

**The Local Government
Finance Series**

Volume III

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**MISCELLANEOUS
LOCAL
TAXES AND FEES**

**A Staff Report of the
Tennessee Advisory Commission
on Intergovernmental Relations**

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**The Local Government Finance Series, Volume III,
Miscellaneous Local Taxes and Fees**

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FOREWORD

Over the last several years, extensive debate has occurred in Tennessee regarding state government finances. While the state had been reasonably successful in financing its activities during most of the 1990s (with the help of a state sales tax increase in 1992), growth in state revenues slowed, requiring skillful but temporary budgetary maneuvers to balance expenditures against revenues. Despite the sometimes intense debate over solutions to the state budgetary problem, and both legislative and gubernatorial attempts at tax reform, the fiscal problems remain unresolved.¹

Since most of the debate centered on state government finances, local government finance problems were somewhat overlooked, despite serious financial pressures facing many county and municipal governments. The fiscal problems experienced by local governments generally paralleled those of the state, dressed in slightly different clothing. While the state was experiencing structural problems associated with its sales and business tax collections, local governments were facing like problems with their local option sale tax and property tax.

The Tennessee Advisory Commission on Intergovernmental Relations addressed the challenges facing the state revenue system in early 1999 in its report titled *Financing Tennessee Government in the 21st Century*. The primary emphasis of that report was on state government revenue problems. Since the release of that report, members of the Commission have expressed interest in additional information that focuses specifically on local government finance. In response to that interest, the TACIR research team began a local government finance project in April 2000. The purpose of that project was to produce a series of reports, each highlighting a separate component of local government finance. The following report on the miscellaneous other local taxes and fees represents the third volume of that project. Volume I discussed the local property tax in Tennessee while Volume II reported on the local option sales tax.

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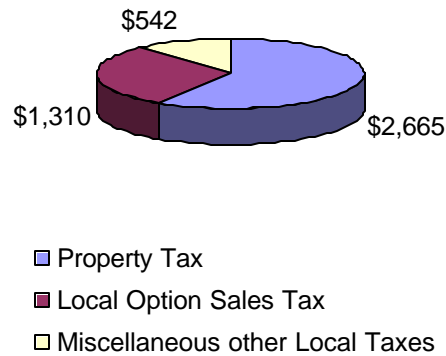
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EXECUTIVE SUMMARY

Introduction

During fiscal year 1997-98, local property taxes accounted for 59 percent of total local government tax collections, and the local option sales tax accounted for 29 percent. Miscellaneous other taxes and fees accounted for the balance of 12 percent, producing almost \$542 million. This report will describe the many individual taxes and fees that make up the bulk of these “other” taxes and fees that fund local government operations.

Figure 1. Comparison of Local Taxes, \$Millions, Fiscal Year 1998



Source: US Census Bureau

The purpose of the following report is to provide information in a manner useful to the general public, local government officials, and those specializing in the field of local government finance. As such, the report includes material on the various other local taxes of general interest to all readers as well as more detailed statistical and analytical material of interest to a more limited readership.

The format of this report is as follows:

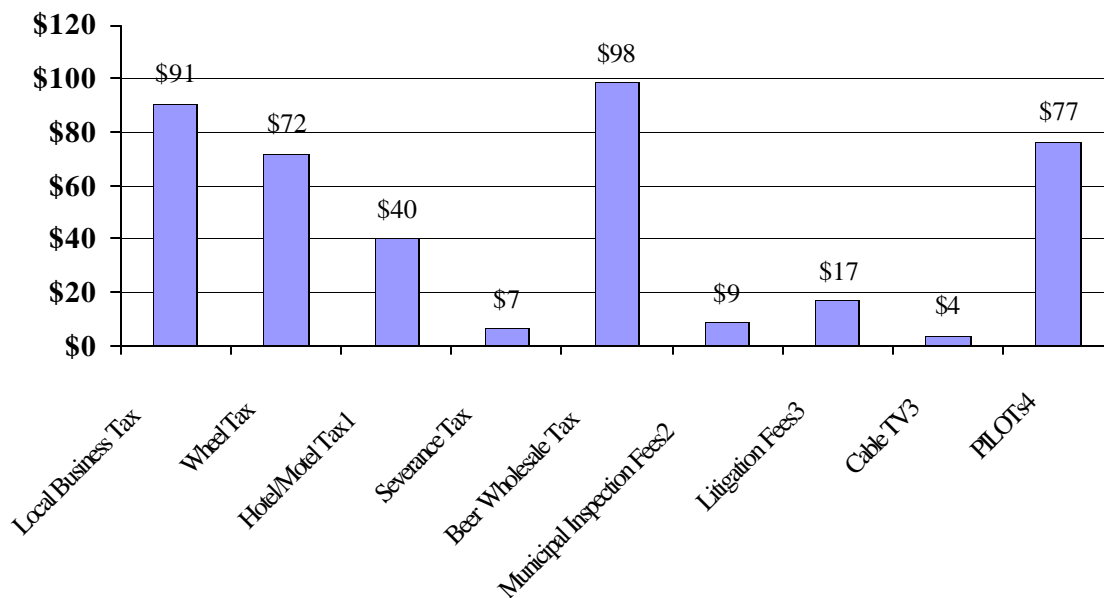
- History of the other taxes- many of each tax’s current characteristics can be better understood by reviewing each tax’s legislative and administrative history.
- Utilization and Limitations- the report describes the extent to which local governments utilize the various taxes included in this report, as well as any limitations associated with each tax.

- Elasticity, stability, and equity- most of the individual taxes included in this report account for relatively minor amounts of revenue. For this reason, no detailed material is presented on elasticity, stability and equity, unless of particular concern.
- Tax Base Disparities- the viability of the many local taxes included in this report varies extensively from county to county and municipality to municipality. Such variations mirror the problems faced with the more important sources of local revenue (sales and property taxes).
- Outlook- what is the outlook for these other local taxes in the 21st century?

Summary of Major Findings and Outlook for the Future

- There is no one source for timely accurate data on all of the miscellaneous local option taxes. The most current data for most of these taxes is for fiscal year 1999. For some of the taxes only county collection data is available, for others only the four largest municipalities. The total of miscellaneous other local collections for fiscal year 1999 shown in Figure 2 is \$414 million. This total understates the importance of these collections due to the incompleteness of the data.

Figure 2. Miscellaneous Other Local Tax Collections, \$Millions, Fiscal Year 1999



Notes: 1. Hotel/Motel Tax excludes collections for Knox County; 2. Municipal Inspection Fee collections shown are for the four largest municipalities only (Memphis, Nashville, Knoxville, and Chattanooga); 3. Litigation Fee and Cable TV collections shown are for counties only. 4. Collections for Payments in Lieu of Taxes (PILOTs) shown are for fiscal year 1998.

Sources: Tennessee Office of the Comptroller, Tennessee Department of Revenue, UT County Technical Assistance Service, and the Tennessee Malt Beverage Association.

- The local business tax represents a significant source of revenue to a handful of local governments. Combined county and municipal collections were over \$90 million in fiscal year 1999, and in excess of \$140 million in fiscal year 2002, with the state receiving approximately 15 percent of this amount. The tax base is unevenly distributed across the state, making the tax useful in only a relatively few locations (see Table 1). Many large businesses pay little in business taxes since property taxes on personalty are a credit against business taxes, and many professionals as well as manufacturing activities are not subject to the tax.
- Wheel tax collections in 1999 produced more revenue for county governments than the local business tax. The 48 counties that imposed the wheel tax in 1999 collected almost \$72 million. The importance of wheel tax collections varies extensively among the counties that levy the tax. In ten counties, the weighted average effective property tax rate would have to be increased by more than 10 percent to raise the amount being generated by the county wheel tax; in fourteen counties in fiscal year 1999, per capita wheel tax revenue equaled or exceeded 33 percent of per capita local sales tax collections. The data in Table 2 (page 13) also suggests possible compliance and enforcement problems in a few counties with relatively high wheel tax rates.

BACKGROUND

Property and local option sales taxes accounted for 88 percent of local government own source tax revenue in Tennessee during fiscal year 1997-98. The comparable figure for the United States was 84 percent.² While other taxes and fees represent a small share of total local revenues, local officials would not agree that they are any less important. When growing local service demands exceed local revenue growth, every dollar of revenue is vital. While these other taxes and fees contribute less to local government treasuries than combined sales and property taxes, in some counties and municipalities they represent a significant revenue source. The following “other taxes and fees” are considered in this report:

1. local business tax
2. alcoholic beverage taxes
3. wheel tax (motor vehicle privilege tax)
4. hotel-motel taxes
5. severance taxes
6. cigarette taxes (Memphis)
7. gasoline tax (authorized only)
8. litigation taxes (fees)
9. tax equivalent payments by local utility service systems
10. realty transfer taxes (not yet authorized)

In addition to taxes, local governments have become creative in imposing new (tax-like) fees and charges designed specifically to fund infrastructure improvements related to growth. These charges are designed to provide revenue for new schools, roads, sewers, etc. Such fees and charges are generally imposed on new construction (versus existing improvements) and include impact fees, adequate facilities taxes, special assessments, and excess fees. This report discusses the predominant forms, the impact fees and adequate facilities taxes.

This report will differ somewhat from the protocol used in the reports on the property tax and local option sales tax. Since there are numerous local “other taxes, charges and fees,” with many of them generating relatively small amounts of revenue, detailed topical discussions similar to those found in the property and sales tax reports will not be presented. However when detailed information is available, it will be included in the text.

MISCELLANEOUS OTHER TAXES

The major “other taxes” consist of the local business tax, wheel taxes, hotel-motel taxes, and alcoholic beverage taxes (17 percent wholesale beer tax³ and municipal inspection fees imposed on alcoholic beverage sales).

Local Business Tax

Collections from the “local business tax” are shared with the state government. Public Chapter 856 of 2002 raised local business tax rates by 50 percent, with all new revenue earmarked to the state. Fifteen percent of local collections from the rest of the local rate are also transferred to state. This is the only major source of intergovernmental revenue sharing that flows from local governments to the state government. **As the revenue from the rate increase goes entirely to the state, the amount of revenue for local governments will not increase as a result of Public Chapter 856.**

The local business tax generated about \$120 million for use by local governments during fiscal year 2001-2002.⁴ The tax can be levied by both county and city governments.⁵ The tax is a local option gross receipts tax with tax rates (maximum rates established in the statutes) that vary by type (classification) of business. Five classifications are established by the statutes, with four of the five classifications taxable by local units of government, and the fifth reserved for state government.⁶

The local tax rates vary from a high of 1/8 of 1% on a broad spectrum of retail activities⁷ to 1/60 of 1% on businesses engaged in the wholesale sale of food and/or beer (for home consumption), or gasoline and diesel fuel. Taxpayers are allowed a credit equal to ad valorem taxes paid on their tangible personal property. The availability of this credit effectively reduces the tax on many businesses to \$15 (the minimum annual tax liability).

As of December 2000, all but two counties levied the tax (the exceptions being Claiborne and Morgan Counties). Of the 93 counties that do levy the tax, all but four levy the tax at the maximum rates authorized in the statutes.⁸ About 200 municipalities levy the tax, most (over 80 percent) at the maximum rates allowed. Most of the municipalities that do not levy the tax have relatively small populations.

The local business tax represents one of the last relics of Tennessee’s long history with multifarious business and occupation taxation levied under the privilege taxing powers of the state constitution. Under all of Tennessee’s constitutions since 1796, “...the Legislature shall have power to tax merchants, peddlers, and privileges, in such manner as they may, from time to time, direct.”⁹ Over time, the Legislature levied every imaginable tax and levy possible under the broad caption of this constitutional language, granting similar taxation authority to most counties and incorporated municipalities. As aberrant as the current local business tax appears, it is reasonably rational compared to “privilege” taxation of old.¹⁰

The tax system of the past has been described as "... an inequitable, irritating and illogical jungle of privileges taxes." Taxes varied by classification, by local population, by number of employees, by number of seats in establishments with seating, and even by the method of transportation used by a business to deliver its goods. One privilege tax varied ... "according to whether the peddler is afoot, in a one-horse wagon, two-horse wagon, automobile, truck of one-to-two-tons capacity, truck of two-to-three-tons capacity, or truck of over three-tons capacity."¹¹

Despite various attempts at privilege tax reform during the 20th century, it wasn't until 1971 that a modicum of reform was accomplished. Predictably, the major stumbling block to reform of the then existing mosaic of privilege taxes was a replacement scheme that held most of the invested players—the state, counties, and municipalities—whole (i.e. with little or no net revenue impact). The reform was accomplished with the passage of Chapter 387, Public Acts of 1971. The reform included repeal of most of the existing individual and frequently overlapping privilege taxes and the simultaneous imposition of the new "local business tax." The new tax was based on gross receipts. The tax rates established in the law were designed to generate approximately the same amount of revenue that had previously been produced by the "privilege" tax system.¹²

Table 1 presents county government business tax collections for fiscal year 1998-99.¹³ Table 1 also includes per capita data that reflects the disparity in business tax collections among counties. While the tax is of less absolute importance than property and sales taxes, it produces a significant amount of revenue in a handful of counties.

Business tax collection data for municipalities are less current. However fiscal year 1995-96 data shows collections by municipalities were only slightly less than the level of county collections in fiscal year 1995-96. Disparities were also apparent in the data for municipal collections. Municipalities in the four largest metropolitan counties accounted for approximately 50 percent of total municipal business tax collections.¹⁴

Table 1 County Government Business Tax Collections

County	Local Business Tax (\$)	Per Capita Local Business Tax (\$)	County	Local Business Tax (\$)	Per Capita Local Business Tax (\$)	County	Local Business Tax (\$)	Per Capita Local Business Tax (\$)
Anderson	663,237	9.72	Hamilton	3,364,954	11.78	Morgan	NA	NA
Bedford	204,463	6.72	Hancock	11,815	1.75	Obion	208,690	6.58
Benton	74,091	5.1	Hardeman	125,362	5.36	Overton	64,896	3.68
Bledsoe	22,250	2.3	Hardin	53,907	2.38	Perry	18,868	2.85
Blount	917,012	10.67	Hawkins	160,020	3.59	Pickett	21,500	4.73
Bradley	645,760	8.76	Haywood	87,428	4.5	Polk	40,999	3.01
Campbell	149,338	4.26	Henderson	165,077	7.56	Putnam	564,133	10.98
Cannon	35,631	3.4	Henry	195,877	7.02	Rhea	139,075	5.71
Carroll	104,912	3.81	Hickman	45,169	2.7	Roane	262,824	5.57
Carter	217,002	4.21	Houston	17,873	2.55	Robertson	247,058	5.95
Cheatham	156,326	4.68	Humphreys	94,090	5.95	Rutherford	1,481,507	12.49
Chester	71,281	5.56	Jackson	23,394	2.52	Scott	75,167	4.09
Claiborne	NA	NA	Jefferson	181,651	5.5	Sequatchie	40,839	4.61
Clay	NA	NA	Johnson	41,431	3.01	Sevier	1,248,782	24.47
Cocke	158,783	5.45	Knox	4,080,000	12.15	Shelby	8,589,944	10.4
Coffee	454,766	11.27	Lake	20,712	2.91	Smith	93,826	6.63
Crockett	55,300	4.13	Lauderdale	46,186	1.97	Stewart	38,686	4.08
Cumberland	358,827	10.33	Lawrence	242,866	6.88	Sullivan	1,400,104	9.75
Davidson	7,949,368	15.56	Lewis	44,099	4.77	Sumner	631,555	6.11
Decatur	50,756	4.85	Lincoln	171,746	6.1	Tipton	198,242	4.19
DeKalb	68,002	4.74	Loudon	201,499	6.45	Trousdale	18,180	3.07
Dickson	335,448	9.57	McMinn	141,779	3.35	Unicoi	45,003	2.72
Dyer	264,272	7.58	McNairy	21,473	0.96	Union	31,822	2.32
Fayette	87,288	3.42	Macon	72,425	4.55	Van Buren	9,658	1.99
Fentress	61,063	4.16	Madison	1,118,321	14.34	Warren	239,651	7.26
Franklin	180,759	5.21	Marion	152,867	6.15	Washington	841,554	9.12
Gibson	286,587	6.19	Marshall	103,178	4.79	Wayne	66,012	4.74
Giles	140,661	5.46	Maury	508,844	9.28	Weakley	126,457	3.96
Grainger	54,903	3.21	Meigs	17,883	2.23	White	123,265	6.14
Greene	370,739	6.64	Monroe	151,536	4.96	Williamson	1,583,254	19.54
Grundy	25,457	1.91	Montgomery	836,246	8.32	Wilson	582,738	8.61
Hamblen	522,605	10.35	Moore	9,575	2.03	TOTAL:	46,230,459	9.55

Source: County audit reports by Comptroller of the Treasury, private audit reports, and in a few cases, direct communications with county officials.

Wheel Tax/Motor Vehicle Privilege Tax

Commonly known as the “wheel tax,” county motor vehicle privilege taxes are authorized by T.C.A. 5-8-102. The tax can be imposed on any vehicle taxable by the state and operated within the county by county residents. The tax was imposed in 48 counties as of January 2000 and varied from a low of \$10 in Cannon, Carroll, and Wayne Counties to a high of \$70 in Crockett County.¹⁵ Prior to passage of Chapter 618, Public Acts of 1978, wheel taxes were authorized by private act only.¹⁶ County wheel taxes, although authorized in only 48 counties, generated almost \$72 million during 1999, substantially more than county government business tax collections in that year.

The earliest authorization for such a tax was in 1947. Chapter 165, Private Acts of 1947 authorized a “wheel or privilege tax” in Robertson County. The tax rates in this first authorization varied from a low of \$2 for motorcycles to a maximum of \$30 on trucks of classes VI and VII. Twelve classifications of vehicles were spelled out in the act. A complete summary of existing wheel tax rates, authorizations, and earmarking provisions, if any, can be found in the latest annual edition of Tennessee County Tax Statistics, a publication of the University of Tennessee County Technical Assistance Service.

The county wheel tax can be deceptively high. The \$70 wheel tax in Crockett County can be equated to both a local gasoline tax as well as an increase in the effective county property tax rate. At \$70 per vehicle, assuming annual travel of 12,000 miles and an average fuel economy of 20 miles per gallon, the tax in Crockett County is equivalent to a local gasoline tax of almost 12 cents per gallon.¹⁷ More will be said regarding the property tax equivalent below.

The relative importance of wheel tax collections in counties that impose the tax can be roughly gauged using some simple comparative tax statistics: the wheel tax’s equivalent effective property tax rate per \$100 of market value, per capita wheel tax collections, and per capita sales tax collections. Table 2 displays this data. The equivalent effective property tax rate of the local wheel tax is calculated by dividing wheel tax collections for fiscal year 1999 by the county estimated current property value (1999 data, see State Board of Equalization, Table 1).

The weighted average effective property tax rate (WAETR)¹⁸ for each county reflects a weighted effective tax rate. The rate is weighted by the relative importance of each class of property to the county’s total property value. The statistics clearly show that wheel tax collections are a major revenue producer for some counties.

In 10 counties the WAETR would have to rise by over 10 percent to replace the revenue raised by the wheel tax. In Lauderdale County, the WAETR would have to rise by almost 18 percent (by almost 17 percent in Crockett County). Table 2 also shows that in 14 counties, per capita wheel tax collections equaled or exceeded 33 percent of per capita local option sales tax collections. The table also contains an estimate of per capita wheel tax collections per each \$10 of the tax rate.¹⁹ The results are somewhat disturbing. While a majority of counties that levy the tax reflect collections in the \$7-\$11 range, two counties reflect noticeably low per capita figures. Cheatham and Crockett Counties impose some of the highest wheel tax rates in the state yet show only \$6.85 and \$6.12 respectively in per capita collections per \$10 tax rate. Such low per

capita revenue production rates raise questions regarding taxpayer compliance in these counties. It is not unheard of for residents of one county to register their vehicles in other counties. This tax avoidance behavior produces inequities as well as questions regarding effective tax enforcement.

Table 2 COMPARATIVE WHEEL TAX COLLECTIONS (FY 1999 Data)

County	Wheel Tax	Wheel Tax Revenue (\$)	Total Property Value (In \$Millions)	Effective Property Tax Rate (Per \$100)	Weighted Average Effective Tax Rate (Per \$100)	Per Capita Wheel Taxes	Per Capita Wheel Taxes Per \$10 Tax (a)	Per Capita Sales Taxes
Campbell	\$35.00	996,572	1,389.46	0.07	0.66	\$28.41	\$8.12	\$88.70
Cannon	\$10.00	117,571	409.3	0.03	0.61	\$11.23	\$11.23	\$46.01
Carroll	\$10.00	249,072	879.89	0.03	0.77	\$9.05	\$9.05	\$73.81
Cheatham	\$50.00	1,143,183	1,444.20	0.08	0.8	\$34.25	\$6.85	\$59.41
Chester	\$15.00	169,140	409.287	0.04	0.66	\$13.19	\$8.80	\$98.86
Crockett	\$70.00	573,041	557.994	0.1	0.62	\$42.83	\$6.12	\$63.34
Davidson	\$35.00	14,973,238	38,576.01	0.04	0.97	\$29.31	\$8.38	\$440.49
Dickson	\$30.00	1,148,151	1,933.97	0.06	0.7	\$32.75	\$10.92	\$186.09
Dyer	\$40.00	1,158,864	1,588.25	0.07	0.7	\$33.25	\$8.31	\$74.03
Fayette	\$25.00	648,183	1,440.02	0.05	0.53	\$25.36	\$10.14	\$53.87
Fentress	\$25.00	326,537	450.25	0.07	0.63	\$22.26	\$8.90	\$118.21
Gibson	\$25.00	966,045	1,754.37	0.06	0.63	\$20.86	\$8.34	\$67.86
Greene	\$20.00	1,091,199	2,558.64	0.04	0.6	\$19.54	\$9.77	\$79.39
Hamblen	\$27.00	1,219,664	2,912.85	0.04	0.6	\$24.16	\$8.95	\$163.33
Hancock	\$20.00	102,866	205.223	0.05	0.57	\$15.26	\$7.63	\$32.12
Hardeman	\$20.00	405,982	807.648	0.05	0.67	\$17.37	\$8.68	\$65.23
Hardin	\$11.00	241,643	1,187.71	0.02	0.54	\$10.68	\$9.71	\$150.08
Hawkins	\$20.00	873,264	1,920.00	0.05	0.79	\$19.60	\$9.80	\$76.12
Haywood	\$30.50	429,600	899.785	0.05	0.62	\$22.10	\$7.25	\$84.50
Henderson	\$20.00	310,266	860.967	0.04	0.46	\$14.20	\$7.10	\$99.51
Henry	\$15.00	410,092	1,271.33	0.03	0.63	\$14.70	\$9.80	\$96.36
Hickman	\$30.50	514,127	708.997	0.07	0.7	\$30.69	\$10.06	\$63.56
Houston	\$15.00	98,599	225.637	0.04	0.86	\$14.05	\$9.37	\$61.62
Jackson	\$15.00	142,640	346.516	0.04	0.65	\$15.34	\$10.23	\$43.28
Jefferson	\$25.00	776,612	1,805.74	0.04	0.6	\$23.52	\$9.41	\$102.24
Johnson	\$20.00	291,794	465.879	0.06	0.84	\$21.20	\$10.60	\$47.19
Lake	\$32.00	163,005	183.537	0.09	0.76	\$22.87	\$7.15	\$85.10
Lauderdale	\$55.00	917,040	763.221	0.12	0.68	\$39.04	\$7.10	\$111.69
Lawrence	\$25.00	796,502	1,459.69	0.05	0.75	\$22.56	\$9.02	\$137.31
Lewis	\$20.00	191,029	379.123	0.05	0.57	\$20.66	\$10.33	\$92.83
Lincoln	\$25.00	652,116	1,016.96	0.06	0.66	\$23.16	\$9.26	\$114.82
McNairy	\$20.00	434,470	774.006	0.06	0.75	\$19.38	\$9.69	\$68.44
Macon	\$30.00	493,291	542.282	0.09	0.87	\$31.01	\$10.34	\$80.75
Marshall	\$25.00	520,466	1,252.12	0.04	0.72	\$24.16	\$9.67	\$133.29
Maur	\$25.00	1,452,920	2,966.55	0.05	0.64	\$26.51	\$10.60	\$151.61

Table 2 COMPARATIVE WHEEL TAX COLLECTIONS (FY 1999 Data) -continued

County	Wheel Tax	Wheel Tax Revenue (\$)	Total Property Value (In \$Millions)	Effective Property Tax Rate (Per \$100)	Weighted Average Effective Tax Rate (Per \$100)	Per Capita Wheel Taxes	Per Capita Wheel Taxes Per \$10 Tax (a)	Per Capita Sales Taxes
Monroe	\$25.00	673,237	1,501.72	0.04	0.61	\$22.04	\$8.82	\$84.24
Montgomery	\$30.00	2,699,630	4,837.09	0.06	0.92	\$26.86	\$8.95	\$218.31
Obion	\$30.00	726,470	1,273.22	0.06	0.69	\$22.90	\$7.63	\$86.44
Overton	\$30.00	462,957	609.125	0.08	0.53	\$26.25	\$8.75	\$95.30
Robertson	\$55.00	2,511,653	2,407.86	0.1	0.69	\$60.53	\$11.01	\$99.61
Rutherford	\$30.00	3,840,789	8,409.32	0.05	0.81	\$32.39	\$10.80	\$142.05
Shelby	\$25.00	14,717,192	42,238.35	0.03	1.07	\$17.81	\$7.12	\$11.22
Sumner	\$50.00	4,478,811	6,438.11	0.07	0.71	\$43.37	\$8.67	\$96.91
Tipton	\$30.00	1,246,762	1,706.10	0.07	0.81	\$26.38	\$8.79	\$59.14
Warren	\$30.00	890,766	1,542.71	0.06	0.6	\$27.00	\$9.00	\$169.24
Wayne	\$10.00	145,548	460.944	0.03	0.71	\$10.44	\$10.44	\$102.03
Weakley	\$20.00	503,837	1,162.65	0.04	0.64	\$15.76	\$7.88	\$87.76
Williamson	\$25.00	2,408,030	10,973.51	0.02	0.76	\$29.72	\$11.89	\$203.58
Wilson	\$25.00	1,683,587	4,792.92	0.04	0.78	\$24.88	\$9.95	\$104.22
Total		71,988,053	160,701.01	0.04		\$24.69		\$142.42

Notes: (a) Estimated using total collections and noncommercial wheel tax rate.
Davidson County wheel tax figure for FY 2000.
Carroll and Gibson County property tax figures set equal to average of special school districts within the county.
Population figures (certified as of 7/1/1999) from Department of Economic and Community Development.
Wheel and sales tax data from individual county audit reports.
Property tax data from Board of Equalization (2000).
Tax rates refer to those in use during FY 1999.
Carroll and Gibson County sales tax figures include sales taxes shared with special school districts.

Source: County audit reports and information obtained from local officials; also State Board of Equalization and Department of Economic and Community Development.

Hotel-Motel Tax

Sixty counties and 32 cities levy a hotel/motel tax on transient lodging provided by hotels, motels, inns, tourist camps, campgrounds, and other lodging providers. The tax is generally imposed on the charge for occupancy only and excludes charges for telephone, cable, liquor and beer, and other non-occupancy charges. County taxes vary from a low of two percent in Franklin, Lawrence, and Sequatchie Counties to a high of 10 percent in Cheatham County. City taxes vary from a low of two percent in Lebanon and Franklin to a high of seven percent in Shelbyville.²⁰

Most of the existing hotel/motel levies were authorized by private acts. The tax was first authorized in Shelby County in 1969.²¹ Cities are authorized to levy the tax by T.C.A. 67-4-1401 et seq. Municipalities can levy the tax by either ordinance or public referendum. Detailed information on hotel/motel taxes (tax rate, authorization, distribution of proceeds) levied by county governments can be found in the latest annual edition of Tennessee County Tax Statistics, a publication of the University of Tennessee County Technical Assistance Service. Counties collected approximately \$40 million from hotel/motel taxes during fiscal year 1998-99.²²

Severance Taxes

Counties are authorized to levy a mineral severance tax of up to 15 cents per ton on the extraction of sand, gravel, sandstone, chert, and limestone.²³ Local governments can levy the tax by a 2/3 vote of the county legislative body. Prior to 1984, counties levied the tax through private act authorizations. Benton County became the first county authorized to levy the tax in 1979 (Chapter 89, Private Acts of 1979).

Taxes collected under the general law must be used for county road purposes. Taxes levied under private acts that preceded the enactment of the general law remain in effect but the tax rate allowed must not exceed the 15 cents per ton maximum set out in the general law. The tax is levied in 48 counties at rates varying from 5 cents to the maximum 15 cents per ton. The tax when levied through the general law (T.C.A. 67-7-201 et seq.) is administered and collected by the state and then returned to counties. Severance taxes initially levied by private act authorizations are generally collected directly by local officials.

Detailed information on severance taxes (tax rate, authorization, distribution of proceeds) levied by county governments can be found in the latest annual edition of Tennessee County Tax Statistics, a publication of the University of Tennessee County Technical Assistance Service. Counties collected approximately \$6.6 million in severance taxes during fiscal 1998-99.

Alcoholic Beverage Taxes

Local governments receive revenue from specific taxes on alcoholic beverage sales from two sources:

- (1) a 17 percent tax on wholesale sales of beer (both cities and counties) and
- (2) municipal inspection fees (a tax on wholesale sales of alcoholic beverages to retailers, excluding beer).

Beer Tax

The 17 percent wholesale beer tax generated \$98.4 million for local governments during calendar year 2001.²⁴ The 17 percent wholesale beer tax is commonly considered a local tax since most of the revenue from the tax is distributed back to local governments based on the situs of the retailer making the wholesale purchase. In fact, the tax is levied by state law not local ordinance.

This “ownership” controversy is best understood from the tax’s history. Chapter 37, Public Acts of 1951, authorized local governments to impose a tax not to exceed 10 percent on the retail sale of beer. The tax proved difficult to administer at the local level and was repealed in 1953. It was replaced with a state tax of 17 percent on wholesale sales of beer.²⁵ The tax is administered by the Tennessee Department of Revenue with most of the tax collected (96.5) being distributed back to municipalities and counties based on the situs of the retailer making the wholesale purchase.²⁶ The 17 percent wholesale beer tax represents a significant portion of total state-shared revenue.

Municipal Inspection Fee

A tax by any other name is still a tax. The municipal inspection fee²⁷ is actually a local option tax of up to eight percent (no more than five percent in municipalities with a population over 60,000) on wholesale sales of alcoholic beverages (excludes beer) to retailers. Wholesalers collect the tax from retailers and remit the tax monthly. Wholesalers are allowed vendor’s compensation equal to five percent of taxes collected. During fiscal year 1998-99, the four largest municipalities netted \$8.8 million in municipal inspection fees.²⁸

Local Cigarette Taxes

Memphis and Shelby County were authorized to levy a local tax on cigarettes at a rate of 1 cent per package in 1955.²⁹ They are the only two local government entities that have levied such a tax. The tax was collected through the early 1990s when it was discontinued. The actual reasons for its lapse could not be determined, but it appears that an inability to effectively enforce the tax in light of competing untaxed cigarettes in the Shelby County and Memphis areas may have been a contributing factor.

Local Gasoline Taxes

No local government, as of 2002, levied a local gasoline tax. However such a tax is permissive. The Tennessee Code Annotated (T.C.A) authorizes the levy of up to a 1-cent gasoline tax by local units of government for financing public transportation services. The tax can only be levied by a majority vote in a local referendum.

Litigation Taxes (Fees)

T.C.A. 67-4-502 authorizes every county and municipality to levy privilege taxes upon privileges taxed by the state, at rates not to exceed those levied by the state, unless otherwise stated in the code. Title 67-4-601 further clarifies this general authorization with regard to litigation taxes. Title 67, Section 4, Part 6 levies various state privilege taxes on litigation, all of which can be duplicated or matched by local governments. Other code sections authorize still additional local litigation taxes. Most of the revenue generated by litigation taxes flows to county governments. T.C.A. 16-15-5006 authorizes counties (except Davidson and Shelby) to levy an additional tax of \$6 on civil cases in general sessions courts.

During fiscal year 1998-99, counties collected over \$17 million in litigation taxes. Data for cities was not available. For a more complete description of litigation taxes, see the litigation tax section of the 2001 version of Tennessee County Tax Statistics.³⁰

Payments-in-Lieu-of-Taxes

Local utility service systems, especially electric systems, contribute a substantial amount each year to local government coffers through tax equivalent payments commonly known as payments-in-lieu-of-taxes, or PILOTs. The tax equivalent payments are usually in the form of a fixed percentage of gross revenues from sales of utility services. The payments, made primarily by municipal electric systems, are partly shared with county governments (22.5 percent).

PILOTs can also be used to refer to payments made by for-profit businesses to local governments for the use of government-owned real and tangible property.³¹ In 1998, municipally owned electric utilities made tax-equivalent payments of \$76.5 million.³²

The payments are intended to compensate local governments for the services provided the utility at a level commensurate with what would otherwise have been paid by a private for-profit business in the form of property tax payments. The procedures for establishing such payments for municipal electric systems are spelled out in T.C.A. 7-52-301 et seq. Similar procedures for municipal gas systems are included at T.C.A. 7-39-401 et seq.

Separate statutes that apply to each of the electric systems (60 municipal, 4 county, 25 cooperatives and 3 private) mandate the payments and the procedures used to determine the payments.

Development Fees/Taxes

Growth levies in Tennessee fall into two categories:

- impact fees, and
- development taxes.

Impact fees are user charges that must be reasonably related to the actual additional costs of serving a new development. They are based upon a standard formula and a pre-determined fee schedule. Development taxes, also known as construction or adequate facilities taxes, are privilege taxes on the development industry. They are intended to raise revenue for general government purposes.³³

Impact fees are typically phased in over a one to two-year period and collections are usually earmarked and accounted for separately in case of legal challenge. Determining the maximum justifiable fee is a complex process involving meticulous empirical data collection and the application of nationwide service standards. Development/adequate facilities taxes are simpler to enact, administer, and update, and are not usually subject to legal challenge. Development taxes promote housing affordability by taxing all development, whereas some impact fees are assessed only on residential development. Development taxes are also more progressive because they are based upon square footage without having to document how the development impact is related to the size and use of the building.

The Tennessee General Assembly has the authority to grant counties and municipalities the power to levy an impact fee or development tax. There are three types of authorizations:

- public acts;
- private acts; and
- municipal charter provisions.

In 2001, twelve counties and eighty-five municipalities, (97 total) were authorized to levy impact fees and development taxes. Eleven of these counties and fifteen of these municipalities (26 total) have passed ordinances implementing that authority, and one county and seventy municipalities (71 total) have not.

Franchise Fees or Taxes

A common and growing source of revenue for local governments is the local cable franchise fee (tax). Cable TV franchise fees have a long history. They were first used to compensate local governments for expenses associated with the installation of cable along government-owned rights of way and with the administrative expenses of local rate regulation and consumer protection (because of cable providers' initial monopoly position in many communities). A major change occurred in 1984 with the passage of the federal Cable Communications Policy Act. Local governments were limited to a maximum franchise tax of five percent (municipal franchise fee) and local rate regulation was ended or curtailed if the local market was deemed to have effective competition.

This fee, capped at five percent, was continued under the Federal Telecommunications Act (FTA) of 1996. The FTA of 1996 contained language that allows the fee to be extended to new technologies that compete with standard cable TV delivery methods and also use public rights-of-way. However, technologies that bypass public rights-of-way, such as direct broadcast satellite and multi-channel multipoint distribution systems do not use public rights-of-way and cannot be subject to local franchise fees. As a result, the future of cable franchise fees as a viable source of local government revenue is in doubt.³⁴

Collections data is incomplete. Cable TV franchise tax collections by counties that reported such collections for fiscal year 1998-99 totaled over \$4 million. However municipalities collect much of the tax for which data was not available.

CONCLUSION

Although collection data for the miscellaneous other taxes that local governments collect is less than complete, it is clear that these taxes play a major role in funding local government. According to the U.S. Census Bureau, these other taxes accounted for 12 percent, or almost \$542 million, of local tax collections in Tennessee in fiscal year 1998.

Particularly important among the miscellaneous other taxes are the local business tax, the wheel tax, the hotel/motel tax, and payments-in-lieu-of-taxes from electric utilities. Combined county and municipal local business tax collections were in excess of \$140 million in fiscal year 2002, with the state receiving approximately 15 percent of this amount. Wheel tax collections in 1999 produced even more revenue for county governments than the local business tax. The 48 counties that imposed the wheel tax in 1999 collected almost \$72 million. The importance of both of these taxes varies across the local governments that collect them.

Although some argue whether the beer wholesale tax is a state tax that is shared with local governments or a purely local tax, it is certainly a major source of local revenue. In calendar year 2001, local governments collected \$98.4 million from this tax. Payments-in-lieu-of-taxes also contributed greatly to local government funding, with payments from electric utilities to municipalities equaling \$76.5 million in fiscal year 1998.

As local governments reach and exceed their ability to raise needed additional revenue from their two largest local sources, the local option sales tax and the property tax, the miscellaneous other local taxes will play an ever-larger role in funding local government.

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ENDNOTES

¹ The tax package passed by the legislature in July 2002 will help balance the fiscal year 2003 budget, but does not present a final solution to Tennessee's structural deficit.

² U. S. Department of Commerce (2000), Table 45.

³ Strictly speaking, the 17 percent wholesale beer tax is actually a state tax levied by state law and not local law. However since its history reflects that it was initially a local government tax, and the current distribution of the state tax is almost 100 percent back to local governments on the basis of the situs of sales, it is included in this report as a local tax. Because of the tax's history and current distribution, most local governments consider it a local tax, and not a state tax.

⁴ It also generated over \$20 million for state government. Total business tax collections were estimated by dividing FY 2001-02 state collections (\$20 million) by 15 percent. Local retained collections were estimated at 85 percent of the total.

⁵ Title 67, Chapter 4, Part 7. The tax is permissive.

⁶ The classification reserved for state taxation only consists of insurance related activities (businesses required to obtain a license from the Commissioner of Commerce and Insurance per T.C.A. 45, Chapter 5).

⁷ Classification 3 is defined in the law at T.C.A. 67-4-708(3).

⁸ Hardin, Lauderdale, Marshall, and McNairy Counties levy the tax at lower rates. For additional details, see Forrister (2001), pp. 72-73.

⁹ Tennessee Constitution of 1796, Article 2, Section 28.

¹⁰ Tennessee imposed numerous taxes on selective "privileges." In 1925, 132 different categories were identified for privilege tax purposes (Thorogood (1949), p. 111).

¹¹ Verway and Price (1967), p. 29.

¹² For additional details, see Tennessee Department of Revenue (1973).

¹³ Data was obtained from (1) comprehensive annual financial reports for each county, most of which were published by the Department of Audit, Comptroller of the Treasury, and (2) correspondence with individual government officials in cases where data was not available from annual reports.

¹⁴ Based on unpublished data from the Tennessee Department of Revenue.

¹⁵ Tax rate imposed on noncommercial vehicles. Many counties impose higher fees on commercial vehicles.

¹⁶ Chapter 618, Public Acts of 1978 authorized the levy of the tax by either resolution of a county's legislative body or by public referendum (process spelled out in the statutes).

¹⁷ Six hundred gallons of fuel would be required. A local gas tax of 11.67 cents per gallon would result in an annual gas tax per vehicle of \$70 dollars.

¹⁸ State Board of Equalization (2000), Table VI.

¹⁹ Per capita wheel tax collections divided by the ratio of the wheel tax rate to \$10.

²⁰ Forrister (2001), pp. 75-79.

²¹ Chapter 131, Private Acts of 1969.

²² Based on data compiled from county financial reports completed by the Comptrollers Office and other private audits. Knox County data could not be obtained.

²³ T.C.A. 67-7-Part 2- Public Chapter 953 of Public Acts of 1984.

²⁴ \$80.7 million for municipalities and \$17.6 million for counties. For more detail on the distribution of the tax, see TACIR (March 2000), Appendix B-1 and B-2.

²⁵ Chapter 76, Public Act of 1953.

²⁶ The Department of Revenue receives .5% for its administrative cost and wholesalers retain 3% for compensation for their administrative costs.

²⁷ Authorized by T.C.A 57-3-501.

²⁸ Detailed data on municipal tax collections by type of tax are not generally available in Tennessee. The inspection fee data was obtained through telephone conversations with local government officials.

²⁹ Chapter 295, Private Acts of 1955.

³⁰ The University of Tennessee County Technical Assistance Service (January 2001) at website <http://www.ctas.utk.edu/>.

³¹ An example would be the payments in lieu of taxes made by General Motors to Maury County for the use of property the county developed for Saturn's use (financed through the issue of IDBs).

³² Dowell and Murray (2001), p. 18.

³³ For a more extensive discussion of development taxes and impact fees, see Harry A. Green and Ed Young, *Paying For Growth: General Assembly Authorizations for Development Taxes and Impact Fees*, TACIR, April 2002, from which the material in this section is adapted.

³⁴ An unintentional aspect of such local franchise fees is that they apply to charges for fast broadband Internet access as well as to cable television services. As a result, franchise fee revenue may continue to grow until new technologies displace cable and telephone providers in the provision of fast Internet access services.