by county officials, and for each succeeding fiscal year, the city council may levy a rate of tax for any purpose for which a maximum rate is specified by law up to an amount that exceeds such maximum rate in the proportion that the total assessed valuation on the entire city roll used in the fiscal year immediately preceding the year for which the city availed itself of the county tax assessing and collecting services exceeded the total assessed valuation of the property within the city on the entire county roll for the same year. 20/

19/ Exceptions to this are found in the New England States, New York, New Jersey, Wisconsin, and a few other States where assessment is a city and town function.

20/ California Government Code, Section 43072.

County assessments in California are at a rather low level -- on the average about 19 percent of market value for real property, according to the 1957 Census of Governments. 21/ Under the law quoted above a city could take back the assessing function from the county for one year and assess property within its confines at double the county level. When the assessing function is returned to the county the following year, the city general levy against county assessed values can then be 20 mills and still be within the 10 mill general purpose limitation. This process could presumably be continued ad infinitum.

Practically all State laws, including those of California, stipulate that property is to be assessed for tax purposes at "market value," "full value," "true value" or some similar value which is supposed to approximate its full value. In a few States the assessment is required to be at some specified percentage of full value (e.g., 60 percent in Iowa). However, the requirement that assessed values approximate "full" or "market" value is almost universally ignored by assessors. The Bureau of the Census estimated that, for the nation as a whole, the average ratio of assessed value to sales price in 1956 was about 30 percent for real estate. For individual States the average ratio for single family houses varied from about 7 percent in South Carolina to 66 percent in Rhode Island. 22/ Local assessors thus have substantial leeway to raise the property tax base. The extent to which assessors have exercised this prerogative has varied considerably, a fact that has undoubtedly contributed to the significant lack of uniformity in assessment levels even among jurisdictions in the same State.

The inter-area differences in each of the States for single family houses were measured for 1956 in the Census of Governments report on property values. 23/ The coefficient of inter-area dispersion ranged

21/ U. S. Bureau of the Census, Taxable Property Values in the United States, (Vol. V, 1957 Census of Governments), p. 35. According to the California State Board of Equalization, the assessment ratio for both real and personal property is currently 23 percent.

22/ Ibid., p. 81.

23/ Ibid., p. 87.

from 10 percent in Oklahoma (indicating a relatively high degree of inter-area conformity) to 46 percent in Montana. 24/

Since rate limitations usually apply against assessed valuations, they have differing effects upon two jurisdictions in the same State with different assessment ratios. In Michigan, for example, where the coefficient of inter-area dispersion was reported by the Bureau of the Census to be 26 percent, the assessment ratio of the median area (among 56 selected areas) was 26.8 percent; five of the areas had assessment ratios of 10 to 15 percent, and seven areas had ratios of between 40 and 50 percent. Taking the two extremes, it would be possible to have two areas with a 5 to 1 difference between assessment ratios and therefore a tax bill under the 15-mill limit in Michigan of five times as much in the high-ratio area as in the low-ratio area.25/

Use of State-equalized values. A number of States try to avoid this problem by applying the tax rate limit to a State-equalized assessed value, rather than to the locally assessed valuation. According to the U. S. Office of Education, 14 of the States with property tax rate limitations apply them against State-equalized values. 26/ In some instances, as in Illinois and New York, provision for use of State-equalized values is spelled out in the law; in other instances (e.g., Michigan) State-equalized values are used as a result of judicial interpretation of the constitutional or statutory language concerning the relationship between the property tax limit and the tax base.

24/ For an interpretation of the significance of the Census findings, see Frederick L. Bird, The General Property Tax: Findings of the 1957 Census of Governments (Public Administration Service: 1960), pp. 63 to 65.

25/ As indicated below, however, Michigan applies rate limits to equalized values.

26/ U. S. Department of Health, Education, and Welfare, Office of Education, Public School Finance Programs of the U. S., 1957 - 1958 (Wash., D. C.: 1960), p. 57. The States listed are those in which school tax rate limits apply to State-equalized valuation, but many of these States apply all their rate limits to State equalized values. The States are: Colorado, Hawaii, Illinois, Indiana, Kansas, Michigan, Mississippi, Missouri, Montana, New York, North Dakota, Oklahoma, Utah, and Wisconsin. Although Kansas is included in the list, State-equalized values are used there only as a basis for distributing certain school aid.

In some States equalized values are used in connection with some rate limits and not for others. Thus, in Wisconsin tax limitations on school districts and on counties are generally applied to "full" value as equalized by the State Department of Taxation, and limitations on municipalities are applied against local assessments. In Oklahoma use of equalized assessed values is restricted to school district limitations.

The term "State equalized value" does not necessarily mean "full value" or "market value." Only one State -- New York -- is required by law to apply tax rate limits to valuations which are equalized by the State at full value. ^{27/} Actually, New York is required to use a five-year moving average of assessed valuations equalized to full value. The use of full value has eased the pressure of the tax rate limits in New York, and very few jurisdictions subject to the constitutional limit have reached that limit. However, there are no indications that the rise in local government costs -- particularly school costs -- will be stemmed in the foreseeable future, so that eventually the New York local governments will begin to exert pressures for further easing of the limitations.

Usually where State-equalized values are used, these are set at some percentage of full value which is above the average assessment ratio in the State. In Illinois, the State-equalized value is actually applied to the individual properties on each assessment roll. This is done uniformly for each county by means of a "multiplier" that is promulgated by the State Department of Revenue. The size of the "multiplier" is determined by means of sales-ratio studies. Thus, in Illinois State-equalized values apply to all the uses to which assessed valuations may be put. When this rigid form of equalization was first established in Illinois in 1945, it was anticipated that the assessed valuations to which tax limitations were to be applied would double. Therefore, to avoid the possibility of doubling the dollar amounts that could be raised under the then-existing rate limitations, those limits were cut in half. As a result, while assessed valuations rose by almost 450 percent between 1940 and 1956, general property tax collections increased by less than 200 percent between 1941 and 1957,

^{27/} In Wisconsin the statutes require county and school property tax limitations to be applied to assessed valuations as equalized by the State Department of Taxation. Since that agency equalizes at full value, the situation in Wisconsin, so far as school and county levies are concerned, is similar to that in New York. As mentioned above, municipal tax limitations, however, apply in Wisconsin to local, unequalized assessed values.

and the average nominal rate for the State fell from 6 percent to 3.1 percent of assessed valuation. 28/

Assessed values are used for a number of purposes, including: 29/

1. As a base for the levy of taxes by overlapping governments (variously county, special district, and State).
2. As a base for determining power to tax, when such power is restricted by constitutional or statutory tax rate limits.
3. As a base for determining power to borrow, when such power is restricted by constitution or statute to a percentage of the local assessed valuation.
4. As a base that measures the value of veterans' homestead, and other partial tax exemptions that are stated in dollar amounts of assessed valuation.
5. As a base, or factor in the base, on which State assistance to local governments is apportioned.

State equalization programs usually cover some of the purposes enumerated by Bird, but not all of them simultaneously. The use of State-equalized values as a base for applying tax rate limitations (and not, for example, school equalization aid) could well result in greater inequality of inter-area local assessment rather than more uniformity. Since, in this instance, the level of local assessments does not matter in determining whether a taxing unit has reached its rate limit, it is conceivable that assessing jurisdictions vie with one another in reducing assessments in order to make it possible to obtain additional school aid. On the other hand, they may be faced with a dilemma if, at the same time, they have a debt limit that is related to the locally assessed value rather than to the equalized value. The low assessment level may bring in more school aid to pay teachers, but at the same time will reduce school districts' capacity to borrow funds for school buildings.

28/ See Appendix B.

29/ Frederick L. Bird, op. cit., p. 63.

Nonproperty taxes and State aid. As has been demonstrated, the property tax has shown unexpected strength in recent years as a revenue producer for local governments. Although property tax revenue lost ground relative to other sources of State and local government revenue before 1950, this occurred almost entirely because new demands for local government services were met largely from new State revenue sources which in turn were used to nurture State aid programs. Nevertheless, the property tax remains the workhorse of local finance and will undoubtedly remain so for many years to come.

Even in the South, where the States have most actively assisted the financing of local government services, particularly in the fields of education and highways, property tax revenue has increased significantly in the past two decades. Thus, in Alabama where property taxes fell drastically relative to other sources of State-local tax revenue (from three-fifths of total tax revenue in 1932 to one-fifth in 1961), their actual dollar contribution still increased almost one and one-third times between 1941 and 1957 and continued to rise substantially between 1957 and 1960. Similar situations can be noted in States as Arkansas, Georgia, Louisiana, New Mexico, North Carolina, South Carolina, and West Virginia. 30/

Almost without exception State consumer taxes, as well as income taxes, have provided the fiscal means whereby States were able to help local governments meet the demands for better educational programs and expansion of other local services required by a rapidly growing population which has tended to concentrate more and more in urban centers. All of the State general sales taxes in existence today have been enacted since 1932, and, as has been pointed out, some were initiated coincident to the imposition of stringent property tax restrictions to meet emergency situations that arose from the depression of the 1930's. After World War II, pent-up demands for expanded governmental services and facilities that had to be postponed during the War resulted in additional State sales tax enactments.

The post-World War II development of local nonproperty taxes is detailed in chapter V. What seemed the beginning of a significant trend soon after the War has thus far not materialized, except for a few outstanding developments, principally in cities, in a small number of States. As will be seen, the broadest authority for local nonproperty taxation was provided by Pennsylvania when it enacted the so-called "tax anything" law (Act 481) in 1947. Under it a wide variety of taxes has been levied by several thousand cities, boroughs,

30/ See Table 3 and Appendix B.

townships, and school districts, each administering its own set of taxes. Five States now provide for local supplementation of State sales taxes, and local income taxes are now being used by some of the larger municipalities in a few States in addition to Pennsylvania. With relatively few exceptions, however, the local revenue picture continues to be dominated by the property tax.

Current Effects of Property Tax Limitations

Through an inquiry sent to State agencies concerned with property taxation an attempt was made to obtain information on the effects of property tax limitations on local governments today. The seven States without property tax limitations were excluded from the survey, as was Delaware in which no State agency is concerned directly with the property tax.

All but two of the 42 States canvassed replied to the inquiry which dealt with three subjects:

1. One question relating to the number of jurisdictions that are at their legal tax levy limit;
2. Three questions, applicable only in those States in which excess levy propositions may be submitted to the electorate; and
3. An opinion question in which officials were asked whether the rate limitations materially affect the ability of local governments to finance public services.

Number of jurisdictions at the legal limit. Almost two-thirds of the States that replied were able to give some indication of the number of jurisdictions that had reached their legal property tax limit. Ten of these States indicated that most or all of their local jurisdictions are at their legal limit. Of the other 16 States that were able to reply to this question only Alaska and Hawaii indicated that no local governments were at their tax limit; in the other 14 States the number ranged from a few to 40 or 50 percent of the localities.

Many of the States were unable to estimate the number of local governments at their property tax limit because there is no central source of information. In States with numerous special-purpose limitations it was reported to be well-nigh impossible to provide a meaningful estimate. One State (Kansas) is now in the midst of a detailed study of this and other matters relating to its complex system of property tax limitations.

Excess-levy referenda. As was discussed in a previous section, the fact that "excess-levy" propositions can be submitted to the voters in a number of States is one of the significant factors offsetting the basic limitations. The answer to the question "about how many excess-levy propositions were submitted to the voters last year?" was spotty, mainly because information was not centrally available. In general, this device was used successfully to obtain additional levies for school purposes -- apparently few school levy propositions are rejected by the voters. Municipalities and counties usually find it more difficult to obtain approval of excess levies at the polls. Nevertheless, in some States (e.g., Ohio) voting for levies in excess of the rate limitation has become a way of life. In fact, local governments in Ohio -- particularly school districts -- could not operate effectively without recourse to excess-levy referenda.

By and large, where excess-levy referenda are authorized, a simple majority vote is required for approval. Three States (North Dakota, Washington, and West Virginia) reported that three-fifths of those voting must approve an excess-levy proposition. Nebraska requires 55 percent; and Idaho and Kentucky require two-thirds for certain kinds of excess levies, but a simple majority for others.

In six States basic limitations can be exceeded by appeal to State agencies: the State Tax Commission in Colorado; the State Board of Commissioners in Indiana; the State Comptroller in Iowa; the Board of Tax Appeals in Kansas; the State Tax Commission in New Mexico; and the State Director of Administration in Rhode Island. Some States, including Kansas, provide for approval of increased school levies by school meetings, rather than through general elections.

Effect on ability of local governments to finance public services. Thirty-two of the States answered the question relating to the effect of property tax limitations on local ability to finance public services. Respondents from twenty States indicated that either all their local jurisdictions or particular classes (mainly counties and municipalities) are hampered by property tax limitations. The other 12 stated that their local governments are not hampered, but some of them indicated the availability of nonproperty taxes, excess-levy voting, ability to obtain increases from State agencies, and frequent statutory revision of the limitations among the reasons that enabled local governments "to live with property tax limitations".

Several State officials pointed out the administrative problems created by some of the complex property tax limiting provisions in the State constitutions and statutes -- the fact, for example, that many State and local officials and agencies must be thoroughly familiar with the statutes and the detailed administrative procedures related

to them. To the extent that the limitations are enforced -- and it is difficult to see how some of the more complex and numerous limitations could be effectively policed -- considerable extra expense is incurred (including that involved in holding excess-levy elections). Furthermore, much litigation has been directed at the tax limit laws -- mainly in the form of taxpayer suits against local officials who purportedly exceeded legal limits. These suits entail additional costs to the taxpayer, indirectly through increased governmental costs and directly in legal fees to the taxpayer bringing suit. The difficulties experienced by many State officials in attempting to answer a few seemingly simple questions related to property tax limitations attest to the complexity that has been built into the various State systems.

Table 7. - State and Local Tax Revenue, by Major Source and by Level of Government:
Selected Years 1902 - 1961

Year	Amount in millions						As percent of total taxes				
	Total	Property tax	Nonproperty taxes			Property tax	Nonproperty taxes				
			Total	Sales & gross receipts	Income		Other	Total	Sales & gross receipts	Income	Other
STATE AND LOCAL											
1902	\$ 860	\$ 706	\$ 154	\$ 28	- -	\$ 126	82.1	17.9	3.3	- -	14.7
1913	1,609	1,332	277	58	- -	219	82.8	17.2	3.6	- -	13.6
1927	6,087	4,730	1,357	470	\$ 162	725	77.7	22.3	7.7	2.7	11.9
1932	6,164	4,487	1,677	752	153	772	72.8	27.2	12.2	2.5	12.5
1942	8,528	4,537	3,991	2,351	548	1,092	53.2	46.8	27.6	6.4	12.8
1952	19,323	8,652	10,672	6,357	1,844	2,471	44.8	55.2	32.9	9.5	12.8
1957	28,817	12,864	15,953	9,467	2,738	3,748	44.6	55.4	32.9	9.5	13.0
1960	36,117	16,405	19,712	11,849	3,643	4,220	45.4	54.6	32.8	10.1	11.7
1961	38,861	18,002	20,859	12,463	3,879	4,518	46.3	53.7	32.1	10.0	11.6
STATE											
1902	\$ 156	\$ 82	\$ 74	\$ 28	- -	\$ 46	52.6	47.4	17.9	- -	29.5
1913	301	140	161	55	- -	106	46.5	53.5	18.3	- -	35.2
1927	1,608	370	1,238	445	\$ 162	631	23.0	77.0	27.7	10.1	39.2
1932	1,890	328	1,562	726	153	683	17.4	82.6	38.4	8.1	36.1
1942	3,903	264	3,639	2,218	518	903	6.8	93.2	56.8	13.3	23.1
1952	9,857	370	9,487	5,730	1,751	2,006	3.8	96.2	58.1	17.8	20.4
1957	14,531	479	14,052	8,436	2,547	3,069	3.3	96.7	58.1	17.5	21.1
1960	18,036	607	17,429	10,510	3,389	3,528	3.4	96.6	58.3	18.8	19.6
1961	19,057	631	18,426	11,031	3,621	3,774	3.3	96.7	57.9	19.0	19.8
LOCAL											
1902	\$ 704	\$ 624	\$ 80	- -	- -	\$ 80	88.6	11.4	- -	- -	11.4
1913	1,308	1,192	116	\$ 3	- -	113	91.1	8.9	0.2	- -	8.6
1927	4,360	4,360	119	25	- -	94	97.3	2.7	0.6	- -	2.1
1932	4,274	4,159	115	26	- -	89	97.3	2.7	0.6	- -	2.1
1942	4,625	4,273	352	133	\$ 30	189	92.4	7.6	2.9	0.6	4.1
1952	9,466	8,282	1,184	627	93	465	87.5	12.5	6.6	1.0	4.9
1957	14,286	12,385	1,901	1,031	191	679	86.7	13.3	7.2	1.3	4.8
1960	18,081	15,798	2,283	1,339	254	692	87.4	12.6	7.4	1.4	3.8
1961	19,804	17,370	2,434	1,432	258	744	87.7	12.3	7.2	1.3	3.8

Note. - Due to rounding detail will not necessarily add to totals. Data for 1960 and 1961 include Alaska and Hawaii.

Source: U. S. Bureau of the Census, Historical Summary of Governmental Finances in the U.S. (Vol. IV, No. 3 of the 1957 Census of Governments), Governmental Finances in 1960, and Governmental Finances in 1961.

Chapter 5

RESTRICTIONS ON LOCAL NONPROPERTY TAXING POWERS

Local taxing powers have been confined traditionally to the property tax and, under the general police powers, to various types of business and nonbusiness regulatory license taxes. Local governments can impose nonproperty taxes as revenue measures only to the extent authorized by the State. This chapter examines the prohibitions, authorizations, and limitations on local nonproperty taxes in the several States. The analysis deals with the seven more important nonproperty taxes that have come into local use during the past quarter century -- general sales taxes, income taxes, and the selective sales and gross receipts taxes on motor fuel, alcoholic beverages, tobacco products, admissions, and utility services.

Development of Nonproperty Taxes ^{1/}

Local governments in the United States were collecting no revenue from income or consumer taxes at the turn of the century (Table 7). The only nonproperty tax revenue received by localities during that period came from business licenses (mainly of a regulatory nature), poll taxes, and miscellaneous lesser taxes. In the aggregate they contributed \$80 million in 1902, or 11.4 percent of the \$704 million total local tax revenue. By 1932, local tax revenue had risen to \$4.3 billion, but only \$115 million came from nonproperty taxes. Of this, \$89 million represented licenses, poll taxes, and other miscellaneous taxes. The remaining \$26 million were from new tax sources -- gross receipts taxes on various businesses, chiefly public utilities.

At the depth of the depression, nonproperty taxes constituted an insignificant source of local tax revenue. They had actually lost ground since 1902. The five-fold increase in total local tax revenue during the first 3 decades of this century resulted almost entirely from increased property taxes. At the State level, however, property taxes had decreased relative to other taxes, from 52.6 percent in 1902 to 17.4 percent in 1932, during a period when total State tax

^{1/} Additional information is contained in the Commission's report, Tax Overlapping in the United States, 1961 (Government Printing Office, September 1961).

collections had risen eleven-fold, from \$156 million to \$1.9 billion .

The depression of the 1930's witnessed the beginning of attempts to broaden local taxing powers. New York State, in recognition of the acute local unemployment relief problem, granted to New York City broad taxing authority in 1933, permitting it to impose for six months any tax the State could levy. The authority was extended indefinitely the following year. Included in the city's taxing powers were authorizations for a business gross receipts tax, a tax on the gross incomes of public utilities, and a retail sales and use tax. Pennsylvania, for similar reasons, enacted the Sterling Act in 1932, which gave Philadelphia wide discretion to levy nonproperty taxes. Under it Philadelphia enacted an amusement tax and other minor taxes in 1937 and a sales tax in 1938, which a year later was replaced by an earned income tax. New Orleans levied a 1 percent sales tax in 1936. Apart from these isolated attempts in the large population centers, local revenue needs in the 1930's were met by property taxes and State grants-in-aid.

During World War II material and manpower shortages held local spending to essentials. Efforts to obtain new tax sources were few, and these were limited to large cities.

Immediately after the War, the pent-up demand for government services and the large backlog of needed public facilities once again placed local governments in a financial bind. In some States, notably California and Ohio, cities utilized home rule provisions or general licensing powers to levy broad-based taxes. Over fifty California cities imposed general sales taxes and a number of the larger cities in Ohio levied income taxes. New York and Pennsylvania passed enabling legislation in 1947, granting to local governments taxing powers roughly equivalent to those already possessed by New York City and Philadelphia. In the same year additional California cities enacted local sales tax ordinances. In subsequent years more local governments, predominantly municipalities, but in a few States other local governments as well, moved into the nonproperty tax field. The 1947 "tax anything" law (Act 481) in Pennsylvania made available a variety of nonproperty taxes, including local income taxes, to thousands of cities, boroughs, townships, and school districts.

A new dimension was added to local sales taxation in 1950 when Mississippi authorized municipal supplements to its State sales tax. California, Illinois, and New Mexico provided for local supplements to State sales taxes in 1955 (applicable to counties as well as to municipalities in California), and Utah enacted similar legislation,

applicable to counties and municipalities, in 1959. Illinois extended this authority to counties in 1959.

The rash of postwar enactments seemed to portend a significant increase in local government reliance on nonproperty taxes. The expectations have not been realized. Although total local nonproperty tax revenue had risen to \$2.4 billion by 1961, its share of total local tax collections was little more than at the turn of the century -- 12.3 percent in 1961 compared with 11.4 percent in 1902. At the State level, however, the share of nonproperty taxes had risen to approximately 97 percent of total tax collections by 1961, compared with 47.4 percent in 1902.

The Present Situation

The most remunerative of the local nonproperty taxes today is the general sales tax. It provided \$921 million in 1961, almost two-fifths of total nonproperty tax revenue. Selective sales taxes produced an additional \$510 million, of which \$298 million came from public utility gross receipts and small amounts from cigarettes, gasoline and admissions. Of the balance of 1961 collections, \$258 million came from income taxes and \$745 million from miscellaneous business license and other taxes. ^{2/} Except for the license taxes and taxes on public utilities, nonproperty taxes present a spotty pattern on a State-by-State basis: two-thirds of all local nonproperty tax revenue is collected in six States (California, Illinois, New Jersey, New York, Ohio, and Pennsylvania).

As of mid-1962, approximately 2,000 local governments in 12 States, but concentrated in California, Illinois, Mississippi, and Utah, were imposing general sales taxes. Income taxes are levied by about 1,300 local units in six States, chiefly in Ohio and Pennsylvania. Gasoline taxes are imposed by almost 300 localities in six States, especially in Alabama and to a lesser degree in New Mexico. Admissions taxes are found in a dozen States (particularly Ohio, Pennsylvania, and Washington), cigarette taxes in nine, and excise taxes on alcoholic beverages in five or six. Gross receipts taxation of public utilities by municipalities is widespread; well over half the States permit it. State-by-State detail on revenue from the different kinds of nonproperty taxes is shown in Table 8 for 1957, the most recent date for which this information is available. Table 9 provides current information on the

^{2/} U. S. Bureau of the Census, Governmental Finances in 1961.

Table 8. - Local Nonproperty Tax Revenue, by Type of Tax, by State: 1957
(Dollar amounts in thousands)

State	Total	Sales and gross receipts										Income	License & other taxes, 1961	Nonproperty taxes as percent of total local taxes, 1961
		Total	General	Selective							Other			
				Total	Public utilities	Tobacco products	Motor fuel	Admissions	Alcoholic beverages					
Total 1/	\$1,910,465	\$1,034,101	\$657,516	\$376,585	\$225,973	\$45,885	\$26,144	\$25,546	\$21,204	\$31,833	\$190,952	\$685,412	14.0	
Alabama	37,040	16,758	3,158	13,600	1,142	3,027	6,788	187	2,177	279	N.A.	20,282	41.8	
Alaska	2,995	1,955	1,955	-	-	-	-	-	-	-	-	340	23.7	
Arizona	5,882	3,355	2,984	371	371	-	-	-	-	-	-	2,527	9.0	
Arkansas	6,379	1,320	-	1,320	1,320	-	-	-	-	-	-	5,059	6.3	
California	217,889	166,196	153,338	12,858	12,159	-	-	699	-	-	-	51,693	13.0	
Colorado	13,560	9,502	5,629	3,873	2,405	1,468	-	-	-	-	-	4,058	7.1	
Connecticut	3,280	-	-	-	-	-	-	-	-	-	-	3,280	.8	
Delaware	756	101	101	-	101	-	-	-	-	-	-	655	7.4	
Dist. of Columbia	90,492	50,976	20,384	30,592	5,314	2,061	11,514	4	6,171	5,528	26,189	13,327	64.0	
Florida	62,322	40,373	-	40,373	20,861	18,320	132	162	-	898	-	21,949	17.3	
Georgia	20,160	7,249	-	7,249	2,450	-	-	7	3,370	1,422	-	12,911	11.2	
Hawaii	6,661	744	-	744	744	-	2/	-	-	-	-	5,917	36.4	
Idaho	1,635	-	-	-	-	-	-	1,877	-	1,419	-	1,635	2.5	
Illinois	145,731	76,750	46,141	30,609	27,290	23	-	-	-	-	-	68,981	11.7	
Indiana	6,155	-	-	-	-	-	-	-	-	-	-	6,155	.6	
Iowa	6,358	716	-	716	716	-	-	-	-	-	-	5,642	1.4	
Kansas	7,343	2,698	-	2,698	2,698	-	-	-	-	-	-	4,645	2.4	
Kentucky	21,280	810	-	810	100	-	-	-	-	710	10,999	9,471	16.3	
Louisiana	28,941	18,664	14,369	4,295	1,755	-	-	363	2,177	-	-	10,277	20.6	
Maine	1,205	-	-	-	-	-	-	-	-	-	-	1,205	.7	
Maryland	23,604	12,544	-	12,544	6,486	6,058 ^{3/}	-	-	-	-	-	11,060	10.5	
Massachusetts	14,220	-	-	-	-	-	-	-	-	-	-	14,220	1.5	
Michigan	14,377	-	-	-	-	-	-	-	-	-	2/	14,377	1.3	
Minnesota	11,837	2,758	-	2,758	2,758	-	-	-	-	-	-	9,079	2.5	
Mississippi	12,922	4,567	3,764	803	803	-	N.A.	-	-	-	-	8,355	18.1	
Missouri	51,816	23,126	-	23,126	13,764	3,375	5,874	113	-	-	9,696	18,994	18.7	
Montana	4,864	-	-	-	-	-	-	-	-	-	-	4,864	5.2	
Nebraska	10,653	1,240	-	1,240	1,240	-	-	-	-	-	-	9,413	7.4	
Nevada	5,433	156	-	156	156	-	-	-	-	-	-	5,277	22.4	
New Hampshire	1,160	-	-	-	-	-	-	-	-	-	-	1,160	1.0	
New Jersey	78,398	62,275	-	62,275	57,362	202	-	N.A.	459	4,252	-	16,123	9.4	
New Mexico	7,526	4,580	2,406	2,174	699	N.A.	1,475	-	-	-	-	2,946	22.9	
New York	510,390	460,734	402,840	57,894	26,258	9,932	-	13,729	-	7,975	-	49,656	23.3	
North Carolina	6,923	65	-	65	65	-	-	-	-	-	-	6,858	4.6	
North Dakota	1,752	67	-	67	67	-	-	-	-	-	-	1,685	3.8	

Table continued on next page.

Table 8. - Local Nonproperty Tax Revenue, by Type of Tax, by State: 1957 (Concluded)
(Dollar amounts in thousands)

State	Total	Sales and gross receipts									Income	License & other	Nonproperty taxes as percent of total local taxes, 1961
		Total	General	Selective									
				Total	Public utilities	Tobacco products	Motor fuel	Admissions	Alcoholic beverages	Other			
Ohio	\$80,413	\$2,050	--	\$2,050	\$ 827	--	--	\$1,223	--	--	\$ 53,265	\$ 25,098	8.8
Oklahoma	5,581	2,340	--	2,340	2,340	--	--	--	--	--	--	3,241	3.9
Oregon	7,329	2,221	--	2,221	2,221	--	--	--	--	--	--	5,108	3.4
Pennsylvania	200,242	5,849	--	5,849	--	--	--	5,328	--	\$ 521	90,803	103,590	24.6
Rhode Island	2,008	15	--	15	15	--	--	--	--	--	--	1,993	1.8
South Carolina	5,686	142	--	142	137	--	--	5	--	--	--	5,544	7.7
South Dakota	5,171	--	--	--	--	--	--	--	--	--	--	5,171	6.7
Tennessee	18,581	8,466	--	8,466	1,636	\$538	--	150	\$6,142	--	--	10,115	11.1
Texas	51,294	12,583	--	12,583	12,583	--	--	--	--	--	--	38,711	7.2
Utah	2,789	548	<u>2</u>	548	548	--	--	--	--	--	--	2,241	8.5
Vermont	1,135	--	--	--	--	--	--	--	--	--	--	1,135	2.4
Virginia	37,161	10,609	\$548	10,061	8,334	881	--	596	--	250	--	26,552	20.9
Washington	29,845	16,754	--	16,754	7,247	--	--	965	--	8,542	--	13,091	15.1
West Virginia	9,490	1,670	--	1,670	787	--	--	138	708	37	--	7,820	11.3
Wisconsin	10,492	--	--	--	--	--	--	--	--	--	--	10,492	1.9
Wyoming	2,009	575	--	575	214	--	\$361	--	--	--	--	1,434	5.5

N.A. - Indicates that data are not available.

1/ Includes Alaska, Hawaii, and District of Columbia.

2/ Enacted after 1957.

3/ Authorization for local cigarette taxes repealed in 1961.

Source: U. S. Bureau of the Census, Compendium of Government Finances (Vol. III, No. 5 of the 1957 Census of Governments), and Governmental Finances in 1961.

Table 9. - Number of Municipalities and Counties Levying Major Nonproperty Taxes, by State: Mid-1962

State	General sales taxes		Income taxes	Cigarette taxes		Motor fuel taxes	
	Municipalities	Counties	Municipalities ^{1/}	Municipalities	Counties	Municipalities	Counties
Total	1,815	178	386 ^{1/}	503	6	266	19
Alabama	24	25	1	99	5	193	12
Alaska	32	2/	-	-	-	-	-
Arizona	8 ^{3/}	-	-	-	-	-	-
California	361 ^{3/}	57	-	-	-	-	-
Colorado	4 ^{3/}	-	-	33 ^{3/}	-	-	-
Florida	-	-	-	324 ^{4/}	-	2	-
Hawaii	-	-	-	-	-	-	4
Illinois	1,120	65	-	-	-	-	-
Kentucky	-	-	9 ^{1/}	-	-	-	-
Louisiana	10	5	-	-	-	-	-
Michigan	-	-	1 ^{5/}	-	-	-	-
Mississippi	135	-	-	-	-	-	3
Missouri	-	-	1	37	-	6/	-
Nevada	-	-	-	-	-	-	7/
New Jersey	-	-	-	1	-	-	-
New Mexico	18	8/	-	1	-	61	-
New York	7	5 ^{8/}	-	1	-	-	-
Ohio	-	-	67 ^{1/}	-	-	-	-
Pennsylvania	-	-	307 ^{1/}	-	-	-	-
Tennessee	-	-	-	1	1	-	-
Utah	95	21	-	-	-	-	-
Virginia	1	-	-	6	-	-	-
Wyoming	-	-	-	-	-	12	-

1/ In addition, one county in Kentucky, and approximately 80 townships and 850 school districts in Pennsylvania levy income taxes.

2/ There is no county government in Alaska; four school districts levy sales taxes.

3/ Including the city-county of San Francisco and of Denver, which are counted here as cities.

4/ As of June 30, 1961, according to the Annual Report of the State Comptroller of Florida.

5/ Detroit; Hamtramck adopted a similar local income tax, effective October 1, 1962.

6/ Prior to a 1961 constitutional amendment which requires two-thirds voter approval for local gasoline taxes, over 100 municipalities were imposing such taxes.

7/ All 17 counties in Nevada receive one cent of the State gasoline tax. The county governing bodies have the option of rejecting this tax, but none has done so. This is more in the nature of a shared tax than a locally-imposed tax.

8/ In addition, one school district levies a sales tax.

Source: Advisory Commission on Intergovernmental Relations, Tax Overlapping in the United States, 1961 (September 1961), updated to mid-1962 by reference to Commerce Clearing House, State Tax Reporter.

number of local governments in each State imposing the four major nonproperty taxes.

With few exceptions, use of four of the important nonproperty taxes is confined largely to municipalities. In fact, over half of the \$2.4 billion local nonproperty tax revenue in 1961 was collected by the 51 largest cities. Cities as a group accounted for \$2.0 billion or about four-fifths of all local nonproperty taxes. ^{3/} All 57 counties and the city-county of San Francisco in California, and 65 of the 102 counties in Illinois now levy general sales taxes; otherwise county use of nonproperty taxes is sparse. In Pennsylvania, about 850 school districts and 80 townships impose income taxes. In other States a few school districts use nonproperty taxes.

State revenue from each of the nonproperty taxes here discussed is shared with local governments in some States. Most States share their motor fuel taxes with local governments; at least 15 States share alcoholic beverage taxes, eight share cigarette taxes, six share general sales taxes, six individual income taxes, and several States share admissions and utilities taxes with their local governments. In all, probably 15 percent of the \$10 billion fiscal aid paid by the States to their local governments represents shared taxes. Although these collections are often distributed on a formula basis to reflect need -- population, road mileage, school enrollment, and the like -- a substantial portion is distributed in proportion to collections in each jurisdiction. Where "origin" is used as a basis for tax sharing, the result is not appreciably different from a local supplement to the State tax, as is the case of the Mississippi or New Mexico local sales tax. While a detailed discussion of shared taxes is not within the purview of this study, the device is mentioned here as a possible substitute for state-wide local nonproperty taxes. ^{4/}

Restrictions on Local Nonproperty Taxing Powers

In contrast to the universal use of property taxation by local governments, the availability of nonproperty taxes to local governments is severely limited. With the exception of the general power of municipalities in most States to levy license taxes, including in some

^{3/} U. S. Bureau of the Census, Compendium of City Government Finances in 1961.

^{4/} The advantages and disadvantages of tax sharing are discussed in the Commission's report, Tax Overlapping in the United States, 1961, pp. 134-135.

instances the authority to base these taxes on gross receipts of businesses, local governments do not commonly have the power to levy a variety of nonproperty taxes. Local governments in some States have achieved a measure of home rule under constitutional, statutory, and charter provisions, but constitutions generally leave it to legislatures to determine local nonproperty taxing powers.

Restrictions on local nonproperty taxing powers take three basic forms:

The first kind of restriction involves prohibition, either constitutional or statutory, against local imposition of particular nonproperty taxes. For example, the Colorado statutes provide that the State motor fuel tax "shall be in lieu of all other taxes imposed upon motor fuel by this State or any political subdivision thereof." 5/ In its constitution Florida specifically denies to the State and its local governments the power to levy an income tax. 6/ Sometimes these prohibitions are not expressed with reference to a particular local nonproperty tax. They safeguard the State's right in general to preempt for its exclusive use certain taxes. The Pennsylvania law, in giving widespread nonproperty taxing powers to nearly all local governments, states:

It is the intention of this section to confer upon such political subdivision the power to levy, assess, and collect taxes upon any and all subjects of taxation -- which the Commonwealth has power to tax but which it does not tax or license, subject only to the foregoing provision that any (local) tax upon a subject which the Commonwealth does hereafter tax or license shall automatically terminate at the end of the current fiscal year of the political subdivision. 7/

Section 3, Article XVIII, of the Ohio constitution, which grants home rule powers to municipalities, contains a qualification stating that the power shall "not be in conflict with general laws." This has been interpreted by the courts in that State to mean preemption --

5/ Colorado Revised Statutes, Sec. 138-3-14.

6/ Florida Constitution, Art. IX, Sec. 11.

7/ General Enabling Act of June 25, 1947 (Act 481), Sec. 1B.

that any tax upon a subject by the State precludes a similar local tax. 8/

A second form of local nonproperty tax restriction stems from "Dillon's rule," which denies any inherent right of local self government. 9/ Thus, the courts and attorneys general have commonly held that in the absence of explicit authorization or of reasonable implication, political subdivisions of the State do not possess the power to tax. Typical of this form of restriction is the April 28, 1953 ruling of the Attorney General of Alaska, denying municipalities the power to levy gasoline taxes. He stated, "Where there is doubt as to whether or not a municipality has been granted a power which it claims, such doubt is to be resolved against the use of such power by the municipality." The following illustrates the court opinion on the question:

The authority to tax is not only a delegated authority conferred by the State, but it is assumed that the State has given all it intended should be exercised, and the grant, like that of all special and limited grants, is to be strictly construed. Where municipal authority to tax is doubtful, the doubt is to be resolved against the tax and in favor of the taxpayer. 10/

The third type of local nonproperty tax restriction involves those instances where authorization of certain local nonproperty taxes is accompanied by limitations, as for example, maximum tax rates,

8/ See, State v. Carrel, 99 O.S. 220; City of Cincinnati v. Am. Tel. and Tel. Co., 112 O.S. 493; and City of Cincinnati et al. v. Cincinnati Oil Works Co. ('30), 123 O.S. 448, 175 N.E. 699.

9/ This rule was formulated by Judge John F. Dillon, a noted authority on municipal corporations, in his Municipal Corporations, Sec. 55, first ed., 1872. "It is the general and undisputed proposition of law that a municipal corporation possess, and can exercise, the following powers, and no others: First, those granted in express words; second, those necessarily or fairly implied in, or incident to, the powers expressly granted; third, those essential to the declared objects and purposes of the corporation -- not simply convenient, but indispensable." (Underlining is by Dillon.)

10/ Eugene Theatre Co. v. Eugene ('52), 194 Or. 603, 243 P. 2d 1060.

applicability to only certain localities, and specifications as to the tax base.

Prohibitions. Specific prohibitions against local nonproperty taxes appear mainly in the statutes. The few instances of explicit constitutional prohibitions occur in some southern States. The Louisiana constitution prohibits local motor fuel and severance taxes. 11/ A 1953 amendment to the Tennessee constitution forbids the General Assembly to authorize any municipality to tax incomes and estates. 12/ Florida's constitutional prohibition of income taxation has already been mentioned. 13/ Cities within Walker County, Alabama, under a 1957 constitutional amendment, are no longer permitted to levy payroll taxes on wages and salaries. Outside the South, the only constitutional prohibitions on local nonproperty taxes are found in Ohio and Oregon, where local poll taxes are forbidden.

The Virginia constitution provides for separation of tax sources between the State and the local governments. 14/ It specifically gives the General Assembly the right to tax income, 15/ and the legislature interpreted this to mean that the income tax is reserved to the State and denied to the localities. The statutory provision reads:

"Incomes having been segregated for State taxation only, no county, city, town or other political subdivision of this State shall impose any tax or levy upon incomes." 16/

Real estate taxation is denied the State by the Virginia constitution, and is left to the local governments. 17/ The constitution stipulates a State poll tax of up to \$1.50 and provides that the General Assembly may authorize a local poll tax of up to \$1.00. 18/ Although the Colorado constitution does not specifically prohibit local income taxes, its Supreme Court held that the constitution reserves for the State the right to impose an income tax, and not even the General Assembly has the power to delegate such taxing authority to any political subdivision. 19/

11/ Louisiana Constitution, Art. X, Sec. 21 and Art. XIV, Sec. 24.1.

12/ Tennessee Constitution, Art. XI, Sec. 9, as amended.

13/ Florida Constitution, Art. IX, Sec. 11.

14/ Virginia Constitution, Art. XIII, Sec. 168.

15/ Ibid., Art. XIII, Sec. 170.

16/ Virginia Code, Sec. 58-80.

17/ Virginia Constitution, Art. XIII, Sec. 171.

18/ Ibid., Art. XIII, Sec. 173.

19/ City and County of Denver v. Street et. al; Colo. Sup. Ct., Aug. 30, 1958.

There are statutory prohibitions on one or more of the major nonproperty taxes in over half the States. The extent of such prohibitions varies with the kind of tax. More States (14) forbid local gasoline taxes than any of the other imposts. Local use of cigarette taxes is prohibited by the statutes in 10 States; alcoholic beverage taxes in nine; and income taxes in six. So far as could be determined, there are very few specific prohibitions of local admissions taxes.

Usually prohibitions are intended to pre-empt certain fields for exclusive State taxation. Pre-emption is generally accomplished by the statutory stipulation that the State tax is "in lieu of" any other (similar) tax by its political subdivisions. Sometimes other language is used. In Washington, for example, the statutes prohibit local sales and use taxes by expressly reserving such taxes to the State:

The State pre-empts the field of imposing taxes upon retail sales of tangible personal property, the use of tangible personal property, ... and no county, town, or other municipal subdivision shall have the right to impose taxes of that nature. 20/

Washington also prohibits local motor fuel taxes on the ground that the State tax ...

is in lieu of any excise, privilege, or occupation tax upon the business of manufacturing, selling, or distributing motor vehicle fuel, and no city, town, county, township, or other subdivision or municipal corporation of the State shall levy or collect any excise tax upon or measured by the sale, receipt, distribution, or use of motor vehicle fuel. 21/

There are other variations in statutory prohibitions against local nonproperty tax levies. Occasionally statutory provisions relating to a particular State tax are accompanied by a statement that nothing in the law shall be construed as authorizing a similar local tax. Thus, the Mississippi statute imposing the State's

20/ Washington Revised Code, Sec. 82.02.020.

21/ Ibid., Sec. 82:36.440.

privilege tax on tobacco products provides that "... nothing in this Section shall be construed to permit the taxation by municipalities or (county) boards of supervisors of the privilege taxed by this Act." 22/ Commonly prohibitions against local nonproperty tax levies are restricted to only excise taxes; local license taxes are permitted. Thus, although the Georgia law forbids local motor fuel excise taxes, "... the levying by municipalities of reasonable flat license fees or taxes upon the business of selling motor fuel ..." is permitted. 23/

Authorizations and related limitations. Most State constitutions and the statutes of 11 States contain no specific provisions relating to local power to levy the major nonproperty taxes discussed here -- neither prohibitions nor authorizations. 24/ In six more States the statutes deal only with the prohibition of local gasoline taxes; 25/ and the South Dakota statutes contain only an income tax prohibition. As in the case of prohibitions, specific constitutional authorization of nonproperty taxes occurs in a very few States. Thus, the authorizations that do occur are primarily statutory. 26/

The fact that so many State constitutions and statutes are virtually silent on the matter of local nonproperty taxation as a revenue measure explains the spotty use of such taxes. As has been seen, the application of Dillon's rule to local taxing powers almost necessitates specific legislative or constitutional authorization for local imposition of nonproperty taxes. The States in which local governments have availed themselves of nonproperty taxes are those which have provided either specific or implied authorization for them. Details concerning the nature of the authorization and their related limitations will be discussed subsequently under each type of tax.

Once a local nonproperty tax is authorized, it usually carries with it certain limitations. These limitations may apply to the rate,

22/ Mississippi Code, Sec. 10178.

23/ Georgia Code, Sec. 92-1403(G).

24/ Arizona, Connecticut, Delaware, Maine, Massachusetts, Montana, Nebraska, New Hampshire, North Dakota, South Carolina, and Vermont.

25/ Arkansas, Colorado, Georgia, Kentucky, Michigan, and Minnesota.

26/ Aside from the constitutional authorization of a gasoline tax in Missouri, the only other specific constitutional authorizations identified apply to poll taxes in Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, and Wyoming.

to the scope or degree of general applicability to local governments, to the purpose for which the revenues may be used, to the requirement of local voter approval, and to the coverage or base of the tax. Maximum rate limitations generally accompany specific authorizations to levy local nonproperty taxes, but are commonly omitted when local authority to levy such taxes stems from home rule powers.

Local nonproperty taxing authority is most commonly given to municipalities, but in a few instances the authority applies to other classes of local government. Sometimes it is confined to only one or a few local governments and results from special acts of the legislature. Typical of this latter phenomenon are recent special legislative acts in Alabama and Louisiana granting certain localities authority to levy selected taxes, often at prescribed maximum tax rates. In Virginia similar authority is granted to individual municipalities when the legislature approves charter revisions. The St. Louis income tax and the New Orleans cigarette tax are examples of special legislative authority applicable to only one city within a State.

Voter approval is required in only a few of the instances where local nonproperty taxes are authorized, but is more common for local sales taxes than for other nonproperty taxes. Sometimes the authority is contingent upon local voter approval only after petition by a specified proportion of the voters. For example, the 1-percent municipal gross receipts taxes in New Mexico are subject to voter approval if ten-percent of the local voters petition for a referendum. In contrast, in one of the very few instances of constitutional nonproperty tax authorization, Missouri requires the approval of two-thirds of the voters at a referendum before municipalities may levy gasoline taxes.

Authorizations for local nonproperty taxes are generally not accompanied by restrictions on the uses of the tax proceeds, although there are a few isolated instances. Usually local gasoline taxes must be used for street or highway purposes.

The coverage or base of a particular local tax is also restricted in a few instances. For example, only about half the States authorizing local general sales taxes permit the locality also to levy the companion use tax. Local income taxes, in those few States permitting them, are sometimes restricted to earned income, as in Pennsylvania.

In the following sections the various specific prohibitions and authorizations for selected local nonproperty taxes are discussed in detail. To the extent that home rule powers include implied authorization

for local nonproperty taxes, these will also be discussed. The taxes covered are those which have come into some local use in recent years as significant producers of nonproperty tax revenue. These are taxes on income, general sales and gross receipts, and excise taxes on admissions, alcoholic beverages, cigarettes, gasoline, and the gross receipts of public utilities. Mention will also be made of motor vehicle licenses and real estate transfer taxes.

Income Taxes

The imposition of local income taxes is specifically prohibited in the constitutions of Florida and Tennessee, and in the statutes of six States (Alaska, Kansas, North Carolina, South Dakota, Virginia, and Wisconsin). Only two States provide specific authority for local taxation of incomes -- Pennsylvania and Missouri -- but the latter has given this power only to St. Louis. 27/ In Alabama and Kentucky a number of localities are using income taxes under their authority to levy license taxes on businesses, occupations, professions, and trades. A number of municipalities in Ohio, and the cities of Detroit and Hamtramck, Michigan, impose local income taxes under their general home rule powers.

In a few States, such as Arizona, California, Minnesota, Nebraska, and Oregon, municipalities may also have the power to levy income taxes, but although some have tried, none has succeeded in doing so. 28/ The Kansas constitution authorizes cities:

... to determine their local affairs and government including the levying of taxes, excises, fees, charges, and other exactions except when and as the levying of any tax, excise, fee, charge, or other exaction is limited or prohibited by enactment of the legislature applicable uniformly to all cities of the same class. 29/

27/ New York City was authorized to impose a limited payroll tax in 1953 (Chap. 202, laws 1953), but has not exercised this authority. However, under a joint compact between New York and New Jersey, a tax based on gross payrolls, is levied by the New York--New Jersey Waterfront Commission on employers of waterfront workers.

28/ Robert A. Sigafoos, The Municipal Income Tax: Its History and Problems (Public Administration Service, 1955), p. 5 ff.

29/ Kansas Constitution, Art. XIII, Sec. 5(b).

However, the Kansas legislature has specifically prohibited local political subdivisions from levying all of the major nonproperty taxes. Cities in California and Arizona have used their home rule powers to levy sales taxes, but none has attempted to use income taxes. An opinion has been voiced in California to the effect that the tax authority language in the charters of some cities is broad enough to permit the levying of an income tax. ^{30/} The Nebraska courts, in at least two cases, have held that the home rule cities of Grand Island, Lincoln, and Omaha have broad local taxing powers under their charters, but thus far none of these cities has utilized these powers. ^{31/}

Pennsylvania has provided the broadest authority for local nonproperty taxation in the country. Under the so-called "tax anything" law most local governments, except counties, can choose from among a large variety of taxes: income, amusement, per capita, mercantile, mechanical devices, occupation, and real property transfer taxes. ^{32/} The law specifically prohibits local taxes on utility gross receipts, certain kinds of admissions taxes, as well as severance and personal property taxes. It also prohibits school districts from taxing the incomes of nonresidents. There are a number of rate limitations: income tax, 1 percent; per capita tax, \$10; mercantile taxes, 1 mill on wholesalers and 2 mills on retailers; admissions, 10 percent; and real estate transfers 1 percent. In addition, there

^{30/} Robert A. Sigafos, op. cit., p. 8. fn.

^{31/} "The purpose of the constitutional provision (as to home rule charters) is to render cities independent of state legislation as to all subjects which are of strictly municipal concern; therefore, as to such matters general laws applicable to cities yield to the charter." Consumers Coal Co. v. City of Lincoln, 109 Neb. 51, 189 N.W. 643.

"The limitation of \$365,000 taxes, to be levied in cities of the population of Lincoln, provided for by the legislature in the general charter, did not bind the city after it adopted a home rule charter as to taxes for purely municipal purposes." Eppley Hotels Co. v. City of Lincoln ('37), 133 Neb. 550, 276 N. W. 196.

^{32/} General Enabling Act of June 25, 1947 (Act 481). Philadelphia does not come under this act, having been given similar taxing powers in 1932 (Sterling Act, Law 45). The "tax anything" designation stems from a section of Act 481, which authorizes local governments to tax anything the Commonwealth has the power to tax but which it does not tax.

is an overall limit on the amount of revenue a jurisdiction may raise from taxes levied under Act 481: the equivalent of a 12-mill levy on the market value of real property.

Thousands of individually administered nonproperty taxes have been imposed by all kinds of Pennsylvania local governments under Act 481. There are well over 2500 per capita taxes, numerous real estate transfer and admissions taxes, and more than 1200 income taxes. Income taxes are presently levied by about 300 municipalities (cities and boroughs), 850 school districts, and 80 townships in Pennsylvania. As mentioned above, the maximum allowable rate is 1 percent; actual rates range from $\frac{1}{4}$ percent to the maximum. Only earned income of individuals (salaries, wages, and net income from professions and unincorporated businesses) can be taxed by local governments, and school districts are confined to taxing the incomes of residents only. Where overlapping jurisdictions each levy an income tax, the total cannot exceed 1 percent, and the rate must be shared equally between the jurisdictions unless they agree to a different distribution. The law does not provide for State coordination of any of the taxes levied under its authority, but it authorizes local governments to enter into agreements for joint collection of such taxes. A number of school districts and municipalities have made such agreements as to income and real estate transfer taxes.

Over 60 cities and villages in Ohio have enacted local income tax laws under a constitutional home rule provision. ^{33/} The courts and a State Attorney General have held that since the State has not pre-empted the income tax, municipalities were free to levy it. ^{34/} In 1957, the State legislature enacted a law limiting the local income tax rate to 1 percent, except upon approval of 55 percent of the voters at a general election and 60 percent of the voters at a special or primary election. ^{35/} Thus far, no rates have exceeded 1 percent. The 1957 law also provided for certain exemptions and for standard allocation of business income inside and outside municipalities with local income taxes. The Ohio income taxes are administered locally, and there is no provision for joint administration. Individuals, unincorporated businesses, and corporations may be subject to the tax, depending upon the provisions of the particular local ordinance.

In Kentucky 9 cities and Jefferson County levy income taxes as "occupational license taxes." The State constitution lays the groundwork for these taxes by authorizing the General Assembly to empower

^{33/} Ohio Constitution, Art. XVIII, Secs. 3 and 13.

^{34/} Angell v. Toledo, 153 OS 179, 91 NE(2d) 250; 1941 OAG 3712.

^{35/} Ohio Revised Code, Title VII, Chap. 718.

local governments to impose license taxes on the "various trades, occupations, and professions." 36/ Jefferson County was given this authority by statute, and both Louisville and Jefferson County are limited to a rate of 1½ percent. 37/ The Jefferson County and Louisville school districts were also authorized to impose a similar license tax, subject to a ½ percent limit and majority approval of the electorate. 38/ Other municipalities are not limited as to rate, and the rates imposed range from 1 to 2 percent.

Only one city in Alabama -- Gadsden -- has used its licensing power, similar to that discussed for Kentucky, to enact an income tax. As will be seen, however, a number of Alabama municipalities have levied general sales and excise taxes under this authority.

Missouri provides specific authority to the city of St. Louis only for the imposition of a local income tax, limited to 1 percent. 39/ St. Louis first enacted an income tax ordinance under its general home rule powers, but that ordinance was ruled unconstitutional by the State Supreme Court. 40/ Subsequently the legislature granted St. Louis the required authority.

Detroit, acting under authority of the statutory provision which grants to charter cities the power to levy "rents, tolls, and excises," enacted a 1 percent income tax, effective July 1, 1962, applicable to the gross incomes of all individuals and the net profits of all businesses, both residents and nonresidents, earning income in that city. An initial court test of the city ordinance has upheld the city's authority on the ground that an income tax is in fact an excise tax, and therefore within the scope of the city's taxing powers. 41/ Hamtramck, Michigan, adopted a similar income tax, effective October 1, 1962.

General Sales Taxes

Local general sales taxes are prohibited by statute in Indiana, Kansas, Missouri, North Carolina, Washington, and Wyoming. There are no specific constitutional prohibitions. In Ohio and Pennsylvania

36/ Kentucky Constitution, Sec. 181.

37/ Kentucky Revised Statutes, Secs. 68.180 and 91.200.

38/ Kentucky Revised Statutes, Secs. 160.531 - 160.534.

39/ Missouri Revised Statutes, Secs. 92.110 - 92.200.

40/ Carter Carburetor Co. v. St. Louis, 356 Mo. 646 (1947); 203 S.W. 2nd 483.

41/ Poindexter et. al. v. Cavanagh et. al.; Dooley et. al. v. City of Detroit, Circuit Court of Wayne County, July 2, 1962.

Table 10. - Statutory Provisions Governing Imposition of General Sales Taxes by Local Governments: 1962

State and type of local government	Statutory authority	Number using	Scope	Rate limits	Apportionment of proceeds	Voter approval	Administration
Alabama							
Municipalities	Bus. & Occup'l Lic.	24	Sales & Use	None	No overlapping ^{1/}	No	Local ^{2/}
Counties	Specific ^{3/}	25	Sales & Use	1% ^{1/}	No overlapping ^{1/}	Yes ^{3/}	State ^{2/}
Alaska							
Municipalities	Specific	32	Sales	3% ^{4/}	No overlapping	Yes	Local
School districts ^{5/}	Specific	4	Sales	2	No overlapping	Yes	Local
Arizona							
Municipalities ^{6/}	Home rule	8	Sales	None	Not applicable	No	Local
California							
Municipalities	Specific ^{7/}	361	Sales & Use	1% ^{7/}	Shared ^{8/}	No	State ^{7/}
Counties	Specific	57					
Colorado							
Municipalities ^{6/}	Home rule	4	Sales & Use	None	Not applicable	No	Local
Illinois							
Municipalities	Specific	1,120	Sales	0.5%	No overlapping	No	State
Counties	Specific	65					
Louisiana							
Municipalities	Specific	10	Sales & Use	1%	No overlapping	Yes	Local
Parishes	Specific	5					
Mississippi							
Municipalities	Specific	135	Sales	0.5% or 1%	Not applicable	Yes ^{9/}	State
New Mexico							
Municipalities	Specific	18	Sales	1%	Not applicable	No ^{10/}	State
New York							
Municipalities	Specific	7	Sales & Use	2% ^{12/}	Shared ^{13/}	No	Local ^{11/}
Counties	Specific	5					
School districts ^{14/}	Specific	1					
Oklahoma							
Municipalities ^{15/}	Specific	-	Sales	1%	Not applicable	Yes	Local
Oregon							
Municipalities ^{16/}	Specific	-	Sales	None	Not applicable	No	Local
Utah							
Municipalities	Specific	95	Sales & Use	0.5%	No overlapping ^{17/}	No	State
Counties	Specific	21					
Virginia							
Municipalities ^{18/}	Specific ^{18/}	1	Sales & Use	3%	Not applicable	No	Local

See footnotes on next page.

Table 10. - Statutory Provisions Governing Imposition of General Sales Taxes by Local Governments (Concluded)

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- 1/ County rates specified in legislative enactments take account of any city sales taxes.
- 2/ The statutes applicable to individual counties usually require State administration, but not always. In some instances, city sales taxes are required by special legislation to be collected by the State Department of Revenue.
- 3/ Specific statutory authority is given to individual counties. Voter approval is required in some cases.
- 4/ First class cities, first and second class boroughs; otherwise 2%.
- 5/ Applies only to territory outside cities.
- 6/ Home rule cities only.
- 7/ Cities also have the authority, under their home rule or general licensing powers, to impose locally-administered sales taxes. See page 93.
- 8/ A city tax may be at any rate up to 1% and must be credited against the countywide 1% tax.
- 9/ Required for the 1% rate, but not for the 0.5% rate unless twenty percent of voters so petition.
- 10/ Not required unless a specified percentage of voters petition.
- 11/ Joint county-city administration is authorized.
- 12/ Three percent in Monroe County.
- 13/ Shared equally: 1 percent each to cities and counties, unless school districts are also levying the tax, in which case each taxing unit receives one-third of the maximum rate.
- 14/ School districts that are coterminous with or partly within cities of less than 125,000 population.
- 15/ Only those cities proclaimed by the Governor to be suffering from a disaster (e.g., tornado), and for a maximum period of 30 months. No Oklahoma city has levied sales taxes under this authority.
- 16/ Cities with populations of 9,000 - 10,500 only, but none is presently using this authority.
- 17/ The city tax (0.5%) must be credited against the county tax.
- 18/ The city of Bristol only, under special legislative authorization.

local general sales taxes are apparently prohibited because the State has preempted the field.

Twelve States provide specific statutory authorization for local sales taxation, and another two (Arizona and Colorado) have constitutional home rule provisions which have been interpreted to imply authorization for sales taxes in certain cities (Table 10).

Rate limitations vary from 0.5 percent for Illinois and Utah cities and counties to 3 percent for certain cities in Alaska and for Bristol, Virginia. Although there is limited authorization for municipalities in Oklahoma and Oregon to impose general sales taxes, none has done so. In Alabama a number of cities have levied general sales taxes at rates ranging from 0.5 percent to 2 percent under their general power to levy business and occupation license taxes. There is no State-imposed rate limit. Nor do the home rule powers under which some municipalities in Arizona and Colorado have imposed general sales taxes carry any rate limitation.

Virginia authorized Bristol to levy a general sales tax because of its peculiar geographic position. That city is divided by the Virginia-Tennessee boundary, so that there are two contiguous cities of Bristol -- one in each State, each with about half the total population. Since Bristol, Tennessee, is subject to the State sales tax, the Virginia legislature authorized a city tax at an equivalent rate for Bristol, Virginia.

Voter approval is mandatory for local sales taxes in Alaska, Louisiana, Mississippi, and Oklahoma. In Mississippi voter approval is mandatory for the 1 percent sales tax, but is only required for the 0.5 percent rate if twenty percent of the eligible voters petition. Voter approval in New Mexico cities is required if ten percent of the eligible voters petition. Certain Alabama counties have received special legislative authority to levy general sales taxes, subject in some instances to electoral approval. Independent and incorporated school districts in Alaska and certain school districts in New York are also authorized to levy a sales tax, subject to voter approval.

Five States (California, Illinois, Mississippi, New Mexico, and Utah) provide general authorization to municipalities, counties, or both to enact local supplements to the State general sales tax. In all instances these local supplements are State-administered. Alabama, by special legislation, has authorized certain counties to levy a general sales tax, usually to be administered by the State Department of Revenue.

The authority for State supplements applies in Mississippi and New Mexico to municipalities only. California and Utah permit both counties and cities to supplement their State sales taxes under somewhat similar laws. Both States allow counties and cities to participate provided they contract with the State for administration of the tax, and also provided the local ordinance conforms to the State sales tax as to base, exemptions, and the like.

In Utah a county must have enacted a sales tax ordinance before any of its cities can do so. Then if a city adopts a sales tax ordinance, it must be at the same rate (0.5 percent) as the county tax, and full credit is allowed against the county tax.

In California, as in Utah, a county must enact a countywide 1 percent sales tax before any of its cities can impose a similar tax, up to 1 percent, administered by the State. The city tax in this case is credited against the county tax, so that the combined city and county rate inside the city cannot exceed 1 percent. However, in enacting the local supplement to the State general sales tax, California did not take away from cities the authority to impose locally administered sales taxes under their home rule or general licensing powers. A city could, therefore, impose an independent sales tax not limited as to rate, but if it did so the city tax would not be credited against the county tax. Furthermore, if the city tax exceeded 1 percent, it could not be administered by the State. At present, no California city has an independent general sales tax.

Illinois also permits counties and municipalities to supplement the State sales tax, but the county tax applies only to the area outside municipalities. Thus, there is no overlapping of local sales taxes in that State. As in the case of California and Utah, the local sales taxes must conform to the State tax, and they are State-administered.

New York in 1947 provided broad authority to counties, cities, and certain school districts to impose a variety of local nonproperty taxes, including local sales taxes. ^{42/} The taxes covered and the specified rate limitations are: general sales and use tax, 2 percent; restaurant meals, 3 percent; utility services, 3 percent; liquor licenses, up to 25 percent of State license; admissions taxes, 5

^{42/} Chapter 278, Laws of 1947. New York City is not included in this general authority, but has wide nonproperty taxing powers under special legislation.

percent; coin operated amusement devices, \$25 license fee per device; motor vehicle licenses, \$5 on passenger vehicles 3,500 lbs. or less, and \$10 on commercial vehicles and on passenger vehicles over 3,500 lbs.; and hotel rooms, 5 percent.

These nonproperty taxes in New York are locally administered, but the law provides for voluntary joint county-city administration. The law also provides for the issuance by the State Department of Taxation of model local ordinances and regulations pertaining to the nonproperty taxes covered by the general enabling act. A number of these have been issued. There is also a system of priorities as to the kinds of taxes that can be used by counties and by cities. Furthermore, counties may share the proceeds of their taxes with school districts and cities. Neither Rochester nor Buffalo levy their own general sales taxes; they participate in the general sales taxes levied by their respective counties. In all, 5 counties, 7 cities, and one school district in New York State have levied general sales taxes.

In a number of States, municipalities are able, under general powers regulating business, to levy business and occupation taxes based on gross receipts. Rates are usually low and sometimes vary according to the kind of business; sometimes they are annual flat-rate fees varying with the amount of gross receipts. This kind of tax -- utilized by municipalities in such States as California, Kentucky, Missouri, New Mexico, North Carolina, Pennsylvania, Virginia, and West Virginia -- is more like a business license than like a general sales tax. Where gross receipts of retail establishments are taxed at a uniform rate and that rate is more than nominal, it resembles a retail sales tax, except that it cannot be billed to the purchaser.

Gasoline Taxes

In addition to the constitutional prohibition against motor fuel taxes in Louisiana, specific statutory provisions forbidding local gasoline taxes exist in Arkansas, Colorado, Florida, Georgia, Indiana, Kansas, Kentucky, Michigan, Minnesota, Nevada, North Carolina, Oklahoma, Texas, Washington, and Wisconsin -- a total of 16 States. 43/

43/ The Florida statutory provision prohibiting local gasoline taxes, permits cities that had gasoline taxes at the date of its enactment to retain them. Apparently only two cities are still imposing them.

The constitution of only one State, Missouri, specifically authorizes local gasoline taxes. This authorization, a recently enacted amendment, requires approval by two-thirds of the voters. To date, no city has requested such approval, whereas previously over 100 municipalities in that State were levying gasoline excise taxes. The Alabama constitution, while not containing a general authorization for local gasoline taxes, authorizes Marshall County to impose a 3 cents per gallon motor fuel tax with approval of the electorate. A provision in the Wyoming constitution might be construed to open the door to local motor fuel taxes:

No moneys derived from fees, excises, or license taxes levied by the State and exclusive of registration fees and licenses or excise taxes imposed by a county or municipality, relating to registration, operation or use of vehicles on public highways, streets or alleys, or to fuels used for propelling such vehicles, shall be expended for other than ... (for roads, streets, and traffic safety). 44/

A number of Wyoming municipalities levy gasoline taxes.

Local gasoline taxes are authorized by the statutes of four States. Alabama cities are permitted to levy a tax on gasoline under their business and occupation licensing powers. Certain counties in that State also have special legislative authority to levy gasoline excise taxes at rates from 1 to 2 cents per gallon. The four Hawaii counties are levying gasoline taxes under statutory authority that permits them to determine their own rates, but the proceeds must be used for highway purposes. Certain counties in Mississippi may impose a tax on gasoline up to 3 cents per gallon for the purpose of providing seawall protection for roads. New Mexico cities, towns, and villages are authorized by statute to impose a 1 cent per gallon tax on gasoline, for general municipal purposes.

While prohibiting local motor fuel taxes, the Nevada statutes impose a Statewide 1 cent per gallon tax, in addition to the regular 5 cent tax, which is returnable to the county in which it is collected, to be used for county and municipal road and street purposes. 45/

44/ Wyoming Constitution, Art. XV, Sec. 16. Underlining is ours.

45/ Nevada Revised Statutes, Sec. 365.190.

The governing body of any county may decline to accept the additional 1 cent tax, in which case only the regular 5 cent tax would apply, but none of the 17 counties has done so. Since there is no provision for actual enactment by the local governing body of the "optional" 1 cent gasoline tax, this is more nearly a State-imposed locally shared tax than a local gasoline tax. State gasoline taxes are, of course, shared with local governments (mainly counties) in most States.

Cigarette Taxes

Local cigarette taxes are explicitly prohibited in none of the State constitutions, but the statutes of ten States -- California, Iowa, Kansas, Maryland, Mississippi, Nevada, New Mexico, Washington, West Virginia, and Wyoming -- prohibit them.

Statutory authorization for local cigarette taxes exists to some degree in nine States. In five the authorization is restricted to one or to only a few local units. Cities of the fourth class in New Jersey (seashore resort cities) have legislative authority to impose cigarette excises. In New York only New York City has this authority. New Mexico in 1955 repealed the authority for local cigarette taxes, except that cities which had issued bonds to be paid from cigarette tax revenues were permitted to retain them. Only Santa Fe qualifies under this provision. Memphis and Shelby county, within which the city is located, have special authority to impose a 1 cent tax per package of cigarettes. A few Virginia cities have similar authority.

The other four States provide more widespread local authority to impose cigarette excise taxes, but in one (Illinois) the municipal power to levy the tax is contingent on the city's not imposing the retailer's occupation (sales) tax on cigarettes. At present, apparently no Illinois municipality has a cigarette excise tax. Of the remaining three States, Alabama has granted specific legislative authority to certain counties to levy 2- and 3-cent cigarette taxes. Alabama cities (almost 100 of them) are using their business and occupation licensing powers to impose cigarette taxes. Florida municipalities may impose excise taxes on cigarettes equivalent to the State's 5-cent rate. This local tax, which is used by almost all Florida cities, is administered by the State, and local retailers are permitted to credit the city tax against the State tax. These are, in a sense, State imposed locally shared taxes. Cities in Missouri are authorized to levy business and occupation taxes of an excise nature on certain explicitly stated objects, including cigarettes.

In addition to the nine States that have authorized local cigarette taxes either through explicit statutory authority or as business and

occupation taxes, other States' municipalities may be able to levy cigarette taxes under home rule charters. However, only Colorado cities have used these powers.

Alcoholic Beverage Excise Taxes

Local alcoholic beverage excise taxes are specifically prohibited by statute in 9 States. These States are Alaska, California, Florida, Indiana, Kansas, Maryland (except for specific authority for a beer tax in Garrett County), Tennessee, Texas, and Washington.

Four States have supplied local governments with explicit statutory authority, limited in scope, to impose excise taxes on alcoholic beverages. A few counties in Alabama have obtained special authorization from the legislature to impose excise taxes on brewed or malt beverages at specified maximum rates. Louisiana has authorized New Orleans to impose excise taxes on beverages of high alcoholic content, subject to specified maximum rate limits. In addition, parishes and municipalities, including New Orleans, are permitted to impose a \$1.50 per barrel tax on beverages of low alcoholic content. Fourth class (seashore resort) cities in New Jersey are given the power to impose excise taxes on alcoholic beverages. No rate limits are specified by the statutes. West Virginia municipalities are authorized to impose a 2 percent excise tax on the purchase price of intoxicating liquors.

Although the Tennessee statutes specifically prohibit local barrel and gallonage taxes on alcoholic beverages, they authorize counties and municipalities to impose an excise tax of up to 17 percent of the wholesale price of beer. In Georgia there is neither specific prohibition nor authorization for local alcoholic beverage taxes. However, the State sales tax law reads: "... no county or municipality shall be prohibited from levying or collecting an excise tax on malt beverages and/or wine." 46/

Admissions Taxes

There are very few specific prohibitions against local admissions taxes, and only about a dozen States explicitly authorize such taxes. Included among the latter are Idaho, Illinois, Louisiana, Maryland, New Jersey, New York, Ohio, Pennsylvania, Tennessee, Virginia, and Washington. Widespread use of local admissions taxes is found in only

46/ Georgia Code, Sec. 92-2150.25.

three States -- Ohio, Pennsylvania, and Washington. The authority for local governments in Pennsylvania to impose admissions taxes -- up to 10 percent of the price of admissions -- is derived from Act 481, already cited. Ohio and Washington repealed their State admissions taxes in the early post-war years, leaving this field to municipalities. Washington limits the rate of local admissions taxes to 5 percent; Ohio does not limit rates.

In Louisiana only New Orleans may impose a tax on admissions, up to a maximum rate of 5 percent. Cities of the fourth class in New Jersey (seashore resort cities) are authorized to impose excise taxes on selected subjects, including amusements. A rate limit of 5 percent applies to admissions taxes in New York cities and counties (New York City, while not bound by this limit, has a 5 percent admissions tax). Tennessee cities may impose a 2 percent tax on theatre admissions. In Virginia the authority to impose admissions taxes is limited to certain cities.

The majority of the State laws apparently contain no provisions relating to local admissions taxes. In several States, however, local governments tax admissions under their general sales and gross receipts taxes, sometimes at special rates.

Public Utility Taxes

Very few specific provisions can be found in the statutes authorizing local taxation of public utility services. Yet, public utilities are taxed locally on a sales or gross receipts basis in most States. Sales or gross receipts taxes on public utilities brought \$298 million into local treasuries in 1961. ^{47/} The 1957 Census of Governments reported some local revenue from this source in 37 States and the District of Columbia. ^{48/} In general public utilities are taxed by local governments under their regulatory powers, and in many instances, these franchise taxes are based on gross receipts of the utility corporations.

There is specific statutory authority for local taxation of the gross receipts from utility services in at least eight States. In each of those States the authority carries with it a rate limitation: Alabama, 5 percent; Florida, 10 percent; Illinois, 5 percent; Mississippi, 2 percent; New York, 3 percent; Oklahoma, 2 percent; Oregon, 5 percent; and Rhode Island, 3 percent.

^{47/} U. S. Bureau of the Census, Governmental Finances in 1961.

^{48/} See Table 8.

Other Local Nonproperty Taxes

Although not specifically covered by this survey, mention should be made of two other local nonproperty taxes that are used by local governments as revenue sources -- motor vehicle licenses and real estate transfer taxes.

Widespread use of locally-imposed motor vehicle license taxes is found in only three States -- Illinois, Missouri, and Virginia. Fees vary from \$2.50 to \$12.50 in Missouri, from \$15.00 to \$30.00 in Chicago, and from \$10 to \$20 in other Illinois municipalities. Virginia cities and counties may set fees of any amount up to the State rate.

Although local motor vehicle license taxes are authorized under the 1947 enabling act in New York, few if any municipalities are using them. New York City levied a motor vehicle use tax (\$5 for passenger vehicles and \$10 for commercial vehicles) in 1952 and repealed it in 1957. In 1960 that city imposed a tax on commercial vehicles only. In a number of States, including Alabama, Mississippi, Nebraska, South Dakota, and Texas, counties collect the State motor vehicle license taxes and retain a portion for their own use. This is similar to the situation in many other States where the State collects the motor vehicle taxes and shares a portion with its local governments, usually for highway purposes.

Locally-imposed real estate transfer taxes are a fairly new development. Although a number of States have this type of tax at the State level -- usually as a documentary recording fee -- Maryland, Pennsylvania, Virginia, and Washington have provided general authorization to their local governments to levy similar taxes, and New York has empowered only New York City to impose it. In Pennsylvania about 700 local governments, mostly school districts, now have real property transfer taxes. Washington enabled its counties in 1951 to impose a real estate excise tax of up to 1 percent of the selling price, the proceeds to be used for educational purposes. All counties in that State have levied it. Maryland counties and the city of Baltimore are permitted to supplement the State documentary recording stamp tax, and a number of them have done so in recent years. Virginia cities and counties were authorized in 1958 to impose a recordation tax equal to one-third of the State tax. The New York City real property transfer tax was authorized in 1959.

APPENDIX TABLES

Appendix A

State Constitutional and Statutory Restrictions on Local Power to Raise Property Tax Revenue: 1962

State and types of local government	Type of limitation			Rate limit		Provisions for exceeding limit			Remarks
	Citation ^{1/}	Scope ^{2/}	Method ^{3/}	No. of mills ^{4/}	Coverage ^{5/}	Debt service exclusion ^{6/}	Specified purpose levies ^{7/}	Approved increases ^{8/}	
Alabama									
Counties	C-S	Spec.	Rate	5	All	Partial ^{a/}	None	None	^{a/} Up to 2.5 mills for debt service, plus another 2.5 mills for debt incurred prior to 1875. ^{b/} But, numerous municipalities have been authorized higher limits by constitutional amendments. ^{c/} Excluding schools. ^{d/} An additional 10 mills for servicing debt incurred prior to 1875. ^{e/} Subject to voter approval.
Municipalities	C	Spec.	Rate	5 ^{b/}	All ^{c/}	Partial ^{d/}	None	None	
School dists.	C	Spec.	Rate	8-9 ^{e/}	All	None	None	None	
Alaska									
Municipalities	S	Spec.	Rate	30	All ^{a/}	All	None	None	^{a/} Includes city and borough schools. ^{b/} For a transitory period only. In the next two or three years, these taxing units will be incorporated into municipalities or boroughs (an area-type form of government authorized by the new Alaska Constitution).
School dists. ^{b/}	S	Spec.	Rate	20	All	All	None	None	
Pub. util. dists. ^{b/}	S	Spec.	Rate	10	All	All	None	None	
Arizona									
Counties	S	Spec.	Rate ^{a/}	20 ^{a/}	General	All	Few	Voted	^{a/} But, with some exception, the current tax levy may not exceed the previous year's levy by more than 10%. Counties with more than \$200 million assessed valuation are excluded from this limitation. ^{b/} Tax levies are limited to an increase of 10% over the previous year's amount, except for certain purposes.
Municipalities	S	Spec.	b/	b/	General	All	Few	Voted	
School dists.			No limitations (but voters must approve budget)						
Arkansas									
Counties	C-S	Spec.	Rate	5	All	Partial ^{a/}	None	Voted ^{b/}	^{a/} Another 5 and 3 mills may be levied for servicing debt incurred prior to adoption of the tax limitation and its amendments. 1st and 2nd class cities may also levy another 5 mills for servicing debt incurred for specified purposes. ^{b/} At specified maximum rates and for specified purposes.
Municipalities	C-S	Spec.	Rate	5	All	Partial ^{a/}	None	Voted ^{b/}	
School dists.			No limitations (but all taxes subject to voter approval)						
California									
Counties	S	Spec.	Rate	a/	a/	a/	a/	a/	^{a/} There is no general limitation on counties, but county levies authorized for a few specified purposes are subject to rate limitations. There are no limitations on county debt service levies.
Municipalities	S	Spec.	Rate	10 ^{b/}	General	All	Several	Voted	
School dists.	S	Spec.	Rate	8-20 ^{b/}	General	All	Few	Voted	
Special dists.	S	Spec.	Rate	c/	c/	c/	c/	c/	

See end of table for numbered footnotes.

Appendix A

State Constitutional and Statutory Restrictions on Local Power to Raise Property Tax Revenue: 1962 (Cont'd)

State and types of local government	Type of limitation			Rate limit		Provisions for exceeding limit			Remarks
	Citation ^{1/}	Scope ^{2/}	Method ^{3/}	No. of mills ^{4/}	Coverage ^{5/}	Debt service exclusion ^{6/}	Specified purpose levies ^{7/}	Approved increases ^{8/}	
California (Cont'd)									<p>b/ For any one school district, the rate limitation is the sum of the individual rates applicable to the specific grades taught.</p> <p>c/ Tax levies, including maximum rates in some cases, are authorized by legislative acts under both general and special laws.</p>
Colorado									
Counties	S	Spec.	Rate	5-12 ^{a/b/}	General	All	Few	Voted	a/ The greater the assessed valuation, the lower the limit.
Municipalities	S	Spec.	b/	b/	All	All	None	Voted	
School dists.	S	Spec.	b/, c/	b/, c/	All	All	None	Voted	b/ The total rate for all purposes shall not exceed 5% more than the aggregate for the previous year, unless the State Tax Commission approves an additional increase.
Special dists.	S	Spec.	b/	b/	All	All	None	Voted	c/ No specific rate limit, except a 10 - mill limit for union and county high schools.
Connecticut				No limitations					
Delaware									
Counties	S	Spec.	Rate	5	All	All	None	Voted	a/ No general rate limitation, but cities are subject to charter limitations.
Municipalities				No limitations ^{a/}					
School dists.				No limitations (but all tax levies are subject to voter approval)					
Florida									
Counties	S	Spec.	Rate	8	General	All	Several	a/	a/ Although there are no provisions for excess-levy referenda, the statutes permit the levy of "reasonable taxes for such other purposes as are specifically authorized by law."
Municipalities	S	Spec.	Rate	10	All	All	None	a/	
School dists.	C	Spec.	Rate	10	All	All	None	a/	
Georgia									
Counties	S	Spec.	Rate	5	General	None	Several	Voted ^{a/}	a/ An additional 2.5-mill tax can be levied, subject to certain conditions.
Municipalities ^{b/}	S	Spec.	Rate	5	General	All	Few	Voted ^{a/}	b/ Excluding home-rule charter cities and numerous specified cities and towns.
School dists. ^{c/}	C	Spec.	Rate	20	All	All	None	Voted ^{a/}	c/ Excluding independent (city) school districts in existence prior to 1946.
Hawaii									
Counties	S	Spec.	Rate	16-18 ^{a/}	All ^{b/}	None	b/	None	a/ 16 mills for the county (and city) of Honolulu and 18 mills for the other counties, contingent on assessments at 70% of fair market value. (The mill rate is adjusted to the extent that assessments differ from 70%).

See end of table for numbered footnotes.

Appendix A

State Constitutional and Statutory Restrictions on Local Power to Raise Property Tax Revenue: 1962 (Cont'd)

State and types of local government	Type of limitation		Rate limit		Debt service exclusion ^{b/}	Provisions for exceeding limit		Remarks	
	Citation ^{1/}	Scope ^{2/}	Method ^{3/}	No. of mills ^{4/}		Coverage ^{5/}	Specified increases ^{6/}		Approved increases ^{6/}
Hawaii (Cont'd)									
Idaho	S S S	Spec. Spec. Spec.	Rate Rate Rate	7.5 25 15-25 ^{a/}	General General All	None None None	Numerous Numerous None	None None Voted ^{b/}	b/ An additional 2-mill levy is allowed for urban redevelopment. a/ Fifteen mills for Common and Class C districts; 25 mills for other school districts. b/ Restricted to school construction (and reserve funds) for all school districts; and, to maintenance and operating expenses for Common and Class C school districts (subject to approval of the State Board of Education), and limited to 5 mills for other school districts.
Illinois	C-S S S S S	Spec. Spec. Spec. Spec.	Rate Rate Rate Rate	1.25-2.0 ^{a/} 3.33 ^{b/} d/ 6.5-12.5 ^{e/} f/	General ^{b/} General ^{b/} d/ General ^{b/} All	a/ All All All All	Numerous Numerous Numerous None	Voted Voted Voted Voted	a/ Based upon population size, except for Cook County, the limit is 2.6 mills. The constitution authorizes 7.5 mills for all purposes (except for servicing debt incurred prior to the adoption of the tax limitation amendment), but the statutes specify individual rate limits for numerous purposes, by population size, within the 7.5 limit and provide for raising additional taxes for servicing all authorized debt. b/ For "corporate" purposes. c/ Excluding charter cities (10 mills) and Chicago. d/ No limitation on the corporate levy, but specific limitations for specific purposes. e/ For "education", based upon the grade level; except the limit is 15 mills for the Chicago school districts. f/ Limits vary with the type of district.
Indiana	S S S	Overall Spec. Spec.	Rate Rate Rate	12.5-20 ^{a/} 12.5 ^{b/} 42.5 ^{c/}	General General ^{b/} All ^{b/}	All All All	Few Few e/	b/ b/ None	a/ Property situated outside of cities and towns--12.5 mills; property within cities and towns--20 mills. b/ By application to State Board of Tax Commissioners. c/ Within the overall limits. d/ Outside the overall limits, but the school revenue fund levy and the school tuition levy are each limited to 25 mills.

See end of table for numbered footnotes.

Appendix A

State Constitutional and Statutory Restrictions on Local Power to Raise Property Tax Revenue: 1962 (Cont'd)

State and types of local government	Type of limitation			Rate limit		Provisions for exceeding limit			Remarks	
	Citation ^{1/}	Scope ^{2/}	Method ^{3/}	No. of mills ^{4/}	Coverage ^{5/}	Debt service exclusion ^{6/}	Specified purpose levies ^{7/}	Approved increases ^{8/}		
Indiana (Cont'd)									e/ Excluding a 10-mill limit for the school building fund.	
Iowa										
Counties	S	Spec.	Rate	2-3.5 ^{a/}	General	All	Numerous	None	a/ The greater the assessed valuation, the lower the limit.	
Municipalities	S	Spec.	Rate	7 ^{b/}	General	All	Numerous	None	b/ But, a maximum of 30 mills for all purposes.	
School dists.	S	Spec.	Rate	c/	General	None	Numerous	d/	c/ \$140 to \$200 (plus cost of high school tuition) per pupil, depending upon district enumerations. d/ School districts may apply to the State Comptroller for increased levies.	
Kansas										
Counties ^{a/}	S	Spec.	Rate	3-4.25 ^{b/}	General	All	Numerous } Numerous } Numerous } Numerous }	Voted, or State Bd. of Tax Appeals ^{e/}	a/ Each taxing jurisdiction is required to reduce its property tax levy or levies by the amount it receives from the State as its share of the "sales tax residue." The tax rates, within the statutory limitations, are computed on the basis of the reduced levies.	
Municipalities ^{a/}	S	Spec.	Rate	9-13 ^{c/}	General	All				b/ Based upon assessed valuation: Less than \$30 million, 3.75 mills; \$30-140 million, 3 mills; over \$130 million, 4.25; but the total for all (except certain) purposes shall be 5.3-6 mills, based upon assessed valuation with modifications for population size.
School dists. ^{a/}	S	Spec.	Rate	8-46 ^{d/}	All ^{d/}	All				c/ Based upon class of city (with modifications for population size in the case of 1st class cities). For all purposes (except debt service and certain other purposes) the limits range from 11 to 33.5 mills.
Townships ^{a/}	S	Spec.	Rate	0.5 ^{e/}	General	All				d/ Based on class of district (roughly corresponding to city classification). e/ Up to 25% above the statutory limits. Provisions for obtaining excess levies through general or special election or by application to the State Board of Tax Appeals do not apply to common school districts or rural high school districts, which can, however, vote excess levies at their annual school meeting.
									f/ Four mills for urban class townships.	

See end of table for numbered footnotes.

Appendix A

State Constitutional and Statutory Restrictions on Local Power to Raise Property Tax Revenue: 1962 (Cont'd)

State and types of local government	Type of limitation			Rate limit		Provisions for exceeding limit			Remarks
	Citation ^{1/}	Scope ^{2/}	Method ^{3/}	No. of mills ^{4/}	Coverage ^{5/}	Debt service exclusion ^{6/}	Specified purpose levies ^{7/}	Approved increases ^{8/}	
Kentucky									
Counties	C	Spec.	Rate	5	General	Partial ^{a/}	Few	None	a/ Additional levies are permitted to service debt outstanding prior to adoption of the tax limitation, and debt approved by 2/3 of the voters. b/ The greater the population, the higher the rate. c/ Up to 5 mills for school construction, or for lease payments on buildings financed through the issue of revenue bonds.
Municipalities	C	Spec.	Rate	7.5-15 ^{b/}	General	Partial ^{a/}	Few	None	
School dists.	S	Spec.	Rate	15	All	All	None	Voted ^{c/}	
Special dists.	C	Spec.	Rate	5	General	Partial ^{a/}	Few	None	
Louisiana									
Parishes (counties)	C	Spec.	Rate	4 ^{b/}	General	All	Few	Voted ^{a/}	a/ Up to 5 mills, each, for specific purposes, not to exceed 25 mills for all special purposes. b/ Seven mills, except 10 mills for charter cities and certain other cities. c/ Up to 7 mills for school support, and another 5 mills for school maintenance and repair, for a maximum period of 10 years.
Municipalities	C	Spec.	Rate	7-10 ^{b/}	General	All	Few	Voted ^{a/}	
School dists.	C	Spec.	Rate	5	All	All	None	Voted ^{c/}	
Maine				No limitations					
Maryland				No limitations					
Massachusetts				No limitations					
Michigan									
All taxing units ^{a/}	C	Overall	Rate	15	All	Partial ^{b/}	c/	Voted ^{d/}	Note: The new Michigan Constitution, to be submitted to the electorate, changes many of the property tax limitation provisions. See text, Chapter 3. a/ Except "charter municipal corporations" (cities, villages, and in some cases townships and special districts that have been considered to be "charter municipalities" by jurisdictional decision). b/ For servicing debt outstanding prior to adoption of the limitation; for servicing State loans to school districts, and school bonds approved by the voters. c/ Additional levies of 0.1-mill for county buildings and 5 mills for county roads are permitted. d/ Limited to 50 mills and 20 years.
Charter municipalities	S	Spec.	Rate	10-20 ^{e/}	All	None	e/	Voted	

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State Constitutional and Statutory Restrictions on Local Power to Raise Property Tax Revenue: 1962 (Cont'd)

State and types of local government	Type of limitation			Rate limit		Provisions for exceeding limit			Remarks
	Citation ^{1/}	Scope ^{2/}	Method ^{3/}	No. of mills ^{4/}	Coverage ^{5/}	Debt service exclusion ^{6/}	Specified purpose levies ^{7/}	Approved increases ^{8/}	
Michigan (Cont'd)									e/ Specified rate limits, ranging from 10-20 mills are provided outside the overall limits depending upon type of local unit, and existence of charter. In some instances, additional levies for special purposes are permitted.
Minnesota									
Counties	S	Spec.	Rate	15 ^{a/}	General	All	Numerous	None	a/ For counties with less than 100,000 population the limit is the greater of (1) the amount produced by a levy of 15 mills, and (2) \$125-160 thousand, according to population size.
Municipalities (3rd & 4th Class)	S	Spec.	Rate	40 ^{b/}	General	None ^{b/}	Numerous	None	b/ Excluding charter cities. The maximum levy for all purposes (with some exclusions) is \$54 per capita, including debt service, plus upward adjustments commensurate with increases in the BLS Consumer Price Index. c/ For villages with less than \$500 thousand assessed valuation, the limit is 30 mills plus cost-of-living increases. For all purposes, the limit is \$54 per capita. d/ On a specific dollar amount, according to population size and assessed valuation. For all purposes the limit is 17 mills (whenever it will produce at least \$1,000 per section). e/ For indebtedness incurred prior to 1927. f/ \$315 per resident pupil; or on a per capita basis, varying amounts depending upon population. g/ Limitations, where specified, are expressed in mills, dollar amounts, or per capita dollar amounts.
Villages	S	Spec.	Rate	35 ^{c/}	General	All	Numerous	None	
Townships	S	Spec.	Rate	5-10 ^{d/}	General	Partial ^{e/}	Numerous	None	
School dists.	S	Spec.	f/	f/	General	All	Numerous	None	
Special dists.	S	Spec.	g/	g/	General	All	Numerous	None	
Mississippi									
Counties	S	Spec.	Rate	6-12 ^{a/}	General	All	Few	None	a/ The greater the assessed valuation, the lower the limit.
Municipalities	S	Spec.	Rate	15 ^{b/}	General	All	Few	None	b/ For county school districts, the difference between the minimum support program and 25 mills or 10 mills whichever produces the greater amount; for municipal school districts, the difference between the minimum and 25 mills, or 15 mills, whichever produces the greater amount.
School dists.	S	Spec.	Rate	25 ^{b/}	All	All	None	Voted	

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State Constitutional and Statutory Restrictions on Local Power to Raise Property Tax Revenue: 1962 (Cont'd)

State and types of local government	Type of limitation			Rate limit		Provisions for exceeding limit			Remarks
	Citation ^{1/}	Scope ^{2/}	Method ^{3/}	No. of mills ^{4/}	Coverage ^{5/}	Debt service exclusion ^{6/}	Specified purpose levies ^{7/}	Approved increases ^{8/}	
Missouri									
Counties	C-S	Spec.	Rate	3.5-5.0 ^{a/}	General	All	Several	Voted ^{b/}	<p>^{a/} 3.5 mills in counties with over \$300 million assessed valuation; 5 mills in all other counties.</p> <p>^{b/} Limited to four year periods.</p> <p>^{c/} Constitutional limitation. The statutes impose a 7.5-mill limit on 4th class cities, and a 5-mill limit on cities and towns. St. Louis is permitted the sum of municipal and county limitations.</p> <p>^{d/} St. Louis school districts, 8.9 mills; school districts formed of cities and towns, 10 mills; other districts, 6.5 mills.</p> <p>^{e/} Voted levies cannot exceed 3 times the basic rate for a 1-year period (2 years in cities of 75,000 population or more).</p> <p>^{f/} Townships are apportioned 20% of the permissible county tax rate, if they levy property taxes.</p>
Municipalities	C-S	Spec.	Rate	10 ^{c/}	General	All	Several	Voted ^{b/}	
School dists.	C-S	Spec.	Rate	6.5-10 ^{d/}	General	All	Several	Voted ^{e/}	
Townships	S	Spec.	Rate	<u>f/</u>	General	All	Several	None	
Montana									
Counties	S	Spec.	Rate	16 ^{a/}	General	All	Numerous	Voted ^{b/}	<p>^{a/} Through June 1963, another 5 mills are authorized.</p> <p>^{b/} For certain specified purposes.</p> <p>^{c/} Provided, that cities whose indebtedness equals or exceeds the constitutional limitations, the maximum levies for general municipal and administrative purposes shall be 15 mills.</p> <p>^{d/} Consisting of countywide taxes of 10 mills each for elementary and high schools, 5 mills for school districts, plus additional increases (above the foundation program) of 15 mills for elementary schools and 10 mills for high schools.</p>
Municipalities	S	Spec.	Rate	20 ^{c/}	General	All	Numerous	Voted ^{b/}	
School dists.	S	Spec.	Rate	35-40 ^{d/}	All	All	None	Voted	
Nebraska									
Counties	C-S	Spec.	Rate	5	All	All ^{a/}	None	Voted	<p>^{a/} Except for servicing debt incurred prior to adoption of the constitutional amendment, voter approval is required.</p> <p>^{b/} Based upon population size. The constitutional limits are stated in terms of "actual value" of property, but the statutory limits are in terms of "assessed value" which is defined as 35% of 'actual' value.</p> <p>^{c/} Subject to voter approval.</p>
Counties	S	Spec.	Rate	6-9 ^{b/}	General	All ^{c/}	Numerous	None	
Municipalities	S	Spec.	Rate	20-25 ^{d/}	All	All ^{c/}	None	<u>e/</u>	
School dists.	S	Spec.	Rate	12	All	All ^{c/}	None	Voted ^{e/}	
Townships	S	Spec.	Rate	8	All	All ^{c/}	None	None	

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State Constitutional and Statutory Restrictions on Local Power to Raise Property Tax Revenue: 1962 (Cont'd)

State and types of local government	Type of limitation			Rate limit		Provisions for exceeding limit			Remarks
	Citation ^{1/}	Scope ^{2/}	Method ^{3/}	No. of mills ^{4/}	Coverage ^{5/}	Debt service exclusion ^{6/}	Specified purpose levies ^{7/}	Approved increases ^{8/}	
Nebraska (Cont'd)									d/ Twenty mills for 1st class cities, 25 mills for 2nd class cities. The city of Lincoln is permitted 9.75 mills and Omaha, 14.4 mills. e/ Subject to voter (55%) approval, the city of Omaha and school districts may levy additional taxes; a 60% voter approval is required to levy a ¼ mill recreation fund tax.
Nevada									
All taxing units	C-S	Overall	Rate	50	All	None	None	None	a/ Within the overall 50-mill rate.
Municipalities	S	Spec.	Rate	30 ^{a/} b/	All	None	None	None	b/ Special tax rates are established by the legislature for selected cities.
School dists.	S	Spec.	Rate	15 ^{a/}	All	All	None	None	c/ Counties may levy this tax in such towns located within said counties. There is no maximum tax rate for all county purposes, but separate limits are set for certain county purposes.
Unincorporated towns	S	Spec.	Rate	15 ^{a/} e/	All	None	None	None	
New Hampshire				No limitations					
New Jersey				No limitations					
New Mexico									
All taxing units	C	Overall	Rate	20 ^{a/}	General ^{b/}	All	Few ^{b/}	b/	a/ Includes 4 mills for State purposes (but increased to 5½ mills by statute).
All taxing units	S	Spec.	Rate	c/				c/	b/ When approved by the voters, the legislature may authorize taxes outside the 20-mill limit.
Counties	S	Spec.	Rate	5 ^{d/}	General	All	Few	b/	c/ All increases in tax rates are limited to 5% in excess of the previous year's rate, except upon approval of the State Tax Commission.
Municipalities	S	Spec.	Rate	5	General	All	Few	b/	d/ Plus another 18 mills for county school purposes (apparently outside the general constitutional and statutory limitations).
School dists.	S	Spec.	Rate	5 ^{e/}	General	All	Few	b/	e/ See also note (d), above.
New York									
Counties	C	Spec.	Rate	15-20 ^{a/}	All ^{b/}	All	None	a/	Note: Rate limitations in New York apply against the average full value of real estate for the preceding 5 years.
Municipalities	C	Spec.	Rate	20 ^{c/}	All ^{d/}	All	None	None	
Certain school dists.	C	Spec.	Rate	12.5-20 ^{e/}	All ^{b/}	All	None	Voted ^{g/}	
Villages	C	Spec.	Rate	20	All	All	None	None	a/ The limit is 15 mills, but it may be increased to 20 mills by resolution of the county board of supervisors approved either by 2/3 of voters or by simple majority vote followed by a mandatory referendum.

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State Constitutional and Statutory Restrictions on Local Power to Raise Property Tax Revenue: 1962 (Cont'd)

State and types of local government	Type of limitation			Rate limit		Provisions for exceeding limit			Remarks
	Citation ^{1/}	Scope ^{2/}	Method ^{3/}	No. of mills ^{4/}	Coverage ^{5/}	Debt service exclusion ^{6/}	Specified purpose levies ^{7/}	Approved increases ^{8/}	
New York (Cont'd)									<p>b/ Excluding capital construction.</p> <p>c/ The limit for New York City is 25 mills (for combined county, city, and school purposes). For cities with populations over 125,000, the limit includes taxes for schools.</p> <p>d/ Excluding capital construction (but for New York City the amount of the capital improvement must be charged against the debt limit).</p> <p>e/ School districts that are coterminous with or partly within cities having less than 125,000 population.</p> <p>f/ The basic rate is 12.5 mills, but districts having higher rates prior to 1947 are permitted to retain them, up to a 20-mill limit.</p> <p>g/ Voters may authorize additional levies, at 2.5 mills per election, up to 20 mills (exclusive of capital improvements).</p>
110 - North Carolina Counties and Municipalities	C	Spec.	Rate	a/ 2	a/	All	a/	a/	<p>Note: Schools are operated by county and city administrative units, which are closely supervised by the State, and are also controlled to some extent by the counties and cities, which levy taxes for them.</p> <p>a/ The constitutional 2-mill limit has very limited application, since it excludes "special purpose" taxes levied by counties with approval by the General Assembly. It also excludes school taxes levied for maintenance of the 6-months term required by the constitution. The term "special purpose" has been interpreted broadly by the General Assembly, so that county levies for such important functions as public schools, public welfare, operation of hospitals and jails, and the like, are approved as "special purpose" levies outside the 2-mill limitation. Such levies are generally approved without reference to any limitation, although there is a 5 to 6-mill limit (depending upon population size) on the amount of county school taxes that can be levied to supplement the constitutional 6-months school</p>
Counties and Municipalities c/	S	Spec.	Rate	15 b/	All	All	b/	None	
				c/	c/	c/	c/	c/	

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State Constitutional and Statutory Restrictions on Local Power to Raise Property Tax Revenue: 1962 (Cont'd)

State and types of local government	Type of limitation			Rate limit		Provisions for exceeding limit			Remarks
	Citation ^{1/}	Scope ^{2/}	Method ^{3/}	No. of mills ^{4/}	Coverage ^{5/}	Debt service exclusion ^{6/}	Specified purpose levies ^{7/}	Approved increases ^{8/}	
North Carolina (Cont'd)									term. At times, the General Assembly requires a county-wide vote on a "special purpose" levy it approves. b/ Additional taxes to meet extraordinary expenses of law enforcement are permissible. c/ All taxes, except those for "necessary expenses" (broadly interpreted), must be approved by voters.
North Dakota									
Counties	S	Spec.	Rate	16 ^{b/}	General	All	Numerous	Voted ^{a/}	a/ Up to 50% in excess of legal limits for one year.
Cities	S	Spec.	Rate	26 ^{b/}	General	All	Numerous	Voted ^{a/}	
School dists.	S	Spec.	Rate	19-27 ^{c/}	General	All	Numerous	Voted ^{a/}	b/ Cities with populations over 5,000 may levy another 0.5 mills.
Villages	S	Spec.	Rate	20	General	All	Numerous	Voted ^{a/}	
Civil townships	S	Spec.	Rate	18	All	All	Numerous	Voted ^{a/}	c/ For any one school district, the rate limitation is the sum of the individual rates applicable to the specific grades taught. The basic limit is 19 mills, going up to 27 mills for districts offering 4 years of high school. Districts having over 7,500 population and providing 4 years of high school may remove all limitations with approval of a majority of the voters.
Park districts	S	Spec.	Rate	4 ^{e/}	All	All	e/	Voted ^{f/}	d/ Up to 25% in excess of legal limits, provided that if sixty percent of voters approve, up to 75% in excess may be levied. See also note (c), above. e/ Plus another 4 mills for the purchase of airport property. f/ An additional 6 mills.
Ohio									
All taxing units ^{a/}	C	Overall	Rate	10	All	All ^{b/}	None	Voted ^{c/}	a/ Excluding cities with charters permitting rates in excess of their share of the overall rate. b/ For servicing debt authorized by the voters. Taxes levied to service debt not authorized by election must be approved by the voters. c/ Subject to provisions regarding purposes of levies and the machinery for obtaining voter approval.
Oklahoma									
All taxing units	C	Overall	Rate	15 ^{a/}	All	All	None	Voted ^{b/}	a/ School districts are assigned 5 mills of this total; and, in addition, counties may levy 4 mills outside the limitation for school purposes, and

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State and types of local government	Type of limitation			Rate limit		Provisions for exceeding limit			Remarks
	Citation ^{1/}	Scope ^{2/}	Method ^{3/}	No. of mills ^{4/}	Coverage ^{5/}	Debt service exclusion ^{6/}	Specified purpose levies ^{7/}	Approved increases ^{8/}	
Oklahoma (Cont'd)									school districts, upon certification of need by the Board of Education, may levy another 15 mills outside the overall limits. b/ Subject to provisions regarding purposes of levies and maximum increases in rates.
Oregon All taxing units	C-S	Spec.	a/	a/	a/	All	a/	Voted	a/ Each local taxing unit's levies shall not exceed 106% of the dollar amount levied in the highest of the preceding 3 years, exclusive of levies specifically authorized by the legislature or approved by the voters. The statutes also provide general and specific rate limitations for designated taxing units (e.g., county fairs, libraries, hospitals, roads and port districts).
Pennsylvania Counties Municipalities ^{b/} School dists. Boroughs Townships	S S S S S	Spec. Spec. Spec. Spec. Spec.	Rate Rate Rate Rate Rate	20 ^{a/} 15 d/ 20 9-15 ^{f/}	General ^{a/} General d/ General General	All All d/ All All	Few Few d/ Few Few	None None ^{c/} None Voted ^{a/} Voted ^{c/e/}	a/ Including levies for institution district purposes (care of the indigent) which comprise 10 mills of the 20-mill total for 3rd, 7th and 8th class counties. b/ Applicable to cities of the third class. Cities of the first class (Philadelphia), second class (Pittsburgh), and second class A (Scranton) may levy property taxes at the necessary rate. c/ Cities of the third class and townships may petition to the court of quarter sessions for an additional general levy up to 5 mills. d/ The permissible rate varies with the class of school districts, ranging from 11.75 mills, with specified additional rates, for 1st class and class A districts; to 20-25 mills for class 2-4 districts, with authorization for additional levies at necessary rates for certain specified purposes (including debt servicing); to 75 mills (for all purposes) for "independent districts". e/ Restricted as to purpose and rate. f/ Fifteen mills for 1st class, 9 mills for 2nd class townships.

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State and types of local government	Type of limitation			Rate limit		Provisions for exceeding limit			Remarks
	Citation ^{1/}	Scope ^{2/}	Method ^{3/}	No. of mills ^{4/}	Coverage ^{5/}	Debt service exclusion ^{6/}	Specified purpose levies ^{7/}	Approved increases ^{8/}	
Rhode Island Cities and towns ^{a/}	S	Overall	Rate	35	All	All	None	State Director of Administration ^{b/}	^{a/} There are no organized counties, and the State has not levied a property tax for some years. School taxes are included with city and town taxes. ^{b/} The city or town council may petition the State Director of Administration for permission to levy taxes in excess of limits.
South Carolina Counties Municipalities School dists.	S	Spec.	No limitations Rate	40-50 ^{a/}	All	All ^{b/}	None	None	^{a/} Towns under 1,000 population are limited to 40 mills. Numerous municipalities have lower tax limits stated in special legislative acts. ^{b/} For towns and cities with 1,000 or more population. ^{c/} Subject to voter approval.
	S	Spec.	Rate	15 ^{c/}	All	All	None	Voted	
South Dakota Counties Municipalities School dists. Townships	S	Spec.	Rate	5-10 ^{a/}	All ^{b/}	All	None	Voted ^{c/}	^{a/} Five mills for unorganized counties and 5-10 mills, varying inversely with the amount of assessed valuations, for organized counties. ^{b/} All purposes except the poor relief fund. ^{c/} Up to another 10 mills if 3/4 of voters approve. ^{d/} Twenty mills each for elementary and high school systems, 40 mills for both.
	S	Spec.	Rate	15 ^{a/}	All ^{b/}	All	None	Voted ^{c/}	
	S	Spec.	Rate	20-40 ^{a/}	All ^{b/}	All	None	Voted ^{c/}	
	S	Spec.	Rate	5	All ^{b/}	All	None	Voted ^{c/}	
Tennessee Counties Municipalities Towns	S	Spec.	No limitations Rate	7.5-15 ^{a/}	All	All	None	None	Note: Schools are primarily operated by cities and counties in Tennessee. ^{a/} The county tax rate is determined by the quarterly county court, and includes all purposes except roads and bridges, schools, debt servicing, and levies authorized by special legislative acts. ^{b/} Based on population (the greater the population, the lower the limit), but excluding charter cities which are generally authorized to determine their own limits.
	S	Spec.	Rate	15	All	None	None	None	

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State and types of local government	Type of limitation			Rate limit		Provisions for exceeding limit			Remarks
	Citation ^{1/}	Scope ^{2/}	Method ^{3/}	No. of mills ^{4/}	Coverage ^{5/}	Debt service exclusion ^{6/}	Specified purpose levies ^{7/}	Approved increases ^{8/}	
Texas									
Counties	C	Spec.	Rate	8	All ^{a/}	Partial ^{b/}	a/	None ^{c/}	a/ All purposes, except an additional 3 mills may be levied for farm-to-market roads.
Municipalities	C	Spec.	Rate	8 ^{d/}	All	Partial ^{b/}	None	None	b/ For debt service of bonds for specified purposes including construction and improvement of roads, reservoirs, dams, etc.
Non-charter	C-S	Spec.	Rate	15-25 ^{e/}	All	None	None	None	c/ Except, if authorized by the legislature, voters may approve a 1.5-mill tax for roads.
Charter	C-S	Spec.	Rate	10-15 ^{e/}	All	None	None	None	d/ Cities over 5,000 population may levy 25 mills, unless their charters specify otherwise.
School dists.	C-S	Spec.	Rate	10-15 ^{e/}	All	None	None	None	e/ Ten mills for rural high school districts and 15 mills for common and independent school districts. Junior college districts are also permitted to levy a 2-mill tax. All school taxes, however, are subject to majority voter approval.
Villages	S	Spec.	Rate	2.5	All	None	None	None	
Utah									
Counties	S	Spec.	Rate	16-18 ^{a/}	General	All	Several	None	a/ Counties with more than \$20 million assessed valuation are permitted only sixteen mills.
Municipalities	S	Spec.	Rate	18.5-35 ^{b/}	General	All	Several	None	b/ The greater the population, the lower the limit.
School dists.	S	Spec.	c/	c/	c/	All	Few ^{c/}	Voted ^{d/}	c/ School districts must levy sufficient taxes to support the State education program. Additional taxes are also permitted: for the cost of school maintenance and operation, 13% of the minimum support program cost, or 6 mills, whichever is greater, for capital expenditures, another 10% of the minimum support program cost; and through June 1967, another 12 mills for capital expenditures.
Towns	S	Spec.	c/	4	General	All	Several	Voted ^{e/}	d/ An additional 20% increase in the basic program rate is permitted, subject to voter approval.
Vermont									e/ A 2-mill additional tax is permitted, subject to 2/3 voter approval.
			No limitations						

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State and types of local government	Type of limitation			Rate limit		Provisions for exceeding limit			Remarks
	Citation ^{1/}	Scope ^{2/}	Method ^{3/}	No. of mills ^{4/}	Coverage ^{5/}	Debt service exclusion ^{6/}	Specified purpose levies ^{7/}	Approved increases ^{8/}	
Virginia County and city school systems	S	Spec.	Rate	55 ^{a/}	All	All	None	None	a/ Thirty mills are permitted for school operation and maintenance, another 25 mills for school capital expenditures.
Washington All taxing units ^{a/}	C	Overall	Rate	40 ^{b/}	All	All	None	Voted	a/ Except port and public utility districts.
Counties	S	Spec.	Rate	18 ^{c/d/}	All	All	None	Voted	b/ Including a (statutory) 2-mill State levy.
Municipalities	S	Spec.	Rate	15 ^{d/}	All	All	None	Voted	c/ Including 10 mills for roads. But counties of the 5th class and under (less than 1,000 population) may alternatively levy 8-11 mills for "general" purposes and 7-10 mills for roads.
School dists.	S	Spec.	Rate	14 ^{d/}	All	All	None	Voted	
Special dists.	S	Spec.	Rate	e/	All	All	None	Voted	d/ Within the overall limit.
Townships	S	Spec.	Rate	f/	f/	f/	f/	f/	e/ Numerous special districts may levy taxes within the over-all limits. Note, however, the exception of port and public utility districts.
West Virginia All taxing units	C-S	Overall	Rate	5-20 ^{a/}	All ^{b/}	b/	None	Voted ^{c/}	a/ A separate overall rate limit applies to each of four classes of property, and is apportioned by statute among the various types of government, including the State. Thus, of the 5 mills allowed on Class I property, municipalities are currently allotted 1.25 mills, counties, 1.215 mills, school districts 2.295 mills, and the State 0.025 mills. The allocation of the rates allowed the other 3 classes is in the same proportion. See text, Chapter 3, for an explanation of the classification of property in West Virginia.
Counties	S	Spec.	Rate	1.215-4.86 ^{a/}	All	None	None	Voted ^{c/}	
Municipalities	S	Spec.	Rate	1.25-5 ^{a/}	All	None	None	Voted ^{c/}	
School dists.	S	Spec.	Rate	2.295-9.18 ^{a/}	All	All	None	Voted ^{c/}	
Special dists.	S	Spec.	Rate	0.215-0.86 ^{a/}	All	None	None	Voted ^{c/}	

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State Constitutional and Statutory Restrictions on Local Power to Raise Property Tax Revenue: 1962 (Cont'd)

State and types of local government	Type of limitation			Rate limit		Provisions for exceeding limit			Remarks
	Citation ^{1/}	Scope ^{2/}	Method ^{3/}	No. of mills ^{4/}	Coverage ^{5/}	Debt service exclusion ^{6/}	Specified purpose levies ^{7/}	Approved increases ^{8/}	
Wisconsin									
Counties	S	Spec.	Rate	10 ^{a/}	General	All	Few	None	<u>a/</u> Except that counties containing only one town are allowed a 15-mill limit. <u>b/</u> Except, a limit of only 10 mills for Milwaukee; municipalities, including Milwaukee, which operate schools are allowed additional rates for school purposes. <u>c/</u> Providing, that if a high school is maintained, the limit is 25 mills. <u>d/</u> Another 8 mills for school construction. <u>e/</u> An additional 10 mills only.
Municipalities	S	Spec.	Rate	35 ^{b/}	General	All	Few	None	
School dists.	S	Spec.	Rate	20 ^{c/}	All	All	None	Voted ^{d/}	
Towns	S	Spec.	Rate	10	General	All	Few	None	
Villages	S	Spec.	Rate	10	General	All	Few	Voted ^{e/}	
Wyoming									
Counties	C-S	Spec.	Rate	12 ^{a/}	All	All	None	None	<u>a/</u> Of which 3 mills are for county schools. <u>b/</u> The greater the assessed valuation, the lower the limit. <u>c/</u> For a year's duration, an additional 2-mill tax for current expenses is permitted. <u>d/</u> For grades 1-8, 13.5 mills, and another 7.5 for high schools. <u>e/</u> Grade schools may levy an additional tax up to 2.5 mills, and high schools may levy another 1.5 mills.
Counties	S	Spec.	Rate	Up to 8 ^{b/}	General	All	Several	Voted ^{c/}	
Municipalities	C	Spec.	Rate	8	All	All	None	None	
School dists.	S	Spec.	Rate	13.5-21 ^{d/}	All	All	None	Voted ^{e/}	

See end of table for numbered footnotes.

Appendix A

State Constitutional and Statutory Restrictions on Local Power to Raise Property Tax Revenue: 1962 (Concluded)

Note.- This tabulation presents data pertaining to State-imposed property tax limitations on counties, municipalities, and school districts in effect as of July 1, 1962. In some instances the available data also permit the listing of property tax restrictions on other classes of local taxing units and special districts.

- 1/ The citation for the limitations is either the State's constitution (C), Statutes (S) or both (C-S).
- 2/ The scope of the limitations is either "overall" (all taxing units) or "specific" (applicable only to a particular class of local government).
- 3/ The rate limitation method is commonly used by States. Footnotes in this column refer to other methods (e.g., budgetary control) listed in the "Remarks" column.
- 4/ The rate limitations listed here are shown as a number of mills per dollar of assessed valuation. One mill is the equivalent of \$1 per \$1000 or 10¢ per \$100 of assessed valuation. Per capita limitations and other forms are shown in the "Remarks" column.
- 5/ Typically the rate limitations apply to "general purposes" (usually signifying "current expense" levies, "general revenue" levies, "corporate" levies, and the like). The "all" designation, where applicable, includes all purposes except as noted in the column headed "Provisions for exceeding limits -- specified purpose levies".
- 6/ The exclusion of debt service from the limitations may be partial or complete (listed here as "all"). Partial exclusions are explained in the "Remarks" column. The designation "none" in this column indicates that debt service is included within the limitations.
- 7/ For those taxing units with only general purpose coverage of the limitations, an entry in this column shows the relative degree to which additional tax levies for special purposes are provided: "few", "several", and "numerous", ranging from only one to many.
- 8/ Entries in this column indicate whether local jurisdictions are authorized to exceed the general limitations by referendum ("voted"), or by some other means as noted in the "Remarks" column.

Appendix B. - Assessed Valuations and Property Tax Collections, by State, for Selected Years: 1930 - 1961
(Dollar amounts, except per capita, in millions)

State	State and local property taxes												
	Assessed value subject to general property taxes			Amount in millions						Per capita			
				General property taxes			General and special property taxes			General property taxes		General and special property taxes	
	1930 ^{1/}	1940	1956	1932 ^{1/}	1941	1957	1957	1961	1932	1941	1957	1957	1961
U.S. Total ^{2/}	\$158,869	\$130,377	\$269,872 ^{3/}	\$4,571	\$4,355	\$12,390	\$12,811	\$17,909	\$37.00	\$32.80	\$73.09	\$75.57	\$98.78
GROUP I													
Connecticut	3,150	3,147	6,634	74	85	231	231	328	45.45	48.82	100.52	100.52	125.63
Maine	757	698	1,147	29	30	65	70	93	35.94	35.21	68.93	74.23	93.95
Maryland	3,017	2,480	6,719	54	62	194	196	274	32.59	31.99	67.50	68.20	85.92
Massachusetts	7,230	6,138	8,590	220	228	538	590	776	51.79	52.13	110.43	121.10	148.32
New Hampshire	625	552	988	22	24	50	55	71	46.81	48.48	86.81	95.49	114.17
New Jersey	6,538	5,490	7,349	221	256	629	634	1,000	53.64	60.65	112.24	113.13	149.33
Vermont	282	278	429	11	14	29	29	37	30.64	39.77	76.92	76.92	92.41
Total	21,599	18,783	31,856	631	699	1,736	1,805	2,579	47.48	50.03	98.95	102.88	130.18
GROUP II													
Arizona	715	377	1,239	21	16	77	85	134	48.95	29.25	69.18	76.37	96.26
California	8,331 ^{4/}	7,139	21,819	311	296	1,452	1,564	2,432	53.40	39.97	102.00	109.87	148.29
Colorado	1,586	1,113	3,068	44	42	150	160	217	41.67	36.91	88.60	94.51	122.01
Delaware	285	326	928	5	5	14	14	22	20.66	18.32	33.33	33.33	47.16
Florida	576	524	4,530	48	54	229	236	402	32.15	26.24	53.95	55.59	77.00
Idaho	483	387	603	19	18	50	50	62	41.85	34.95	78.25	78.25	90.35
Illinois	8,444	5,302	28,609	333	320	895	896	1,225	43.32	40.41	93.63	93.73	119.46
Kansas	3,382	2,593	4,177	77	70	210	214	325	40.94	39.62	98.96	100.85	148.09
Minnesota	1,899	1,304	2,009	112	111	310	311	453	42.85	40.82	93.54	93.84	130.46
Montana	400	320	619	23	26	73	73	90	42.59	47.88	110.27	110.27	132.11
New York	28,602	25,752	35,287	780	825	1,775	1,775	2,230	60.71	62.17	109.55	109.55	130.90
North Carolina	2,974	2,394	6,479	53	51	127	135	188	16.65	14.18	28.59	30.39	40.75
North Dakota	667	446	640	23	21	57	57	65	33.82	34.15	90.62	90.62	102.19
Oregon	1,125	897	2,051	41	40	148	148	192	42.44	37.38	85.30	85.30	106.56
Pennsylvania	9,570	8,247	11,951 ^{3/}	326	295	571	593	746	33.58	29.74	52.17	54.18	65.06
South Carolina	415	373	699 ^{2/}	25	24	57	57	73	14.26	12.23	24.47	24.47	30.16
Tennessee	1,779	1,432	2,974	40	45	117	117	161	15.05	15.12	33.70	33.70	44.54
Utah	728	514	1,165	17	19	60	60	89	33.14	34.48	71.60	71.60	96.83
Virginia	1,686	1,660	5,024	37	38	139	153	216	15.13	12.77	36.37	40.03	53.17
Wisconsin	5,896	4,416	8,548	125	112	345	367	509	41.81	35.67	90.74	96.53	126.43
Total	79,543	65,516	142,419	2,460	2,428	6,856	7,065	9,829	41.03	37.38	79.52	81.94	105.56
GROUP III													
Alabama	1,209	976	2,260	32	28	65	65	83	12.08	9.65	20.47	20.47	25.26
Arkansas	608	442	934	20	17	47	47	68	10.82	8.65	26.18	26.18	37.62
Georgia	1,303	918	2,338	41	43	134	136	181	14.02	13.50	34.97	35.49	45.35
Iowa	1,484	2,957	4,607	94	97	236	239	363	37.87	38.94	86.07	87.16	130.51
Kentucky	2,797	2,429	3,618	40	32	106	118	140	15.08	11.22	36.04	40.12	45.64
Louisiana	1,747	1,378	2,341	51	44	109	109	144	24.01	17.60	34.92	34.92	43.45
Mississippi	740	575	1,006	33	30	64	64	83	16.55	13.71	30.00	30.00	37.34
Missouri	4,972	3,826	6,837	100	83	240	246	343	26.95	21.76	56.35	57.76	78.35
Nebraska	3,102	1,922	2,956	47	41	138	141	186	33.96	32.23	99.00	101.15	130.12
South Dakota	1,690	912	1,930	30	21	65	66	86	43.23	34.26	95.31	96.77	124.93
Texas	4,328	4,273	10,553	148	148	581	581	782	25.06	22.43	63.71	63.71	79.87
Wyoming	437	330	784	10	8	29	31	40	43.67	32.13	89.78	95.98	118.05
Total	24,417	20,938	40,164	646	592	1,814	1,843	2,499	22.59	19.33	51.07	51.89	67.35
GROUP IV													
Indiana	5,161	3,807	7,029	140	109	342	351	492	42.98	31.31	75.33	77.31	104.42
Michigan	8,107	6,028	14,531	210	174	610	644	915	43.77	31.82	80.93	85.44	115.09
Nevada	208	199	585	6	7	22	22	30	63.83	57.38	85.60	85.60	100.33
New Mexico	334	316	938	10	7	30	30	46	22.94	13.86	34.48	34.48	46.90
Ohio	13,453	9,181	22,071	271	192	624	674	995	40.48	27.59	67.23	72.62	100.72
Oklahoma	1,352	1,195	2,008	53	42	101	105	138	22.06	18.57	44.43	46.19	58.47
Rhode Island	1,419	1,486	2,192	27	29	64	66	87	39.65	38.98	74.94	77.28	99.77
Washington	1,266	1,088	2,678	67	49	136	152	219	42.38	27.33	49.64	55.47	75.60
West Virginia	2,010	1,840	3,401	50	27	56	56	80	28.74	14.32	29.72	29.72	43.24
Total	33,310	25,140	55,433	834	636	1,985	2,100	3,002	38.46	27.39	65.65	69.45	94.40

See footnotes at end of table.

Appendix B. - Assessed Valuations and Property Tax Collections, by State, for Selected Years: 1930 - 1961 (Cont'd)

State	State and local general property taxes as a percent of assessed value subject to general property taxes			Percent increase or decrease (-) in assessed value subject to general property taxation		Percent increase or decrease (-) in per capita property taxes		
	1932	1941	1957	1930-1940	1940-1956	General property taxes		General and special property taxes 1957-1961
						1932-1941	1941-1957	
U.S. Total ^{2/}	2.9%	3.3%	4.6%	-17.9%	107.0%	-11.4%	122.8%	30.7%
<u>GROUP I</u>								
Connecticut	2.3	2.7	3.5	- 0.1	110.8	7.4	105.9	25.0
Maine	3.8	4.3	5.7	- 7.8	64.3	- 2.0	95.3	26.6
Maryland	1.8	2.5	2.9	-17.8	170.9	- 1.8	111.0	26.0
Massachusetts	3.0	3.7	6.3	-15.1	39.9	0.7	111.8	22.5
New Hampshire	3.5	4.3	5.1	-11.7	79.0	3.6	79.1	19.6
New Jersey	3.4	4.7	8.6	-16.0	33.9	13.1	85.1	32.0
Vermont	3.9	5.0	6.8	- 1.4	54.3	29.8	93.4	20.1
Total	2.9	3.7	5.4	-13.0	69.9	5.4	97.8	26.5
<u>GROUP II</u>								
Arizona	2.9	4.2	6.2	-47.3	228.6	-40.2	136.5	26.0
California	3.7	4.1	6.7	-14.3	205.6	-25.1	155.2	35.0
Colorado	2.8	3.8	4.9	-29.8	175.7	-11.4	140.0	29.1
Delaware	1.8	1.5	1.5	14.4	184.7	-11.3	81.9	41.5
Florida	8.3	10.3	5.1	- 9.0	764.5	-18.4	105.6	38.5
Idaho	3.9	4.7	8.3	-19.9	55.8	-16.5	123.9	15.5
Illinois	3.9	6.0	3.1	-37.2	439.6	- 6.7	131.7	27.5
Kansas	2.3	2.7	5.0	-23.3	61.1	- 3.2	149.8	46.8
Minnesota	5.9	8.5	15.4	-31.3	54.1	- 4.7	129.2	39.0
Montana	5.8	8.1	11.8	-20.0	93.4	12.4	130.3	19.8
New York	2.7	3.2	5.0	-10.0	37.0	2.4	76.2	19.5
North Carolina	1.8	2.1	2.0	-19.5	170.6	-14.8	101.6	34.1
North Dakota	3.4	4.7	8.9	-33.1	43.5	1.0	165.4	12.8
Oregon	3.6	4.5	7.2	-20.3	128.7	-11.9	128.2	24.9
Pennsylvania	3.4	3.6	4.8	-13.8	44.9	-11.4	75.4	20.1
South Carolina	6.0	6.4	8.2	-10.1	87.4	-14.2	100.1	23.3
Tennessee	2.2	3.1	3.9	-19.5	107.7	0.5	122.9	32.2
Utah	2.3	3.7	5.2	-29.4	126.7	4.0	107.7	35.2
Virginia	2.2	2.3	2.8	- 1.5	202.7	-15.6	184.8	32.8
Wisconsin	2.1	2.5	4.0	-25.1	93.6	-14.7	154.4	31.0
Total	3.1	3.7	4.8	-17.6	117.4	- 8.9	112.7	28.8
<u>GROUP III</u>								
Alabama	2.6	2.9	2.9	-19.3	131.6	-20.1	112.1	23.4
Arkansas	3.3	3.8	5.0	-27.3	111.3	-20.1	202.7	43.7
Georgia	3.1	4.7	5.7	-29.5	154.7	- 3.7	159.0	27.8
Iowa	6.3	3.3	5.1	99.3	55.8	2.8	121.0	49.7
Kentucky	1.4	1.3	2.9	-13.2	49.0	-25.6	221.2	13.8
Louisiana	2.9	3.2	4.7	-21.1	69.9	-26.7	98.4	24.4
Mississippi	4.5	5.2	6.4	-22.3	75.0	-17.2	118.8	24.5
Missouri	2.0	2.2	3.5	-23.0	78.7	-19.3	159.0	35.6
Nebraska	1.5	2.1	4.7	-38.0	53.8	- 5.1	207.2	28.6
South Dakota	1.8	2.3	3.4	-46.0	111.6	-20.7	178.2	29.1
Texas	3.4	3.5	5.5	- 1.3	147.0	-10.5	184.0	25.4
Wyoming	2.3	2.4	3.7	-24.5	137.6	-26.4	179.4	23.0
Total	2.6	2.8	4.5	-14.2	91.8	-14.4	164.2	29.8
<u>GROUP IV</u>								
Indiana	2.7	2.9	4.9	-26.2	84.6	-27.2	140.6	35.1
Michigan	2.6	2.9	4.2	-25.6	141.1	-27.3	154.3	34.7
Nevada	2.9	3.5	3.8	- 4.3	194.0	-10.1	49.2	17.2
New Mexico	3.0	2.2	3.2	- 5.4	196.8	-39.6	148.8	36.0
Ohio	2.0	2.1	2.8	-31.8	140.4	-31.8	143.7	38.7
Oklahoma	3.9	3.5	5.0	-11.6	68.0	-15.8	139.3	26.6
Rhode Island	1.9	2.0	2.9	4.7	47.5	- 1.7	92.3	29.1
Washington	5.3	4.5	5.1	-14.1	146.1	-35.5	81.6	36.3
West Virginia	2.5	1.5	1.6	- 8.5	84.8	-50.2	107.5	45.5
Total	2.5	2.5	3.6	-24.5	120.5	-28.8	139.7	35.9

See footnotes at end of table.

Appendix B. - Assessed Valuations and Property Tax Collections, by State, for Selected Years: 1930 - 1961 (Concluded)

Note. - Published Census data on assessed valuations for 1930 and property tax collections for 1932 and 1941 have been adjusted to exclude amounts subject to special property taxes.

- 1/ 1932 Census data covered fiscal years that ended between July 1, 1931 and June 30, 1932. Therefore, most of the local property tax collection data are for calendar 1931, and the "1932" tax collection figures are related to 1930 assessed values.
- 2/ Excludes District of Columbia, Alaska, and Hawaii. For an explanation of the State grouping, see text, Chapter 4.
- 3/ Revised to eliminate duplication in the amount originally reported for South Carolina. See U. S. Bureau of the Census, Property Tax Assessments in the United States (Preliminary Report Number 4 of the 1962 Census of Governments) p. 8.
- 4/ Includes approximately \$1.3 billion assessed valuation of operating utility property, which in 1930 was not subject to general property taxes. Utility operating property has been subject to general property taxation in California since 1935.

Source: U. S. Bureau of the Census, A Decade of Assessed Valuations (State and Local Government Special Study, No. 14, 1941); Property Taxation, 1941 (State and Local Government Special Study, No. 22, 1942); Historical Review of State and Local Finances (State and Local Government Special Studies, No. 25, 1948); Taxable Property Values in the United States (Vol. V of the 1957 Census of Governments); Governmental Finances in 1961.

Appendix C. - Effective Property Tax Rates, Related to Stringency of Property Tax Limitations, Geographic Regions, Per Capita Personal Income, Per Capita State and Local Government General Expenditure, and Per Capita State and Local Tax Revenue, by State

State (in descending order of effective property tax rates)	Effective property tax rate, 1960	Property tax limit group ^{1/}	Geo- graphic region ^{2/}	Per capita personal income, 1961	Per capita State and local govern- ment general ex- penditure, 1961	Per capita State and local tax revenue, 1961
U.S. (including D. C.)	1.4%	XX	XX	\$2,263	\$307	\$212
Maine	2.4	I	N.E.	1,843	256	184
Massachusetts	2.4	I	N.E.	2,598	315	251
New Jersey	2.3	I	M.E.	2,714	279	226
New York	2.1	II	M.E.	2,848	388	293
Vermont	2.1	I	N.E.	1,899	339	210
Minnesota	1.9	II	Pl	2,149	344	237
New Hampshire	1.9	I	N.E.	2,130	283	182
Rhode Island	1.9	IV	N.E.	2,250	290	212
Wisconsin	1.9	II	G.L.	2,194	337	230
Michigan	1.8	IV	G.L.	2,270	330	231
Connecticut	1.6	I	N.E.	2,895	317	223
Oregon	1.6	II	F.W.	2,273	361	221
Illinois	1.5	II	G.L.	2,672	310	220
Maryland	1.5	I	M.E.	2,472	289	204
California	1.4	II	F.W.	2,780	422	298
Colorado	1.4	II	R.M.	2,421	361	249
Kansas	1.4	II	Pl	2,139	317	245
Nebraska	1.4	III	Pl	2,168	295	185
Ohio	1.4	IV	G.L.	2,330	278	194
South Dakota	1.4	III	Pl	1,875	331	216
North Dakota	1.3	II	Pl	1,562	372	200
Pennsylvania	1.3	II	M.E.	2,261	257	191
Indiana	1.2	IV	G.L.	2,213	274	189
Iowa	1.2	III	Pl	2,124	323	227
Alaska	1.1	II	F.W.	2,692	459	193
Florida	1.1	II	S.E.	1,965	284	189
Missouri	1.1	III	Pl	2,254	252	170
Montana	1.1	II	R.M.	1,963	356	231
Utah	1.1	II	R.M.	1,989	332	208
Arizona	1.0	II	S.W.	2,074	341	212
Idaho	1.0	II	R.M.	1,807	286	189
Tennessee	1.0	II	S.E.	1,605	222	136
Texas	1.0	III	S.W.	1,993	254	164
Wyoming	1.0	III	R.M.	2,272	461	224
Georgia	0.9	III	S.E.	1,649	235	149
Nevada	0.9	IV	F.W.	3,003	459	281
Oklahoma	0.9	IV	S.W.	1,889	296	182
Virginia	0.9	II	S.E.	1,908	234	145
Washington	0.9	IV	F.W.	2,381	370	260
West Virginia	0.9	IV	S.E.	1,690	227	149
Kentucky	0.8	III	S.E.	1,625	233	146
Louisiana	0.8	III	S.E.	1,626	323	188
North Carolina	0.8	II	S.E.	1,642	205	144
South Carolina	0.8	II	S.E.	1,433	197	132
Delaware	0.7	II	M.E.	3,013	328	213
Hawaii	0.7	III	F.W.	2,407	405	251
Mississippi	0.7	III	S.E.	1,229	247	132
Arkansas	0.6	III	S.E.	1,446	205	132
New Mexico	0.6	IV	S.W.	1,808	333	177
Alabama	0.5	III	S.E.	1,492	233	121

1/ See text, page 54 for an explanation of the State grouping. Appendix B lists the States according to this grouping.

2/ N.E. - New England; M.E. - Mid-east; G.L. - Great Lakes; Pl. - Plains; S.E. - Southeast; S.W. - Southwest; R.M. - Rocky Mountain; F.W. - Far West.

Source: Advisory Commission on Intergovernmental Relations, Measures of State and Local Fiscal Capacity and Tax Effort, Tables 1 and 37; U.S. Bureau of the Census, Governmental Finances in 1961, Tables 19 and 23.

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- Coordination of State and Federal Inheritance, Estate and Gift Taxes.
Report A-1. January 1961. 134 p., printed.
- Modification of Federal Grants-in-Aid for Public Health Services.
Report A-2. January 1961. 46 p., offset.
- Investment of Idle Cash Balances by State and Local Governments.
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- Governmental Structure, Organization, and Planning in Metropolitan Areas.
Report A-5. July 1961. 83 p., U. S. House of Representatives, Committee on Government Operations, Committee Print, 87th Cong., 1st sess.
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- Alternative Approaches to Government Reorganization in Metropolitan Areas.
Report A-11. June 1962. 88 p., offset.
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* This publication priced at \$1.00, may be purchased from the Superintendent of Documents, Government Printing Office, Washington 25, D. C. Single copies of the other reports listed may be obtained from the Advisory Commission on Intergovernmental Relations, Washington 25, D. C.

