

**International Studies Program
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Previously Untaxed Areas:
South African Townships and
Tribal Areas**

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Extending Property Taxation into Previously Untaxed Areas: South African Townships and Tribal Areas

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INTRODUCTION

South Africa has a long history of taxing real property. Land-related taxes in South Africa date back to 1677. In its modern incarnation, the property tax (referred to as rates on property) has been levied in the former British colony of the Cape of Good Hope since 1836 (McCluskey and Franzsen 2001, p. 11). Thus, the challenge is to merge previously untaxed areas into an established value-based property tax system. Two of the more difficult sorts of areas are informal settlements and tribal lands.

Informal settlements are characterized by multiple dwelling units occupying a single tract of land on the outskirts of an urban area. At the end of apartheid, property rights in such areas were not well defined and there were no established records that could be used in property tax administration. Property markets are slow to develop in a manner that is truly useful to property tax administration. Tribal lands present many of the same issues, but with the added complication of continuing communal land ownership with occupancy rights for specific portions of the land granted by tribal chiefs; in such areas, property markets will not develop.

Under the apartheid system of governance the property tax became essentially a white urban tax (Solomon et al. 2002). Blacks could not own property under apartheid and farmers

stopped paying real property taxes in the mid 1980s when they agreed to pay regional service council (RSC) levies on turnover and payrolls.

Historically, the property tax in South Africa has been a local tax on the capital value of real property levied under the terms of provincial legislation. Under the provincial property tax legislation continued in place after the end of apartheid, local governments have had the option of choosing among three basic forms of property tax:

- Site rating – Under this variant, a property tax rate is levied on the value of only the land, which generally is determined by valuing the entire property and then subtracting the value of the building – i.e., it is a residual value. This approach traditionally has been used in Johannesburg and Pretoria.
- Flat rating – Under this variant, the same property tax rate is applied to both the site and improvement values of a property, and the two categories of real estate are to be assessed uniformly. This approach has typically been used in Cape Town.
- Composite rating – This intermediate form of property taxation assesses one rate on the site value and another, typically lower, rate on the value of improvements to the property. This system is used in a number of smaller, rural local governments.

Overall, at the end of apartheid, about one-third of municipalities used site rating, about one-third used flat rating and about one-third used composite rating (Bell 2002, Figure 1, p. 65).

New national legislation, Local Government: Municipal Property Rates Act No. 6 of 2004, has been passed to govern how municipalities tax real property. It is generally agreed that once fully implemented, this national legislation will not permit municipal governments to tax land and buildings at different rates, or to tax land value only. Rather, the national legislation mandates the use of flat rating by all jurisdictions.

According to the 1996 constitution, under Section 229(1)(a) of Chapter 13, municipalities are granted authority to impose “rates on property and surcharges on fees for services provided by or on behalf of the municipality.” While municipalities may impose other taxes, levies, and duties appropriate for municipalities – if authorized by national legislation – the constitution explicitly prohibits their imposing an income tax, a value-added tax, a general sales tax, or customs duties. Thus, the only major tax available to municipalities in South Africa is the local property tax.

Local governments in South Africa were restructured twice in the early post-apartheid period, once under the Local Government Transition Act of 1993 and once under the Metropolitan Structures Act of 1998. One result of the redrawing of local government boundaries to form a smaller number of larger jurisdictions is that areas with different property tax types (e.g., site rating and flat rating) and different assessment dates often have been brought together into a single municipality, a situation that has presented some difficulties. A more important net result is that municipalities now cover the entire area of the country. Every piece of property in South Africa is now within the boundaries of a municipality. Because the property tax is the only major tax available to local governments, and because it must be administered

uniformly across the municipality, a number of properties that used to be outside the property tax net are now subject to property taxation.

Extending the property tax to new areas not previously subject to taxation has created a number of challenges for local governments in South Africa. This is especially true for municipalities that have amalgamated former black local authorities (BLAs) with former white local authorities (WLAs) and for municipalities in rural areas that have large tracts of traditional tribal lands within their boundaries. The purpose of this paper is to look at how the property tax was initially implemented in these newly taxable areas.

EXTENDING THE PROPERTY TAX TO TOWNSHIPS IN URBAN AREAS

LOCAL GOVERNMENT REFORM IN SOUTH AFRICA

Prior to the end of apartheid in the early 1990s, South African society was sharply divided, even balkanized, as a result of legislation passed by the apartheid government including:

- The Population Registration Act of 1950, which defined four racial groups – white, Indian, colored (mixed-race), and black (African, or Bantu);
- The Groups Areas Act of 1950, which mandated strict racial separation in urban areas, with zones that could be occupied by members of only one racial group; and
- The Bantu Authorities Act of 1951, which reestablished tribal areas and created Bantu, or tribal, authorities to govern blacks.

In this racially-defined system, whites were the most favored and blacks the least; for example, typically blacks were not permitted private ownership of real property. This distinction is especially important for consideration of the post-apartheid property tax. In urban areas, whites lived in the core central cities and blacks were generally regarded as laborers temporarily visiting the urban area, from their rural base, to find work. (Blacks were permitted in other areas for brief periods through a “pass system” that required that they carry identifying papers.) The black population was deliberately directed toward “dormitory townships” outside major cities, referred to as black local authorities (BLAs). BLAs uniformly consisted of poor – though variable – quality housing with minimal services and were governed by a range of centrally dominated non-municipal mechanisms.

Blacks in urban areas occupied their properties on the basis of subsidized council tenancies, or under a range of nationally legislated leasehold arrangements, introduced piecemeal over the years as a substitute for freehold tenure. The status of land rights in the black townships became a shambles, with a proliferation of specially designed non-freehold tenure systems, poor-to-non-existent record keeping, and little by way of cadastral surveys.

Black residents did not participate at all in the day-to-day governance and administration of their townships until 1982, when they were given “full municipal status” by the Black Local Authorities Act. The term overstates the reality, though, for BLAs were given no fiscal base other than rents and service charges. Moreover, they were burdened from inception with the

debts outstanding on recent infrastructure developments, including, in the case of Soweto, the electrification of the township. Municipal services provided to residents of BLAs were shockingly poor or non-existent. No adequate provision was made for intergovernmental fiscal support of these "independent" authorities, despite their palpable lack of fiscal base. Moreover, the political leaders of these areas were not democratically elected. The rent and service charge increases that followed were fiercely resisted and a tax revolt, termed the "rent boycott," began under the leadership of various local civic organizations. This gave rise to what at times is termed a "culture of non-payment," which has implications for acceptance of property taxation in areas newly brought into the tax base.

The democratically elected national government that came into power in 1994 recognized the importance of addressing directly the legacy of apartheid in urban areas. The *White Paper on Local Government* (p. ix) stated:

Apartheid has fundamentally damaged the spatial, social and economic environments in which people live, work, raise families, and seek to fulfil [*sic.*] their aspirations. Local government has a critical role to play in rebuilding local communities and environments, as the basis of a democratic, integrated, prosperous and truly non-racial society.

To address these concerns, the government put in place a two-stage, five-year process of restructuring local governments. The framework for the first, transitional stage was the Local Government Transition Act (LGTA) of 1993.¹ Rather than prescribe a blueprint for reinventing local governments, the LGTA sketched a process by which local communities were to design and implement changes in the structure, function, and financing of their local governments. This framework centered on local government negotiating forums, whose composition and role were defined by the LGTA, established in each community in 1993 and 1994. Each local forum negotiated institutional solutions appropriate to the local area, but consistent with principles of non-racialism, democracy, one (i.e., unified) tax base, and local accountability. Thus, the transformation of South Africa's local government system is unique in the sense it has been a bottom-up process (Swilling 1996, p. 129). Emphasizing structural reform to overcome the legacy of apartheid through the amalgamation of former race-based structures, the negotiating process involved all major stakeholders, including community-based organizations, non-governmental organizations, business associations, and civic associations.

This bottom-up process produced diverse local government institutions around the country. There was substantial variation across these metropolitan councils concerning their size, the number of constituent municipal units under the metropolitan umbrella substructures, service delivery responsibilities, revenue raising responsibilities, the extent of redistribution of municipal resources within the metropolitan area, and how those responsibilities are shared between the metropolitan council and its substructures. For example, Durban and Johannesburg emphasized the role of the metropolitan council and limited the role of the constituent municipal

¹ LGTA was signed by then-President F. W. de Klerk and by Nelson Mandela, who had represented, respectively, the National Party and the African National Congress in the Convention for a Democratic South Africa (CODESA), which – between December 1991 and September 1993 – had negotiated the agreement to elect a constitutional assembly that adopted a new constitution and served as a transitional legislature. Mandela was elected president in the first democratic elections, in 1994.

units in the second tier of local governments. Alternatively, the metropolitan local councils had more responsibility in the other metropolitan areas – Pretoria, Khayalami, and Cape metropolitan areas. As a result, the expenditure ratio between the metropolitan council and the metropolitan local councils was 1:0.5 in Durban and 1:1.02 in Johannesburg, but 1:3.37 in the Cape, 1:5.84 in Pretoria, and 1:7.23 in Khayalami (van Ryneveld 1997).

The next stage in the local government transformation process was the complete re-demarcation of all local authorities, which reduced the number of authorities from nearly 850 to fewer than 300. Begun in 1999 under provisions of the Municipal Structures Act of 1998, this stage was completed in December 2000 with the second set of local elections. This new demarcation involved the administrative amalgamation of authorities, creating a fundamentally new kind of municipality, responsible for several towns and extensive rural areas. One aspect of this was the end of the two-tier governmental structure in metropolitan areas and the advent of metro-wide “unicity” governments.

The amalgamation of municipalities in 1995 and 2000 brought new areas into the property tax base. The new municipal structures encompass all land area in South Africa and, as required by law, all land within a local government must be taxed under a system that applies throughout that municipality.

AMALGAMATING PREVIOUSLY UNTAXED AREAS INTO THE PROPERTY TAX BASE

To learn how former BLAs were being brought into the property tax base following the local government consolidations that took place in 1995 and 2000, we undertook four case studies in different parts of South Africa in March 2002. Specifically, we looked at the situation in two municipalities in the Eastern Cape Province – George Municipality and the Nelson Mandela Metropolitan Municipality (which includes the former city of Port Elizabeth); in one municipality in Gauteng Province – the City of Tshwane Metropolitan Municipality (which includes the former city of Pretoria); and one municipality in the North West Province – Moses Kotane Municipality. Given its timing, this inquiry looked at the initial actions to bring newly amalgamated areas onto the property tax rolls soon after the municipal amalgamations. Without getting too far ahead of the story, we note that this must be an iterative process rather than a one-time adjustment.

George Municipality

As a result of the initial amalgamation in 1995, George incorporated two new areas, Thembaletu and Pacaltsdorp, into the municipal property tax base.

Thembaletu. The town of Thembaletu was designated a separate municipality in 1986. It was formed in 1982 when the people from Lawaaikamp – the first informal black settlement within the boundaries of the old George – negotiated with the municipality of George for more land further outside the city. From 1982 to 1988 about half the residents from Lawaaikamp either relocated voluntarily or were forcibly removed to Thembaletu. In addition, residents of Blikkiesdorp (in the old George) were resettled to Thembaletu. Because it was a

black township, and blacks typically were prohibited from owning property, Thembalethu did not have private property or a property tax roll prior to being amalgamated with George in 1995.

The first task of the municipality after the amalgamation in 1995 was to identify and survey individual properties in Thembalethu and to identify their owners. Once maps were developed and all this information was registered with the national Surveyor General's Office, Thembalethu became formally proclaimed and individual properties were registered to individual owners.

Next, initial assessed values had to be determined for each property. Because there had been no property sales in Thembalethu, it was decided that market value estimates could not be made satisfactorily in the first valuation. Therefore, as a first approximation of value, initial assessed values in Thembalethu were put at R1,000 if the erf (parcel) was located on a gravel road, and R2,000 if the erf was located on a tarred road.

The expectation was that these initial values would be refined over time as individual properties sold on the open market. In fact, this had not occurred to any meaningful extent by the time of our study, for reasons that, in retrospect, seem obvious. For historical and cultural reasons, private property ownership and deed registration were foreign concepts to many new property owners in Thembalethu. As a result, when the owner of a property moved, he might sell the property for a very nominal amount – e.g., R100 – and move on without going through formal legal channels of transferring ownership to the new owner. Thus, there have been few market-value sales and changes in ownership generally do not show up as deed registration changes. Such informal sales mean that property records are not current; moreover, with little to go on to update values, about 95 percent of individual properties were still valued on the initial basis in 2002.

Pacaltsdorp. In 1813 the missionary Carolus Pacalt of the London Missionary Society established a missionary station at the main kraal (an enclosed area where domesticated animals are kept at night) of the local Outeniqua people. A settlement grew around the missionary station where each inhabitant was allowed to build a house on a piece of land, provided the land was put to good use. In 1818 the settlement was renamed Pacaltsdorp in memory of the missionary. In 1888 Pacaltsdorp was granted a village management board, but it achieved municipal status only in 1975. However, Pacaltsdorp, a colored rather than a black community, had a long history of private property and had a tax roll with assessed values based on market sales prior to 1995, so it was rather easily incorporated into the George tax base.

Nelson Mandela Metropolitan Municipality

In the initial local government demarcation in November 1995, the municipality of Port Elizabeth incorporated six new areas: Ibhayi, Kwadwesi, Kwamagxaki, Motherwell, Soweto-on-the-Sea, and Walmer Township. All six of these areas are former BLAs. Because of historical factors, Kwadwesi and Kwamagxaki had a history of private property before amalgamation with Port Elizabeth. The other four areas – Ibhayi, Motherwell, Soweto-on-the-Sea, and Walmer Township – did not have a history of private property.

The Nelson Mandela Metropolitan Municipality, formed in the second round of local government reorganization, is an amalgamation of five former Transitional Local Council areas – Port Elizabeth, Despatch, Uitenhage, Seaview, and Blue Horizon Bay.² In addition, NMMM includes rural areas formerly under the jurisdiction of the Western District Council. Although the new metropolitan municipality had been formed, little amalgamation of local administrations had occurred by the time of our visit in March 2002. The former localities still were operating as before, as separate administrative units, with separate offices, books, procedures, and so on. Property tax systems also had not been standardized. The exception is the rural areas of the former Western District Council that have been amalgamated with the metropolitan authority.

With the exception of Walmer Township, localities merged into Port Elizabeth in 1995 were valued as of 1983, which was the date of the most recent reassessment for the former city of Port Elizabeth. As mentioned above, four areas amalgamated in 1995 had not had private property, so there were no property tax rolls and minimal records pertaining to properties in Ibhayi, Motherwell, Soweto-on-the-Sea, and Walmer Township. All of these had been surveyed and proclaimed, with the exception of Walmer Township, which was surveyed in 2001, but had yet to be proclaimed and valued at the time of our study.

In bringing areas not previously subject to property taxation into the tax base, property records were being placed on a computerized valuation roll by drawing on information from a number of sources. Information from two national offices was being used to identify and describe individual properties. Diagrams from the Surveyor General were compared to records at the Registrar of Deeds. Further, Surveyor General records were being used to create a geographic information system (GIS), and owners' names and addresses were obtained from records of the Registrar of Deeds.³ Informal areas present very difficult problems, though, because there are many shacks on a single piece of land – i.e., there typically is only one owner of the land on which dwellings for many households are found.⁴ In creating more complete property records, a number of sources were being used, including building plans, diagrams, aerial photos, and site visits.

Where possible, sales data were used to develop market value estimates. Because Ibhayi, Motherwell, Soweto-on-the-Sea, and Walmer Township did not previously have private property, it was noted that there might not be sufficient numbers of sales recorded to permit this approach in these areas. Recorded sales were stressed because there apparently had been a number of informal sales, which do not get reported and thus do not become part of the official databases used. Informal sales cannot be tracked.⁵ Building plans and cost records are another source of information on improvements value, but they are most helpful where most buildings are new, as in Motherwell; by contrast, Ibhayi has mostly old buildings, many about 50 years old.

² “Transitional” councils were those set up under the LGTA, in the first stage of local government restructuring.

³ Erf (parcel) number or farm number is the common link between these two national sources of information.

⁴ The amount of informal housing is significant. In the area of the former Port Elizabeth municipality, for example, there are said to be 17,150 shacks, a number equal to 12.5 percent of the 136,791 formal residences and over 10 percent of total residences.

⁵ Even if they could, such sales might not meet the market-value test of having been exchanges between *informed* buyers and sellers.

City of Tshwane Metropolitan Municipality

City of Tshwane Metropolitan Municipality is one of the seven metropolitan centers in South Africa. It is made up of the former Pretoria municipality and a number of surrounding areas. The initial amalgamation occurred in 1995, when the old city of Pretoria merged with two black local authority areas, Mamelodi and Atteridgeville. These two areas were brought into the amalgamated tax base in July 1996.

Prior to amalgamation, there were no property record cards in Atteridgeville and Mamelodi. For the 1996 roll, aerial photos were used to establish location and dimensions of individual plots and buildings, to create a minimal property record. The initial aim was to improve the valuation of individual properties with each successive revaluation. For the 1999 roll, “two guys in a car” drove past each property, with maps and a list of properties, to verify, update, and/or correct earlier information and add information to the property records.

In December 2000, the expanded Pretoria municipality was merged with Centurion; the Northern Pretoria Municipal Sub Structure; Winterveld (black); Temba (black); Mabopane (black); Ga-rankuwa (black); Hammanskraal (black); Crocodile River; and Pienaarsrivier. Centurion, the second largest of the former localities in the new metropolitan municipality, forms the southern border of the new Tshwane Metropolitan Municipality.

Total number of properties in Tshwane after the 1995 amalgamation was about 150,000; after the 2000 amalgamation the number jumped to approximately 350,000 properties. Most of the new erven (parcels) are in former black areas, but a detailed breakdown was not available.

Although Tshwane has a site rating system, in accordance with prevailing provincial law, land and buildings are both valued, with improvements as the residual (total value – land value).⁶

For the initial valuation of areas newly amalgamated with Pretoria in December 2000, unlike the 1995 amalgamation, aerial photographs were not used. The valuation office had wanted to use aerial photographs, but City Council took too long making the decision, and time grew too short. Instead, teams of valuers went into the areas and drove by properties. As a result of relying solely on municipal staff, there was an increase in personnel, from 18 to 22 – a less than proportionate increase, as the number of parcels that must be valued increased from 150,000 to approximately 350,000. The small increase in staff, relative to the increase in the number of parcels to be valued, was to hold expenses down. Valuers used computers to generate estimates, and then exercised judgment to modify estimated values, if needed.

Moses Kotane Municipality

Moses Kotane Municipality was created by the final local government demarcation in December 2000. It was created from portions of the former Bophuthatswana bantustan. Specifically, it includes Madikwe and Mankwe, two areas that were formerly part of the Rustenburg District Council after the first demarcation in 1995. Each of these areas includes an

⁶ This is the approach prescribed by the old Transvaal property tax law (Bowman 2002a, 51). For a discussion of the valuation of land (improved, as well as unimproved) at market value, see Bell and Bowman 2002, 90-94.

urban area (Madikwe in Madikwe and Mogwase in Mankwe). The urban agglomeration of Madikwe had approximately 1,175 parcels of property at the time, while Mogwase had about 2,100 parcels; there were approximately 2,000 farms in the municipality; and there were 77 informal areas in the municipality, ranging in size from six erven to 2,600 erven.

Because this is a new municipality formed by bringing together several former black areas, an entirely new tax roll had to be created. The two newly amalgamated urban agglomerations in Moses Kotane Municipality had been proclaimed before December 2000. Thus, there was some property information available from two national offices, the Surveyor General and the Registrar of Deeds, and owners were identified through the Registrar of Deeds. Similarly, farm areas had been surveyed, so information was available from the same sources.

The central government or a tribe typically owns informal areas. A tribal leader assigns plots to users/occupants, and no data were collected on occupants of the individual plots in such areas. Informal areas were depicted in aerial photos, which were done by a private contractor for the District Council in 1997. These aerial photos were subsequently verified and augmented by on-site inspections by the same firm, which produced very detailed maps of these informal areas.

Property valuations in the urban agglomerations were based on actual sales data for improved properties and vacant land, obtained from Registrar of Deeds. Values for improvements were a residual determined by subtracting land value from total value. At least in Madikwe, there are some houses subsidized by the national Reconstruction and Development Program (RDP houses); for these, the total property value was placed at the R15,000 subsidy amount applicable when the houses were built. (The RDP subsidy amount was later increased to R18,500.)

Most farms are comprised of essentially marginal land uses and are best suited for grazing. Sales prices from immediately adjacent areas and limited sales from within the municipality were used to determine taxable values for individual farms. All farms were valued the same, whether owned by the government, a tribe, or an individual. The valuer determined an average sales price of about R1,000 per hectare, which was then adjusted for individual farms to reflect differences in accessibility, condition, and size, categorized only as small or large, rather than many gradations. Large farms include all those with 10 or more hectares, even though some farms reportedly include 2,500 hectares or more. The contract valuers were able to find more sales of farms than many, including local valuers, had led them to expect. They searched the deeds databank and discovered enough sales to permit valuations to be based on sales data, modified by judgment.

Valuing properties in informal areas was more difficult in concept, if not in execution. A tribal head assigns plots and receives a one-time R200 fee if the occupant is a tribe member, or R1,000 if not a tribe member. There had been no sales in these areas. The R200 number was used as the value of the land (“stand”) for residential use, and – based on rough judgment – R500 was used for stands in business use. Structures vary in size, materials, and quality and were valued based on informed judgment that relates to cost minus depreciation. Structure values ran to R60,000 or more in some instances, but a common value tended to be assigned to large

numbers of structures; in one area, 20 percent were valued at R50,000 and the balance at R10,000. It was noted that these lower-value structures were “not a shack.”

FINDINGS

Several key findings emerged from our study. After first stating them, brief discussion is provided before we turn to consideration of tribal lands in rural areas.

1. All municipalities studied made progress in incorporating into their municipal tax bases areas amalgamated during the first restructuring of local governments in 1995; some were still working to add the new areas added by the December 2000 restructuring at the time of our March 2002 visits.
2. Values in formerly untaxed areas are very low, whether one considers assessed values or available “sales” prices.
3. Lack of true market sales means that it will be difficult for valuers to update assessed values in any meaningful way.
4. Data needed to assess progress in extending equitable property taxation into newly taxable areas will not become available for some time.

Initial progress. While all municipalities made progress in bringing newly amalgamated areas into their municipal tax bases following the 1995 restructuring, the City of Tshwane Metropolitan Municipality (Pretoria) had gone farthest in this direction. There, all the newly amalgamated areas had been valued. The Tshwane approach used less property information and less sophisticated models for estimating value in getting the newly taxable areas into the tax base, and then increased the amount of information and the level of valuation sophistication with each revaluation.

Given the enormity of the challenges faced by the municipalities, slow initial progress was not surprising. The areas amalgamated in 1995 and 2000 were largely former black local authorities or rural areas that were outside the property tax base prior to 1995, and these pose large problems. Before they could be brought into the tax base these areas had to be surveyed, individual plots had to be identified and described, ownership had to be transferred, owners had to be identified and contacted, cadastres had to be created, and values had to be determined.

The difficulty of the task of determining values cannot be overstated. Assessed values are supposed to be an estimate of the market value of a property, but in many of the newly amalgamated areas, private property ownership was nonexistent prior to 1995. In short, there were no markets so there was no market information upon which to base assessed values. A number of rules of thumb were used to make the first value estimates, but there was really no way they could have been very accurate in approximating market values. The tendency has been to apply uniform values and to err on the low side.

Low values. Given the lack of property markets and sales prior to 1995, together with the practice of extending the right of property ownership to blacks and making homes available at subsidized prices, the “sales” prices listed are often merely a transfer price for the property

that is politically determined and does not reflect any meaningful notion of market value. Much the same situation applies to the manner in which assessed values have been determined in some areas – e.g., valuing a home on a gravel road at R1,000 and one on a paved road at R2,000. Although the homes are modest in essentially all respects, these values are low (about \$100 and \$200, respectively, at the time of our March 2002 visits). Moreover, the degree of differentiation in such cases is not grounded in empirical evidence related to market values, and in several cases no differentiation is made even though the properties are of different sizes.

Difficulty of making meaningful value updates. Valuers look at market activity to determine the value of individual properties based on the characteristics of the property and market sales of comparable properties. Location generally is a major factor in determining comparability, so having sales in the area being valued is important. A serious problem in the former black local authority (BLA) areas is that markets must develop in these areas, and five or six years after the initial amalgamation this process was not very far along. Most property transfers had been the initial, subsidized transfers from the government to the new private owner-occupants. Subsequent sales that took place often did not meet the definition of market sales. They may or may not be arm's-length sales between a willing buyer and willing seller who are unrelated, and who have no other reason to agree to a price other than a market-level price. However, for a sale to represent a true market sale, and for the sales price to be useful in making inferences about the general level of market prices for similar properties, both the buyer and seller must be well-informed about the local property market. Often in newly taxable areas, neither party to a transaction is well-informed with the property market, or even with the basic concept of owning real property. The people have not owned real property before, and they tend not to think in terms of market prices for an asset such as a home. We were told in most study areas of instances in which new homeowners decided they wanted to move and then simply moved, without notifying anyone that ownership had changed. Moreover, the prices at which they are reported to have sold are essentially token amounts well below the likely value of the property – typically just enough to move to another location and get started. Thus, there are two reinforcing problems:

- Lack of information about market value and unfamiliarity with property ownership leads to sales at prices that differ widely from a true market value.
- The fact that sales tend not to be reported would make tracking the sales and using the information to assist in valuing other properties very difficult, at best.

Inability to make meaningful determination of assessment quality. In addition to their implications for the task of valuing properties, these problems mean that the traditional tools for evaluating assessment uniformity and fairness are difficult to interpret, and perhaps meaningless. If assessed values and “sales” prices are essentially politically determined numbers, what do assessment-sales ratios and the derivative equity measures mean? The quality of data in newly taxable areas is not comparable to the quality of data in areas previously paying a property tax. Not only is it likely that a longer transition period will be required to achieve valuation uniformity objectives in newly taxed areas, it is also likely to be some time before good data needed to make this evaluation will be available.

Still, we found some evidence that markets were starting to develop in some areas. For example, in Mamelodi, Mabopane, Hammanskraal, Temba, and some neighborhoods in Soshanguve there was some preliminary, sketchy evidence of developing real estate markets. Interestingly, in most of these cases, sales prices were systematically higher than assessed values suggesting that there may be upward pressure on assessed values as more sales information is accumulated and incorporated into the valuation process.

EXTENDING THE PROPERTY TAX TO TRADITIONAL TRIBAL LANDS

BACKGROUND

The December 2000 final stage of local government reform that extended the boundaries of municipal government to cover the entire country has created some tensions because in some rural areas there now are two governance structures in the same spatial area. One is a “western style” municipal government with elected councils, and the other is the traditional tribal authority. Because each municipality is required to establish a property tax policy that applies throughout its area, the question arises of how to include traditional tribal lands, where much land is owned in common and managed by the local chief.⁷

Two vastly different ways have been identified to deal with the property tax issue presented by tribal lands:

- Privatize land ownership and allow property markets to develop, in the process generating value information needed for administration of a property tax.
- Blanket exclusion of tribal lands from the property tax roll, under the exemption authority contained in the new national property tax law.⁸

The first of these would undermine the tradition of communal land tenure, perhaps unnecessarily, and the second would seriously compromise notions of sound property tax policy, including equity and revenue adequacy. The purpose of this project, undertaken in 2004, was to look for possible middle ground, going into a rural area in Limpopo province to explore ways of including the land held under traditional land tenure systems in the property tax roll of the municipality of which it is now a part.

The problem with privatizing land, in that it would terminate traditional land tenure arrangements, is obvious; in addition, a lesson from the former BLAs is that meaningful, well-functioning markets do not develop at all quickly following privatization. In response, some view exemption as a way to avoid the tension of applying municipal taxes within traditional

⁷ While the chief is responsible for managing the land and allocating sites to individuals and families, the tribe does not actually own the land. Because blacks have been prohibited from owning land going back as far as around 1913, the central government technically owns the land and holds it in trust for the tribe.

⁸ New national property tax legislation, *Local Government: Municipal Property Rates Bill* [Act No. 6, 2004, <http://www.dplg.gov.za/html/docs/PDFDocuments/a6-04.pdf>], passed by Parliament and signed by President Mbeki in May 2004, allows municipalities to establish differential rates for various categories or uses of property, including “formal and informal settlements,” “communal land” and “state trust land” [Part 2, Section 8(2)(k-m)]; moreover, exemptions and other forms of relief may be determined for the categories listed in Section 8(2) [Part 2, Section 15].

authority areas. An argument made in favor of this is that adding these areas to the tax base entails substantial administrative costs without the promise of much revenue because tribal areas have comparatively little property of any great value. Moreover, it was noted that site rating approach to property taxation used in our study area includes only land, not structures. Blanket exemption seems inappropriate, however, for various reasons:

- Even now many structures in the tribal areas are quite substantial, indicating ability to pay taxes on the part of their owners; over time, more ability is likely to develop within these areas.
- The new national property tax legislation, once implemented, takes away the option to exclude structures from the property tax base.
- Tribal lands comprise a very large percentage of all land area within some municipalities, so blanket exemption would remove much of the area from the tax base needed to support local services.
- It seems likely that people outside the tribal areas would find blanket exemption to be a source of inequity, a feeling that is likely to grow as services in tribal areas improve and the areas become somewhat more prosperous.

One indication of the importance of bringing tribal area lands into the property tax is the significance of these lands in some municipal government areas. Our study area is in Thulamela municipality, a local municipality in a rural area of Limpopo province. Officials there estimated that about 90 percent of the land area in the municipality is traditional land held in common for the tribe, and not now included on the property tax rolls. There is limited private ownership and no well-developed real estate market outside a few urban agglomerations. Another indication of the importance of having tribal lands in the tax base is provided by 1996 census estimates by Statistics South Africa, which counted over 15 million South Africans – about one-third of the total population – in the tribal areas of the country. Nearly 12 million of these are in just three of the nine provinces: Eastern Cape (3.7 million), Limpopo (4.1 million), and KwaZulu-Natal (4.1 million).

We selected a rural area in Limpopo province for this project. David Solomon, our colleague on earlier phases of our work on South African property taxation, has been working on land tenure issues in the area. He has been assisted by Tinyiko Chauke, one of his students (a recent graduate) at the University of the Witwatersrand in Johannesburg, who comes from the rural area. That area is located in the former Venda Bantustan. We had a sense that this area was somewhat better developed than some of the rural areas we have visited in the Eastern Cape. In part, the feeling of relative prosperity in this region could reflect the fact that the chiefs in Venda had a better working relationship with the apartheid government than King Sandile in the Eastern Cape and, as a result, received more infrastructure investment and support. Another possible explanation may be different levels of revenue from the regional service council (RSC) levies, to support district council governments. It is stressed, however, that the impression gained was one of only relative prosperity, not of absolute prosperity. Descriptive statistics below make this clear.

LOCAL GOVERNMENTS IN THE STUDY AREA

Because of the nature of our project in the tribal area, it is important to provide more background information on the area and its residents than was provided for the study areas in the preceding portion of this chapter. That is provided in this section, before turning to valuation and other property tax issues.

Under the local government reorganization put into effect in December 2000, our study area is Vhembe District Municipality, a Class C municipality according to the Municipal Structures Act.⁹ A Class C municipality is one that has one or more constituent municipalities within its borders.¹⁰ Vhembe has a population of about 1.2 million people, which is a rough count because it is very difficult to get an accurate census in rural areas.¹¹ There are 51 district councilors; 43 are elected by proportional representation (from the party list assembled at the central government level) and eight represent the chiefs in the area. There are approximately 40 tribal chiefs in the area of Vhembe municipality, and those cooperating with the municipality choose the eight serving on council (not all 40 cooperate with the municipal government and its officials).

Vhembe is in the northern part of Limpopo province, which is the northern-most province in South Africa. It borders on Botswana, Zimbabwe, and Mozambique (although Kruger National Park lies between Vhembe and Mozambique). Within the boundaries of Vhembe district municipality there are four local municipalities – Class B municipalities according to the Municipal Structures Act; moreover, each of the local municipalities has villages within its boundaries. The four local municipalities are Thulamela, Makhado, Musina, and Mutale. These four local municipalities cover the entire territory of Vhembe; within Vhembe, we focused particularly on Thulamela. We were there more than three years after the new system of municipal government was put into place, and there still were no service agreements between Vhembe and its local municipalities.

Socio-economic Overview of Study Area

As noted, the population of Vhembe is about 1.2 million, and that of Thulamela is about 585 thousand, based on the 2001 census. The overwhelming majority of the population is African (98.5 percent for Vhembe, 99.6 percent for Thulamela); whites account for just over 1 percent of Vhembe's population and only 0.1 percent of Thulamela's. In each, females account for over 55 percent of the total population, and the young greatly outnumber the old. In both Vhembe and Thulamela, those under 15 years of age make up about 40 percent of the population, while those over 65 account for only about 6 percent. Educational attainment is low. Of those

⁹ The Municipal Structures Act of 1998 (Act No. 117, 1998) and subsequent amendments are available under Documents on the Department of Provincial and Local Government website [<http://www.dplg.gov.za>].

¹⁰ Class C and B municipalities, since the December 2000 restructuring of local governments, are found only outside the country's metropolitan areas; each of the seven metropolitan areas has a Class A municipality, a single-tier local government structure.

¹¹ This population figure, and the other population, demographic, and socio-economic statistics in this section, are from the 2001 census, as reported in the Municipal Profiles section of the national Demarcation Board website [<http://www.demarcation.org.za/infoIndex.aspx?type=PROVINCE&Prov=Limpopo&frm=home>]. This site also provides local government budget data.

over 20 years old, about 30 percent have no schooling, and less than one-fourth have at least 12 years' schooling. On the other hand, 80 percent of those in the 5-24 age group currently attend some sort of school. The major language is Tshivanda, the language of roughly two-thirds in each municipality; only a very small minority of the population speaks English.

Attachment to the formal labor force is low in both Vhembe and Thulamela, which have labor force participation rates of about 45 percent. In part, this may reflect the importance of the informal economy in South Africa. On the other hand, high rates of unemployment – 53 percent in Vhembe, and nearly 60 percent in Thulamela – may help explain low labor-force participation.

The people are poor, especially as indicated by data from the 2001 census. These data, however, are provided with the following caveat on the Demarcation Board website: “Users are warned to use this variable with caution and to be aware of its limitations. Census 2001 collected income information from one question on individual income without probing about informal income, enterprise profits or income in kind. As a result, the census income is understated for most of the population. Further direct comparisons with other data sets cannot be made. The main reason for releasing this variable in the data is to show patterns and trends, rather than precise estimates.”¹² With this caveat in mind, we note that a significant portion of households reported zero income: 20.3 percent in Vhembe and 15.1 percent in Thulamela. The data also indicate significant income inequality. For example, at the upper end, some households reported annual income of over 1.23 million rands (over \$200,000): 562 (0.2 percent) of households in Vhembe, including 214 in Thulamela.

Other indications of the standard of living are found in statistics concerning housing and services. Although small shares of the households live in informal housing (2.6 percent in Vhembe, 1.7 percent in Thulamela), the dwellings generally are small and many are not equipped with modern utility services. With regard to size, 13 percent of Vhembe households and nearly 10 percent of those in Thulamela live in one-room dwellings, and the modal number of rooms in each is four (over one-fifth of households in each). Electricity is in approximately 60 percent of all dwellings, and only about 10 percent have flush toilets. In fact, a large fraction of households occupy dwellings with no toilet facilities at all (25.8 percent in Vhembe, 31.2 percent in Thulamela), even though about 40 percent in each municipal area have water in either the dwelling or the yard (most in the yard). At the other extreme, about 28 percent have access to water only at a community water stand that is over 200 meters away. Over two-thirds of households dispose of their refuse in their “own dump.” Finally, only about six percent of households have a standard phone in the dwelling, although about 25 percent have cell phones.

Government Budgets in Study Area

The largest portion of own-source revenue comes from municipal services, principally water. While these services bring in a large share of the municipality's revenue, the service revenues do not cover costs of provision, so all run at a deficit. The municipality also generates revenues from licenses and fines. In addition, Thulamela collects about 3 to 4 million rands from property taxes, which is only 20-25 percent of the R15 million billed. The base of the property tax is land (site) value only, and it currently is levied against only privately owned properties in

¹² <http://www.demarcation.org.za/municprofiles2003/index.asp?type=munic&Prov=Limpopo&municode=>

the urban agglomerations. The municipality relies on outside valuers for the determination of values for properties on the tax roll.¹³ Finally, there is a general levy of 10 rands per house assessed against houses in the rural (tribal) areas. Very little of these revenues are collected and a large portion of the municipality's equitable share grant is used to finance these levies (as an offset against the uncollected amounts) for the poor living in rural areas.

PROPERTY TAXATION VIEWS AND APPROACHES

We were told that it is difficult to justify a property tax in the rural areas because there are limited, if any, services provided to those areas. As noted above, only about 10 percent of the area of Thulamela is included on the property tax rolls, and the rest is in traditional tribal areas. We also were told, though, that business properties in rural areas are private – deeds have been recorded in the national deeds registry – and that, once private ownership is established, the property comes on the tax roll. Business properties, however, account for a small portion of rural properties. At this time, not taxing all properties in these areas seems generally consistent with the benefits-received view of the local property tax – you pay for what you get (and, conversely, you don't pay for what you don't get).

Another view is that the local property tax is a general levy based on ability to pay, and is appropriately used to support general services that cannot be attributed to specific parcels of property. With this in mind, we note that in driving through the rural areas we observed many well-built, substantial houses that were clearly more valuable than the traditional rondavell (a rather small, round structure with a thatched roof) of the poor living in rural areas. Because these more substantial houses are located on traditional lands in the rural areas, they are not included on the municipal property tax roll. Thus, the administration of the municipal property tax is not consistent with the ability-to-pay principle of taxation. A first step in strengthening the local property tax base in the rural areas would be to find a way to bring the most valuable properties onto the tax rolls. This will become more important as the new national Municipal Property Rates law is implemented, for structures will have to be taxed, along with land.

One approach to bringing more properties onto the tax rolls, at relatively little cost to the municipality, is to adopt some form of area-based property taxation, such as those used in several other countries (Bell, Bowman, and Clark 2005, pp. 4-58). While an area-based property tax does not score well on the equity criterion for evaluating a potential revenue source, it does score well on administrative simplicity and does get people used to the idea of paying a property tax. Although an area-based tax does not score high on equity grounds, it could be considered as a first step in bringing tribal areas, where there is no real estate market, into the tax base. Arthur Lynn has argued that as an economy develops the property tax moves from being a specific tax to being an *ad valorem* tax, and from being a tax on land to being a tax on all or most types of property. Eventually, the tax is reduced to one on realty only (Lynn 1969, p. 16).

The current view of Thulamela, the local municipality in our study area, is that properties in tribal areas are not likely to come into the tax base as long as they are in tribal areas – i.e., not until the areas where they are located are proclaimed. This involves surveying individual parcels

¹³ Thulamela uses C.P. deLeeuw in Polokwane (formerly Pietersburg) for valuation services.

and issuing deeds; once this is done, the land ceases to be under tribal authority. Under the old (apartheid) government, proclaiming lands was said to have been easy, in part because the tribal chiefs were part of the government. The new government structures have made proclaiming controversial because it reduces the range of the chiefs' authority. With increased controversy, proclaiming land areas has come to be a lengthy process (up to two years, we were told), and one that is not used much.

We were told that when a municipal property rates policy has to be drawn up, under the terms of the new national property tax legislation, the tribal areas would be included in the plan, but then excluded, either on the basis of low values or differential services. The low-value rationale, however, seems inappropriate, since many of the properties in the tribal areas are said to have land values well above the R20,000 thought to be the upper level of relief. When conversion to a tax on both improvements and land values occurs (also provided for by the new national legislation) it will be even harder to justify not taxing the more substantial residences. With regard to the service differentials rationale, it is noted that the unproclaimed areas within the municipality get only road blading (grading of dirt roads) and water supply from the local municipality. Although some homes have water piped into them and are on meters, most do not; residents of the latter must go to standpipes, which often are not very numerous or close, as noted above. The lower levels of services would justify lower taxes, although probably not zero taxes for all properties in the tribal areas. Also, as services are improved, to be consistent with this rationale, the tax would need to be adjusted to reflect the changes.

TRADITIONAL AUTHORITIES IN THE STUDY AREA

Finally, we talked to Chief Manganyi, head of the Mavemba tribal authority. The chief has responsibility for 10 villages, including Makumeke, the site of the workshop described below. The traditional authority does very little in the way of providing municipal-type services. The primary responsibility of the chief is the allocation of residential housing sites and the management of common pasturelands. The traditional authority is also involved in enforcing cultural traditions through a tribal court system that hears civil cases. Funding for the traditional authority comes primarily from the provincial government. In addition, the traditional authority collects money from fines from civil cases, payments for authority to have a fruit stand, payment for some development activities (e.g., irrigation projects), and for granting Permissions to Occupy residential sites.

In the case of residential sites, a person typically approaches the chief for permission to occupy the requested site. If the chief determines the person is part of his tribe and has a right to occupy the land, he may allocate a residential site to the person. For this, the person makes a one-time payment to the traditional authority and the amount is negotiated, in part to reflect the relative desirability of the site. This one-time fee could be as high as 1,000 rands. Once approval is obtained from the chief, the person takes the completed Permission to Occupy form (form GK-56) to the municipal authority, which registers the site in the person's name. The municipality basically rubber-stamps the decisions of the chief. Permission to Occupy cannot be taken away, if the holder abides by the conditions agreed to when it was granted. One is to commence to build a structure within six months, and another is to occupy the land. Violation of

the terms can result in the land being reallocated. This does not often happen, and the chief stated that there were about 2,000 people waiting to obtain Permissions to Occupy at the time of our visit in 2004.

For agricultural land suitable for commercial activities, the chief may make the initial allocation of land, but the occupant can then petition to obtain title deed to the land, which privatizes the land. Again, a payment may be made to the chief for his approval. The chief maintains control over some marginal pasturelands that are used to graze the cattle and goats of the community, but most agricultural land is now private.

At this time, the traditional authority does not pay property taxes to the local municipality. The future is uncertain, however, since the local municipality will be formulating a property rates policy, as required by the new national property tax legislation.

THE WORKSHOP

The challenge in rural areas with extensive traditional tribal lands is to develop a property rates policy, as required by new national property tax legislation, dealing with traditional tribal lands, which are not currently part of the tax base.

As already noted, this study explores an approach that could determine the value for tax purposes of traditional tribal lands held in common, thus enabling such lands to become part of the municipal tax base, without undermining the traditional tribal land tenure system. It is a bottom-up approach that works with residents in the community to identify attributes of land that affect its desirability. Once those attributes are identified, they can be ranked and used to evaluate the relative attractiveness of various parcels. A final step would apply those attributes to other erven (parcels) in the community that are valued on the basis of market information, and from this determine the relative contributions of such attributes to market value. The first step in this process is to organize a community workshop to identify and rank the attributes of land that contribute to its attractiveness, or value. We scheduled such a workshop for March 12, 2004.

In preparation for the March 12, 2004, workshop, a team visited the area. Tinyiko Chauke and Benny Makena spent four days in the region in late February. They visited Thulamela municipality, the traditional authority, and four villages: Mavambe, Makumeke, Gandlanani, and Jerome. They met with the key stakeholders in each village, including the headman of Makumeke, to prepare the local community for our visit and workshop. The headman stressed that our visit would be part of a research effort – that we are not part of the government, and thus are neither involved with implementing a property tax in the tribal areas nor able to assist them in their dealings with government. The stakeholders were told that new national law envisions extending the property tax into all parts of South Africa, including tribal authority areas, and that our interest is in finding a way to bring such areas into the tax base with minimal disruption to traditional land tenure systems. Twenty-five key stakeholders from the four villages were invited to attend the March 12 workshop. Actual attendance reached 37 adults and two children, although some of these were not present at the beginning of the workshop. In

addition, five or six women from the village were involved in preparing and serving the meal for workshop participants, but they did not participate in workshop deliberations.

David Solomon, a professor at the University of the Witwatersrand (Wits) conducted the workshop using a modified Delphi Technique, which included the following steps:

- Identify the attributes of land that they feel make land desirable. Although our intent was to establish a list of criteria to be used in valuing land, our focus was on desirability – what makes land “good” – rather than on value, because of the lack of a real estate market in the tribal areas.
- Once the criteria were agreed upon, rank them as to their relative importance.
- Rate five specific plots of land on the basis of the top three criteria. A clear ranking emerged, and the ranking seemed to be accepted by the participants. The ability to establish relative desirability is an important step, but it falls short of establishing values that can be used as the base of the property tax. That step remains to be taken.

Determining criteria of goodness (value). In the first part of the workshop, each participant was given three pieces of paper (roughly 5x7 inches, and with self-adhesive backs) and was asked to write on each piece of paper some attribute of land that the person felt made land desirable, or good. Because most village residents have to carry their water in from some distance, and water for the fields or garden plots is generally hard to access, it was expected that water would be a primary concern, so this was given as one example of what might make a particular plot of land valuable. Tinyiko Chauke, Benny Makena, and some residents of the villages who understand both English and the local language well talked individually with participants who were unsure of what was sought, and after several minutes everyone seemed to understand what they were to do.

Once they had been filled in, the pieces of paper were collected and stuck on the wall at the front of the room where all could see them. The papers were grouped into categories that were suggested by what was written on the papers. As each paper was posted, David Solomon and Tinyiko Chauke stated what it said and, if there was ambiguity, sought clarification from the contributor; this clarification sometimes was needed to determine whether the idea was the same as that represented by an existing group, or whether it was a new idea. Approximately 90 pieces of paper were collected and posted, and they were grouped under eight general headings, or criteria. To no one’s surprise, the one mentioned most often was access to water. Other headings that included at least 20 pieces of paper were soil quality or fertility, and location out of the reach of flooding and where drainage following a rain is good. Transport, or location near roads, is a criterion identified by several participants, as well. Other criteria that emerged are grass; trees; plowing of the soil; and services (school, clinic, and clean water were listed). After establishing these eight groups as separate criteria, workshop participants were given the chance to determine whether anything else important had been omitted, or if any changes seemed appropriate. No changes were made.

Ranking the criteria. Having established the criteria, the next step was to rank them through a separate voting process. Because eight criteria had been identified, each participant was given eight self-stick red dots, about a half-inch in diameter. They were told they were to

vote for the criteria they thought were most important, that they could divide the red dots in any way they wished among the eight criteria, and that they should use more dots for those criteria that they considered more important. The criteria were then considered one at a time, and the dots (votes) collected and stuck on a card at the front of the room labeled for that criterion.

This voting produced different rankings among the criteria than what the number of times each criterion was mentioned in the first stage of the process suggested, underscoring the importance of considering the relative importance of each criterion once the list had been established. Access to water remained the number one criterion, with 91 out of 242 votes.¹⁴ Soil fertility or quality remained strong as well, coming second with 61 votes; however, well-drained soil not prone to flooding, which in the first stage was mentioned about as many times as soil quality, fell to sixth place (14 votes). Conversely, services – mentioned by only three people in the first stage – rose to third place in the voting, with 36 votes. Perhaps initially most people were not thinking in terms of government service availability as making land desirable, but after location near schools, clinics, and clean (drinking) water were put on the list, many clearly decided these are important attributes of the location of a plot of land. The fourth and fifth most important criteria were transport and plowing of soil, each receiving 20 votes. Plowing is another dimension of soil quality, concerned with the ability to plow land easily. The other two criteria listed – grass and trees – received no votes in this round. Thus, the top three criteria that emerged are access to water, soil quality, and services.

Rating specific plots using the criteria. After gaining agreement as to the three most important criteria in determining the desirability of plots of land, workshop participants were told that the criteria would be used to evaluate several specific plots in their villages. Five volunteers briefly described their own plots of land. For each, other workshop participants were asked by David Solomon and Tinyiko Chauke if they were familiar with the plot described; there seemed to be general familiarity, which satisfies the condition of using the ranking procedure in a knowledgeable group. Three of the plots were agricultural in character, and two were residential; it is important to note, though, that residential plots routinely are also used for gardens, and the gardens often are rather substantial areas.

The letters O, Z, T, J, and C were used to identify the five properties; the first three are agricultural plots and the last two are residential. Because water was the number one criterion for determining land desirability, participants were given a larger number of votes (paper dots, as before) for it than for the other two criteria. Specifically, participants were given eight dots and were told that they could allocate them among the five plots in any way they saw fit, with more dots going to plots that were better in terms of water access. For the other two criteria, a total of four votes were allotted to each participant. The instructions were the same as before, except this time the votes could be divided between two criteria, as well as among the five plots. These votes were taken by a show of hands, due to shortness of both time and paper dots; this probably compromised, to some extent, the accuracy of the counts. The results are shown in the table below.

¹⁴ Note that counting the dots quickly may have allowed some minor errors to be made; David kept the sheets that had been at the front of the room, and said a more precise count could be made later.

Ranking of Five Plots on the Basis of Three Top Criteria, March 12, 2004 Workshop				
Plot	Criteria			Total
	M (mati; water)	N (nona; soil)	K (services)	
O	16	9	0	25
Z	146	35	0	181
T	24	29	0	53
J	59	12	10	81
C	31	12	0	43
Total	276	97	10	383

These results were displayed and explained to the workshop participants, and discussed briefly. There seemed to be general acceptance of their validity.

The next table displays the characteristics of these five properties, in terms of these criteria. It was developed after the workshop, and is part of the basis on which further efforts can build, ultimately to develop values for properties with varying characteristics.

Conclusion. We are satisfied that the method used is workable. The expert group assembled, despite their relative lack of sophistication, was able to generate a quite credible set of criteria for determining value, to rank these criteria, and to apply them consistently to a sample of properties. The illiteracy of some participants was not a problem. After presenting these results in 2005 to a South African group, several of the professional valuers present expressed surprise that the rural workshop participants, with no background in property valuation or even experience with buying and selling real estate, had identified in a short time what the valuers said are the principal drivers of value. Some further stated that the workshop’s outcome suggested to them that the approach, common in rural areas, of using a single value per hectare or some other unit of area is not sufficiently precise.

Features of the Five Plots Evaluated in Makumeke Workshop					
Criteria	Plot O	Plot Z	Plot T	Plot J	Plot C
Water	Far away	Next to river	Next to river	good	Poor
Soil fertility	Poor	Good	Good	Fair	Poor
Type of soil	Rocky soil,	Loam	Loam	Loam	Clay
Plowing	Difficult	Easy	Easy	Difficult	Hard
Services	None	None	None	Fair	None
Transport	Far	Good access	Poor	Good	Fair
Trees	Bushes	Fruit trees	None	None	None
Equipment	No	Pumping	None	None	None
<i>Exhibits: Map reference, scores on criteria, plot use, and plot user</i>					
Score	25	181	53	81	43
Map reference	Makumeke Map 23B	Makumeke Map 23B	Makumeke Map 23B	Jerome Map 24D	Makumeke 23D
Use	Agricultural Mielies	Agricultural Fruit trees, vegetables Mielies	Agricultural Vegetables, Mielies	Residential Mielies	Residential Mielies
User	Mr. Simango	Mr. Minyuku	Mr. Masonganyi	Mrs. Maboko	Mr. Samango

Participants were able to contribute to the outcome anonymously, in ways that were not dominated by local leaders or opinion makers. The outcome was a result of a range of inputs, not of the judgment of a single person. The anonymity, and the technical nature of the process, allowed inputs to be given freely and prevented domination by leaders or opinion makers.

A clear consensus was generated, but it is not the end result needed. The ability to establish relative desirability is an important step, but it falls short of establishing values that can be used as the base of the property tax. That next step remains to be taken, but the outcome of the workshop provides a base on which to build to that objective.

SUMMING UP AND LOOKING AHEAD

For equity and the long-term acceptance of the property tax as a legitimate revenue source for local government, each of the reconfigured municipal governments organized at the end of 2000 must move as quickly as possible to create a uniform system of property taxation within its boundaries. Prior to implementation of national legislation adopted in 2004 governing property taxation, this has required harmonizing existing property tax structures – i.e., for all parts of the municipality, defining the tax base in the same manner (site only, or site and improvements), valuing that base as of the same date, and applying the same rate, or structure of rates. Following implementation of the new national law, localities no longer will have the choice of taxing only land or taxing land at a higher rate than improvements, so this presents another set of problems for localities that have been using either site rating or composite rating. That legislation also will require that each municipality must prepare a property tax plan to establish a single set of policies applicable throughout the municipality's territory concerning the property tax rate or structure of rates, exemptions, and relief measures. This may be the catalyst that will finally bring some action on the decisions that must be made.

Both before and after implementation of the national legislation, some changes may cause very sizeable changes in tax burdens for some areas or property types. In such cases, a phase-in period may be desirable, in part because large, abrupt changes may cause taxpayer discontent. However, this concern must be balanced against the need for consistent treatment of all parts of the municipality, so any phase-in should be relatively brief – probably more on the order of three years than 10 years. A creative approach to phasing in new values is discussed in van Ryneveld and Parker (2002).

When parts of the municipal unit have had no property markets and no property tax, there is no way to move very quickly to a truly uniform tax system throughout the area. The tasks entailed have been noted; accomplishing them takes time. A robust property tax requires robust property markets, so markets will have to develop where there have been none. A large portion of the South African population has not been accustomed to private property ownership. Extending markets to new areas in this setting is different from opening up a new area to development where everyone is accustomed to and comfortable with the institution of private property ownership. The right to own property has been extended to those previously denied this right in South Africa, but communal land tenure remains in the tribal areas. As long as this is the

case, property markets will not develop to inform the valuation process. Even in the former BLAs in urban areas, where people do own – and can buy and sell – real estate, true market transactions have been slow to develop. Even though ownership changes occur, these often have been at very low prices and without recording the sale and the change of ownership.

In this context, it is important to note the conclusion reached by Malme and Youngman as they looked at property tax reform in Central and Eastern Europe: “. . . property taxation has taken on new importance, serving not only as a revenue instrument, but also as an adjunct to decentralization and privatization” (Malme and Youngman, 2001, 1). Efforts to extend property taxes into areas previously outside the tax have helped create new ownership arrangements that define property rights and assign them to the families living on the plots of land – a necessary step to the ultimate development of real estate markets. Similarly, other initiatives undertaken to extend the property tax have strengthened local administrative and organizational efforts. These non-fiscal consequences of implementing a property tax in previously untaxed areas should not be ignored.

Developing Market Values

Although local governments seemingly are dependent upon the private sector for developing real estate markets where none have existed, there are some things they can do to help the process along. In these areas, there is a need to develop (1) the *notion* of market value, (2) some feeling as to its *level*, and (3) a system for maintaining records of ownership. Notions of the level of market value may be informed by assessed values. Some private valuers in South Africa have suggested to us that this is occurring – that they are aware of instances in which people negotiating a sales price look to see what the government thinks the value is. This is likely to be particularly so for those unaccustomed to the institution of private property, once they have begun to think in terms of the existence of a “typical” or “appropriate” value – i.e., a market value.

If this is the case, then the very low, largely arbitrary assessed values found in several of the areas studied may retard the development of good property markets. In some newly taxable neighborhoods, the administratively determined “sales” prices and assessed values produced very low assessment-sales ratios. It is difficult to defend an assessed value being only 50 percent, or some other small fraction, of a subsidized sales price.

To help overcome this problem, local governments should make a very serious effort to develop assessed values for tax purposes that are reasonable estimates of market values. In part, this may entail some loosening of the notion of comparability among properties, being open to looking beyond the borders of the area where the properties to be valued are located. Some private valuers under contract to develop assessed values for newly taxable areas have told us they have, in fact, done this. We also have found this practice in some U.S. cities, particularly in estimating land values where there have been few land sales within the city (Bell and Bowman 2006). It involves looking to other areas for evidence on how different property characteristics affect market value, and – through use of informed judgment – applying that information to the newly taxable areas. At least one such valuer suggested that this is a first, logical step in what probably must be an iterative process in developing markets and a sense of market values. In

other words, the first estimate of market value very probably will not be right on target, but it should be in the right ballpark. Then, prospective buyers and sellers will take this information into consideration, along with other, perhaps more local, considerations, and market transactions will move values somewhat to more appropriate and sustainable levels. There is some logic to this argument.

Once reasonable estimates of market value have been developed for the tax rolls, they should be publicized, to help get the public thinking in terms of market prices. This probably should go beyond simply making the tax rolls public records, by making access to those records convenient. This could be part of a public education program, which might also include information about market trends.

To close the loop and make sales prices useful in maintaining the tax roll, the sales that occur must be recorded. The need for this – the legal requirement – also would be part of the public education program. The transfer tax in South Africa provides a mechanism for collecting information on sales prices, and tax penalties can provide the incentive to report prices accurately. However, the South African tax rate is rather high, which tends to discourage reporting sales, or at least reporting them accurately. When sales are detected that have not been properly recorded, requirements should be enforced and penalties imposed. If the seller has left the area and cannot be reached, it might be appropriate to assess the penalties against the buyer. If this policy were set and publicized, it could be another factor in helping to assure proper reporting, as prospective buyers would seek assurance that they would not be liable for unpaid taxes plus penalties.

For now, until robust property markets develop and property tax assessment systems are put in place that can capture the market-generated information effectively, there remains the problem of how to value the many newly taxable properties. There also is the fact that many new property owners have little income. Property tax relief is provided by many South African localities now (see Bowman 2002b), and it is likely to be part of the local property tax policy (“rates”) plans required under new national legislation. These two considerations can be brought together, to provide relief to those least able to pay a property tax while also reducing the urgency of developing accurate estimates of market value for tax rolls. Specifically, property tax relief for residential property could take the form of an exemption of the first several thousand rands of value, perhaps R20,000.¹⁵ This would be the full value of many of the homes in question, and would make their accurate near-term valuation less important, since they would not determine current tax obligations. It also would target more relief to those likely to be most in need of that relief, at a lower level of foregone tax revenue than under such alternatives as the now-common uniform percentage tax reduction. It still would be important to attempt to develop accurate estimates of market value for the tax rolls, but this relief approach could dovetail well with the fact that it is going to take time to be able to develop such values for all properties.

¹⁵ For a discussion of current relief programs as well as this alternative, see Bowman 2002b. A table comparing the level of relief provided for homes of different values under a 25 percent homestead exemption and the alternative of exempting the first R20,000 is provided at p. 154.

Working with non-market values: An interim step?

The preceding comments were predicated on the assumption that market values must be estimated for newly taxable areas, as accurately as possible, because the tax in these areas must fit with the value-based tax systems long in place in white, urbanized areas. We have noted, however, the desirability of phasing in some changes in tax liability, particularly when they are large. It might also be appropriate to phase in the objective of true market-value assessments, because of the lack of any – or at least meaningful – property market in some of these areas.

The workshop in the tribal area of Limpopo succeeded in having area residents identify primary determinants of value and apply them in a rough fashion to a handful of plots of land in their villages. This falls short of placing market values on the properties, but it suggests that an area-based tax could be adopted as an interim measure, with the areas weighted to reflect the influence of important attributes of the properties, such as nearness to water and public services. Such systems are found in many developing and transitional countries, and even advanced market economies often went through a stage, in their early development, in which the property tax was a specific tax rather than an ad valorem levy. Workshops or other arrangements to involve the local citizens in the way that the Limpopo workshop did could help promote acceptance of property taxation and understanding of different tax liabilities for different properties.

A key advantage of a modified area-based property tax in the early stages of moving newly taxable areas toward market-value taxation is its lower need for data and lower administrative cost, when compared to market-value assessments. Such a tax also might be more readily understood in areas where people are not yet accustomed to thinking of the monetary value of real estate and the convention of buying and selling it. Eventually, it will be necessary, for equity, to get everyone on a value-based system. Continued market development will occur where private ownership exists; where communal property ownership continues, assessment procedures must be developed that effectively use market information from other areas to provide reasonable estimates for the communal-tenure areas. Until this situation is realized, however, modified area-based taxes may be at least as equitable as rough estimates of market value based on flawed and incomplete market information.

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