

Property Tax

Dear Reader:

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We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with municipal government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other MTAS website material.

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Property Tax

Reference Number: MTAS-133

Levy

Article II, Sections 28 and 29, of the Tennessee Constitution and T.C.A. § 67-5-101 give cities the authority to tax all real and personal property unless state law provides an exemption. Property tax is the mainstay of municipal revenue for nearly all Tennessee cities (some small cities make no levy). Many cities derive substantial revenues from other sources but even in those cities, property tax is the primary "budget balancer" because the tax rate and imposition of the tax are subject to the discretion of the governing body. T.C.A. § 67-5-103 eliminated all existing maximum tax rate limitations, whether imposed by home rule, general, or private charters; however, it is not clear if re-imposing such a limitation by a subsequent charter provision is allowed. T.C.A. § 67-5-103.

Assessment

Local assessments generally are made by county assessors. The act that consolidated city assessment offices with county assessors directs that a property assessment roll be furnished to each city at the cost of reproduction. T.C.A. § 67-1-513. The assessor also is required to certify to the mayor by the first Monday of every November a copy of the assessor's annual aggregate statement showing the total assessed value of the property in each city, civil district, and ward. T.C.A. § 67-5-807.

The county board of equalization is the only body in each county to hear assessment appeals. However, a city located in two or more counties is authorized to make its own assessments and have a board of equalization. T.C.A. § 67-1-513 provides for cities to appoint some members to county boards of equalization. The number of appointees depends on the size of the city. For example, in counties having one or more cities with between 10,000 and 60,000 residents, each of the two largest cities with populations exceeding 10,000 appoints one member to the board. T.C.A. § 67-1-401(a)(3). Supervision and technical assistance for the counties' assessment functions are provided by the state board of equalization. T.C.A. § 4-3-5103, 5105; T.C.A. § 67-1-307.

The property of privately owned public utilities (railroads, bus lines, gas companies, etc.) is assessed by the Tennessee Comptroller of the Treasury, and the assessments are subject to review and revision by the state board of equalization. The comptroller certifies to each city recorder or other tax-collecting official the assessed valuations subject to local taxation. T.C.A. §§ 67-5-1301–1331.

Reappraisal

Reference Number: MTAS-526

Periodic Reappraisal

Every four to six years, as determined by the assessor, with the county governing body's approval, reappraisal of all real property and equalization of assessments are required in every Tennessee county unless the state board of equalization determines that reappraisal is unnecessary for a particular county. With the board's approval, the program may be undertaken by the county property assessor and staff, the Tennessee Division of Property Assessments, or a professional firm employed for this purpose. Program costs are prorated among the state, counties, and cities. T.C.A. § 67-5-1601.

All property (real, personal, operating, and non-operating) of private utilities is reappraised by the comptroller of the treasury each year. T.C.A. §§ 67-5-1301–1302. As a result, in inflationary times the share of a jurisdiction's taxes paid by utilities could grow for six years until the local reappraisal shifts a fair share of the burden back to homeowners and other locally appraised property owners. To prevent such tax shifting, the state board of equalization conducts sales ratio studies every two years to measure how up to date a county's assessments are. The analysis takes a sample of properties that have recently been sold and compares actual sale prices to values on the county assessor's books. The comptroller of the treasury uses the resulting sales ratios to adjust the taxable assessed value of the utility property it appraises. T.C.A. §§ 67-5-1605–1606. A similar process is prescribed for the state board of equalization to equalize the personal property assessment used by businesses and manufacturers. T.C.A. § 67-5-1509.

Any city lying in more than one county will be reappraised under a separate plan of reappraisal on a cycle determined by the board of equalization. The reappraisal will be done under contract with the state unless the city has a separate assessment office. T.C.A. § 67-5-1601(b).

Reappraisal Cycles

T.C.A. § 67-5-1601 requires six-year reappraisal cycles. However, the state board of equalization may approve four-year cycles, and the assessor and county legislative body may allow five-year cycles. The board of equalization may extend the reappraisal cycle of a county beyond the six years to synchronize with a contiguous county's cycle when a city lies partly in each county and contains property of the federal government for which in lieu of tax payments are being made. The statute also changes state funding of reappraisals to a per parcel grant. State grants to four- and five-year programs are limited to the amount required by a six-year program. The board of equalization will determine the initial schedule of review and reevaluation.

Tax Rate

Reference Number: MTAS-527

Certified Tax Rate

After completing a general property reassessment, a city must determine the tax rate on the new total assessment that would produce no more than the amount of property tax revenue generated the preceding year. This rate is called the certified tax rate.

To reflect extraordinary assessment changes, the municipality's governing body may adjust the calculated certified tax rate according to a method approved by the state board of equalization. The city must submit for review a new, tentative tax rate and supporting calculations to the executive secretary of the state board of equalization. The municipality must then consider the board official's report before fixing a certified tax rate. When there is an excessive adjustment, the board shall order recapture in the following year if the certified tax rate has been overstated because the appeals adjustment was overestimated. A public hearing is necessary if the city exceeds the recapture rate.

A city may not take an automatic windfall of increased revenue from a reappraisal. However, if a city wants to increase its revenue after a reappraisal, it has to formally advertise its intention before the council votes to adopt a tax rate that is higher than the certified tax rate. T.C.A. §§ 67-5-1701–1703.

Assessment Ratios

Article II, Section 28, of the Tennessee Constitution provides for using the following percentages of full value to determine assessments:

- Public utility real and tangible personal property – 55 percent;
- Industrial and commercial real property – 40 percent;
- Industrial and commercial tangible personal property – 30 percent;
- Residential and farm real property – 25 percent; and
- Other tangible personal property – 5 percent (T.C.A. §§ 67-5-801, 901).

Personal Property

Reference Number: MTAS-528

Tangible Personal Property Tax

Tangible personal property is subject to the property tax, but the state constitution provides an exemption for personal clothing, household goods, and furnishings (Article II, Section 28).

The system for reporting personal property relies largely on the initiative of the individual taxpayer. Consequently, in the past there have been significant differences in the extent of reporting and payment of personal property taxes in different counties across the state. Legislative enactments over the past several years have made the system more uniform. For example, T.C.A. § 67-5-215(b) was repealed in 1984. It authorized county governing bodies to place a zero value on tangible personal property owned by businesses subject to the Business Tax Law. The legislature also closed a loophole that allowed leased personal property to escape taxation. T.C.A. § 67-4-702(a)(7), T.C.A. §§ 67-5-502, 901. The

same act established statewide depreciation schedules for valuing industrial personal property. T.C.A. § 67-5-903. The act also requires the state board of equalization to direct that commercial and industrial tangible personal property assessments are equalized with real property in each county by applying the county's real property appraisal ratio to the depreciated value of the taxpayer's personal property. T.C.A. § 67-5-1509.

Intangible Personal Property Tax

The constitution allows taxing stocks, bonds, and other intangible personal property. Intangible personal property is classified and assessed as the legislature directs. Banks and other financial institutions may be taxed in such manner as the legislature provides, and these taxes are in lieu of the property tax on shares of stock, customers' accounts, or any other type of tangible property (Article II, Section 28). Cities do not tax intangible property. However, they do receive a share of the Hall income tax (see later section entitled "Hall Income Tax [1]"), as well as revenue from property taxes on tangible property having no actual situs in this state paid by utilities and carriers and distributable to counties, municipalities, and taxing districts. T.C.A. § 67-5-1325. Recent legislation has set up a repeal of the Hall Income Tax over time. Beginning with FY2017, a 20% decrease in the tax will occur every year over a 5 year period until the tax is repealed in full.

Greenbelt Law

Reference Number: MTAS-529

Lower assessments are provided to encourage open-space land in urban areas. Owners may petition the county assessor to classify land as agricultural (minimum tract size 15 acres), forest (minimum tract size 15 acres), or open space (minimum tract size three acres). An open space easement of at least 15 contiguous acres granted to a qualified conservation organization also qualifies for greenbelt treatment. If so classified by the assessor, the land is assessed and taxed at its use value. Normally, land is appraised at the value an arms-length purchaser would pay. Use value is calculated by capitalizing the annual income a property owner is earning by using his or her land. T.C.A. § 67-5-1008(c) caps the amount greenbelt land can increase in value because of a reappraisal at 6 percent multiplied by the number of years since the latest reappraisal.

An appeals procedure is provided for adverse decisions by the assessor. To limit the fiscal impact and inequities of this tax break, a maximum of 1,500 acres for one owner in any one taxing jurisdiction is fixed, and affiliated ownership is to be included for any person with legal or equitable title in more than 50 percent of the land ownership. Non-contiguous tracts must be located in the same county to qualify as agricultural land for greenbelt purposes. A procedure is provided for determining annually additional taxes that would be payable if the land were assessed at its real value. If the land is subsequently converted to any other use, such cumulative taxes for the preceding three years (agricultural and forest) or five years (open space) – referred to as rollback taxes – must be paid on the first assessment roll following the conversion.

When the assessor determines that there is a liability for rollback taxes, the assessor notifies only the tax-collecting official. This official must then send a notice demanding payment to the responsible person.

The act that created the use value assessments provides a more sure and direct method for a municipality to preserve its open space. Cities and counties also are empowered to expend funds to acquire "the fee or any lesser interest...necessary to achieve the purposes of this act". T.C.A. §§ 67-5-1001–1050.

Collection of Property Taxes

Reference Number: MTAS-530

When read together, T.C.A. §§ 67-1-701–702, T.C.A. § 67-5-1801, and T.C.A. § 67-5-2005 permit a municipality to collect its own property taxes (if authorized by its charter) or to turn over such collection to the county trustee. Generally, if the county trustee collects the municipality's taxes, the tax due date is the first Monday in October, and the delinquency date is the following March 1. The effect of the due

and delinquency dates prescribed by the municipal charter or ordinance is outlined in the "Delinquent Property Taxes" section.

By the 10th of each month, the trustee must make settlement and pay the city its share of taxes collected the previous month. T.C.A. § 67-5-1902. The trustee's office keeps the following commissions on taxes collected:

- Up to \$10,000 – 6 percent;
- \$10,000 to \$20,000 – 4 percent;
- More than \$20,000 – 2 percent.

In computing the trustee's compensation, all state, county, school, and special funds are lumped together, and each of the political subdivisions must pay its respective portion of the above commissions. T.C.A. § 8-11-110. A trustee who collects city taxes must "execute such bonds as may be required...by the law or any ordinance of any city or town for the collection and prompt payment of all taxes due said city or town". T.C.A. § 67-5-1901(b).

A municipality's governing body may provide by ordinance or resolution for the early payment of property taxes and provide a taxpayer rebate as follows:

- Two percent within 30 days of the due date, and one percent within 30 to 60 days of the due date.

If the county trustee has the authority established by T.C.A. § 67-1-702 to collect taxes any time after July 10 prior to the first Monday in October, a municipality's governing body by the same method may provide for the early payment of property taxes and give a taxpayer rebate as follows:

- Three percent if paid by the end of July;
- Two percent if paid by the end of August; and
- One percent if paid by the end of September.

In the latter instance, the trustee may accept such payments at his discretion. T.C.A. § 67-5-1804.

The purchaser of a business is required to withhold an amount to cover any taxes payable on personal property until the seller produces a receipt from the municipal collector that all taxes, interest, and penalties have been paid. The purchaser's failure to do so makes him or her jointly liable for any such unpaid amounts. T.C.A. § 67-5-513.

Partial Payments

A municipality that collects its own property taxes may, via ordinance, opt to accept partial payments of property taxes. This requires the filing of a plan with the comptroller. T.C.A. § 6-56-152. All trustees in all counties may accept partial payments of property taxes. In Metro Nashville, the minimum payment is no more than 15 percent or \$25, whichever is less. T.C.A. § 67-5-1801(e).

Delinquent Property Taxes

Reference Number: MTAS-531

Delinquent Property Taxes

A municipality has the option to collect delinquent property taxes any one of four ways:

- Under the provisions of its charter for the collection of delinquent property taxes;
- Under T.C.A. §§ 6-55-201–206;
- By the county trustee under T.C.A. § 67-5-2005 (a)-(c); or
- Under T.C.A. § 67-5-2005 (d).

If the municipality has the authority under its charter to collect its property taxes, but the charter makes no provision for the collection of delinquent property taxes, then the municipality may provide by ordinance for the collection of delinquent property taxes. (As a practical matter, it is unlikely that any municipal charter authorizes a municipality to collect its own property taxes but does not authorize it to collect delinquent property taxes).

If a municipality uses the county trustee or the delinquent tax attorney to collect its delinquent property taxes, the municipality must certify its delinquent taxes to the trustee by April 1 of the second calendar year after the taxes become due.

T.C.A. § 67-5-2405 requires the county delinquent tax attorney to bring suit in the name of the county, in the county's behalf and for the benefit of any municipality that has certified a delinquent tax list.

Property certified to the county trustee shall be advertised and sold by the county trustee at the same time, in the same manner, and as a part of the county trustee's other sales of property for state and county taxes. T.C.A. § 67-5-2005.

T.C.A. § 67-5-2010(a)(1) provides that, "To the amount of tax due and payable, a penalty of one-half percent and interest of one percent shall be added on March 1 following the tax due date and on the first of each succeeding month except as otherwise provided in regard to municipal taxes."

Therefore, if the municipality collects its own current property taxes but turns the collection of its delinquent property taxes over to the trustee, the property tax due and delinquency dates, the penalties, and the interest are those set out in the municipality's charter or ordinance.

T.C.A. § 67-5-2010(b) provides that, in all instances in which current municipal taxes are collected by the county trustee, the following provisions and rules for collecting delinquent taxes that may be due to the municipalities, and none other, shall prevail and obtain, anything in this chapter to the contrary notwithstanding:

- The taxes levied and assessed by such municipalities shall become due and delinquent on the date now provided by existing law; and
- If the municipal taxes are not paid on or before the date fixed for delinquency in the amount due and payable, a penalty of 0.5 percent and interest of 1 percent shall be added on March 1 following the tax due date and on the first day of each succeeding month.

In this circumstance, where the county trustee collects the municipality's current or delinquent property taxes, the property tax due and the delinquency dates remain those set out in the municipality's charter or ordinance; however, the penalty and interest prescribed by that statute prevail over the municipality's charter or ordinance and do not attach until March 1 following the tax due date.

A municipality is barred from collecting property taxes after the lapse of ten (10) years from April 1 of the year following the year in which such taxes become delinquent. T.C.A. § 67-5-1806.

T.C.A. § 67-5-1512 outlines the conditions under which taxpayers appealing their assessments must pay all or a part of the property tax and interest during the appeals process as a condition of the appeal.

Property taxes, interest, and penalties owed to the state, county, and municipality on property shall become and remain a first lien upon the property from January 1 of the year for which the taxes were assessed. Property taxes are also a personal debt of the property owners as of the same date. T.C.A. § 67-5-2101.

Cities have the authority to give foreclosed properties to private, non-profit entities. T.C.A. § 67-5-2509(d)(2).

Extension of Due Date for Military Personnel Engaged in Hostilities

T.C.A. § 67-5-2011 extends the due date of property taxes owed by persons in the armed services or who are called into active duty from a reserve or National Guard unit and who are engaged in hostilities until 180 days after the conclusion of the hostilities or 180 days after the person is transferred from the area of hostilities, whichever is sooner.

When Delinquent if Mailed

"Any tax report, claim, return, statement, remittance, or other tax document required or authorized to be filed with any payment made to the state or to any political subdivision thereof, which is ... transmitted through the U.S. mail to the state or political subdivision and postmarked no more than 24 hours subsequent to the last date for the timely filing of such document or payment shall not be considered delinquent." T.C.A. § 67-1-107.

Interest Rate on Delinquent Taxes

Reference Number:

MTAS-748

The payment of taxes to local municipalities or to the state of Tennessee generally has a due date associated with it. If a taxpayer fails to pay the tax, or a portion thereof, on or before the date the taxes are required to be paid, interest is added to the amount of tax due. The commissioner of revenue determines the interest rate for delinquent taxes collected or administered by the state of Tennessee. Sales tax and local business tax are examples of taxes falling into this category.

Formula Rate of Interest

T.C.A. § 67-1-801 provides for the rate of interest to be charged on delinquent tax payments. This rate is called the "formula rate of interest" and is determined and set annually by the Tennessee commissioner of revenue.

Action Required by Municipal Finance Staff

Finance directors, city recorders and other finance office personnel responsible for collecting or remitting delinquent taxes collected or administered by the state of Tennessee should review the interest rate currently used for delinquent accounts and verify that it complies with the chart below.

Historical Interest Rates

The following table from the Tennessee Department of Revenue is a historical presentation of the "formula rate of interest" as determined by the commissioner of revenue. This information is provided as supplemental data to give finance officials a perspective of interest rates for prior years.

INTEREST RATE HISTORY DELINQUENT TAXES OF ALL TYPES T.C.A. § 67-1-801(a)(1-3)							
PERIOD COVERED			RATE	PERIOD COVERED			RATE
Through	-	9/30/1974	6.00%	7/1/1996	-	6/30/1997	12.25%
10/1/1974	-	7/31/1980	8.00%	7/1/1997	-	6/30/1998	12.50%
8/1/1980	-	6/30/1983	10.00%	7/1/1998	-	6/30/1999	12.50%
7/1/1983	-	6/30/1984	14.50%	7/1/1999	-	6/30/2000	11.75%
7/1/1984	-	6/30/1985	16.00%	7/1/2000	-	6/30/2001	13.50%
7/1/1985	-	6/30/1986	14.50%	7/1/2001	-	6/30/2002	11.00%
7/1/1986	-	6/30/1987	14.50%	7/1/2002	-	6/30/2003	8.75%
7/1/1987	-	6/30/1988	12.25%	7/1/2003	-	6/30/2004	8.25%
7/1/1988	-	6/30/1989	13.00%	7/1/2004	-	6/30/2005	8.00%
7/1/1989	-	6/30/1990	15.50%	7/1/2005	-	6/30/2006	10.00%
7/1/1990	-	6/30/1991	14.00%	7/1/2006	-	6/30/2007	12.00%
7/1/1991	-	6/30/1992	12.50%	7/1/2007	-	6/30/2008	12.25%
7/1/1992	-	6/30/1993	10.50%	7/1/2008	-	6/30/2009	9.00%
7/1/1993	-	6/30/1994	10.00%	7/1/2009	-	6/30/2016	7.25%
7/1/1994	-	6/30/1995	11.25%	7/1/2016	-	6/30/2017	7.50%
7/1/1995	-	6/30/1996	13.00%				

Property Tax Relief for the Elderly and Disabled

Reference Number: MTAS-532

Article II, Section 28, of the Tennessee Constitution provides that the legislature "shall provide, in such manner as it deems appropriate, tax relief to elderly, low-income taxpayers through payments by the state to reimburse all or part of the taxes paid by such persons on owner-occupied residential property, but such reimbursement shall not be an obligation imposed directly or indirectly upon counties, cities, or towns." It also authorizes the legislature to provide tax relief to totally and permanently disabled homeowners "as provided herein for the elderly."

T.C.A. § 67-5-702 and T.C.A. § 67-5-703, respectively, provide state-reimbursed tax relief to people age 65 and older and to totally and permanently disabled homeowners under rules and regulations adopted by the state board of equalization. These property owners must meet maximum income requirements set annually in the state's General Appropriations Act. The ceiling is revised yearly based on the cost-of-living adjustment for Social Security recipients. The tax relief applies to the first \$23,000 of the home's full market value. T.C.A. § 67-5-704 provides state-reimbursed tax relief to severely disabled veterans and their surviving spouses on the first \$100,000 of the full market value of their homes, regardless of their total annual income.

The state board of equalization has issued rules and regulations governing the administration of T.C.A. §§ 67-5-701–704, including definitions, age requirements, disability requirements, widows of disabled veterans requirements, certification of ownership and residency requirements, income requirements, methods and handling of applications (including forms and documents), and decertification requirements. Rule 0600-3-.01, *et seq.*

Four statutes authorize municipalities to create their own supplemental tax relief programs for the elderly and disabled. Two are pure tax relief statutes, and two are tax deferral statutes. Under T.C.A. § 67-5-705, the city may, by resolution, adopt a program freezing the property tax of people age 65 and older whose annual incomes do not exceed \$12,000. The tax is frozen at the amount they paid in the tax year they reached 65. Improvements to the property are taxed as prescribed by the statute. In *Perkins v. Alexander*, the Chancery Court of Shelby County on January 10, 1980, declared that statute violated Article II, Section 28, of the Tennessee Constitution, which requires that all property be taxed according to its value, that taxes be equal and uniform within a taxing jurisdiction, and that tax relief for the elderly could not be imposed by the state upon local governments. Although that case has no formal precedential value, it is persuasive.

T.C.A. § 67-5-701(j) allows all counties and municipalities to appropriate funds for the tax relief of elderly low-income and disabled homeowners who are eligible for tax relief under state law. The tax relief provided cannot exceed the total taxes actually paid.

T.C.A. § 67-5-1515 allows a property tax freeze for certain elderly homeowners in Shelby County. This tax freeze is optional for the county governing body but would also apply to municipal taxes.

T.C.A. §§ 7-64-101 *et seq.*, (Chapter 821 [Public Acts 1998] Deferral) authorize municipalities to defer, by resolution, taxes on principal residences owned by single people, married couples over the age of 65, and totally disabled people whose gross annual income is less than \$12,000. The city's governing body may by a two-thirds vote approve an increase in the gross income to \$25,000 a year; approval must be certified to the Tennessee Secretary of State. The tax deferral applies to the principal residence and a maximum of one acre of land and to a maximum of \$60,000 appraised market value. Improvements to the property are taxed as provided in the statute. The assessment of taxes continues on an annual basis, and the tax deferral continues until a terminating event such as death of the person(s) to whom the deferral was granted or sale of the residence. The deferred taxes constitute a lien on the property and earn 10 percent interest annually but are not subject to the statutory penalties for delinquent taxes. The schedule for payment of deferred taxes after a terminating event is set out in the statute.

T.C.A. §§ 7-64-201, *et seq.*, (Chapter 659 [Public Acts 1980] Deferral) authorize municipalities by resolution to defer taxes on principal residences owned by taxpayers and their spouses over the age of 65, totally and permanently disabled taxpayers, and disabled veterans whose combined incomes do not exceed \$12,000 annually. The city's governing body may by a two-thirds vote approve an increase in the gross income to \$25,000 a year; approval must be certified to the Tennessee Secretary of State. The tax deferral is limited to the principal residence and one acre of land and to a maximum appraised value of \$50,000. A qualifying taxpayer who turned 65 on or before March 27, 1980, is entitled to a tax

deferral on taxes in excess of his or her 1979 taxes, and a qualifying taxpayer who turned 65 after March 27, 1980, may defer any taxes in excess of the amount of taxes in effect the year the taxpayer turned 65. A qualifying taxpayer who purchases property after turning 65 may defer taxes in excess of the amount of taxes owed in the year the property was purchased. Improvements to property are taxed as provided in the statute. The statute's provisions for a tax lien and interest are similar to those in T.C.A. §§ 7-64-101, *et seq.* Termination of deferral events include death of the person(s) to whom the deferral was granted, sale of the residence, and change in the use of the property from the principal place of residence.

Property Tax Freeze Local Option

Reference Number: MTAS-533

T.C.A. § 67-5-705 allows municipalities and counties to provide property tax relief to homeowners 65 years of age and older who have low income. The municipality must pass an ordinance to implement the freeze, which applies to the elderly homeowner's principal residence. Taxes would be frozen at the "base tax," which is the amount due in the year the taxpayer becomes eligible for the program and successfully applies. Improvements made or discovered after the tax base is established, however, would increase the taxes owed.

To qualify for the freeze, the taxpayer must be 65 years of age or older and have income, combined with that of any other owners of the residence, within the greater of the weighted average median household income for (1) age groups 65 to 74 and (2) age groups 75 and over, and the state tax relief income limit. The weighted average median household income for each county must be published annually by the comptroller. The taxpayer must apply annually to the tax collecting official, who approves or denies the application.

The comptroller will provide income verification and other services to implement this freeze, and municipalities and counties must pay the costs. Financial records are confidential but will be made available to officials who administer this program. A taxpayer who knowingly provides false information to take advantage of the program commits a Class A misdemeanor.

The maximum size of lots (five acres) eligible for the freeze and other rules for implementation of the program are established by the state Board of Equalization through the Division of Property Assessments.

Links:

[1] <https://www.mtas.tennessee.edu/reference/state-shared-income-tax-hall-income-tax>

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