

**International Studies Program
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the Property Tax**

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International Studies Program Andrew Young School of Policy Studies

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*Collection and Enforcement of the Property Tax*¹

Sally Powers

Executive Summary

This is not a paper about how to collect the property tax. Collection of money owed is a profession in its own right and its practitioners will tell you that the same techniques and standards apply no matter who is trying to collect. Rather, this paper is about the importance of incorporating and planning for collection and enforcement of the property tax from the earliest stages of property tax reform.

The term *taxpayer* in this paper refers to the person or other entity (business, partnership, trust, etc.) that receives a property tax bill. The paper discusses planning and legislative issues, and implementation strategies to increase the possibility that the *taxpayer* is truly a tax payer.

Summary conclusions include the following:

- The tax has to be considered fair by the taxpayers
- Taxpayers should view the tax as a benefit to civic life
- Competing taxes and fees should be eliminated, or reduced to the actual cost of delivering the service associated with the charge
- The tax should be affordable by the majority of taxpayers while high enough to stimulate governments to collect it
- There should be coordination of accountability for data collection, valuation, appeal processing, and collection of tax
- The government employees who are charged with the collection and enforcement of the tax must be well trained and supported

¹ Paper prepared for the conference: “Making the Property Tax Work in Developing and Transitional Countries” Andrew Young School of Policy Studies and Lincoln Institute of Land Policy October 15-17, 2006

Developing and Transitional Economies

Typically, where there is private ownership of property and a system of keeping track of who owns what, there is a charge assessed on the property by the government. I am focusing here mostly on transitional economies, where I have the most experience. The term *transitional* implicitly indicates that something (in this case, the economic order) has been in place in the past, that vestiges of the former order remain, and that a new order is being established. This conference concentrates on one aspect of the economic order of countries that are changing from their previous or current economies to a Western style economy with the underpinnings of a democratic political system.

Very many, in fact nearly all, of the countries we have been working in have had some type of property-based tax. The tax was successfully collected, there were sanctions for non-payment of the tax and there was an appeal process for taxpayers who challenged their bills. In some cases the tax is in fact still in place; in others, war and/or political upheaval have left the program in a shambles. This tax will be referred to as the legacy tax, whether it is defunct or is functioning but going to be replaced. The high collection rate of legacy taxes in many cases was based on record keeping and enforcement by entities that may no longer exist or that have had their resources depleted to the point that they are barely existent or non-existent. Nevertheless, institutional memory of a tax that must be paid remains and the transition to the new property tax should not ignore this resource.

Most of the legacy property tax systems share some of the characteristics discussed below:

Land only or building only

In some countries, not only are there separate taxes on land and buildings, there are also separate government agencies responsible for the land tax and the building tax. The emphasis from the West is for a property tax imposed simultaneously on land and all buildings located on the land parcel. The efficiency of this approach is obvious; however, an important issue in some countries is locating the owner of the property. Where land ownership data is in such disarray that that tax billing will be incomplete, then the argument can be made that the pilot property tax be limited to buildings.

If, on the other hand, a strong cadastre exists with complete and up-to-date ownership data, and resources are not available to collect building data, then it may make more sense to start with a land-only property tax. An essential component of the success of the property tax is that it be universal: everyone will be billed on the same basis and everyone has to pay.

Formula driven based on property characteristics

While the formulas applied ensured that charges to taxpayers were consistent, they typically did not afford the taxpayer any opportunity to link the charge with the true

(market) value of the property, thereby depriving the taxpayer of this benchmark for comparison of tax bills.

Formula driven based on occupancy

Property tax that is based on or adjusted for how many people occupy a property reduces the transparency of the property tax system and imposes an extremely high annual maintenance burden on the taxing jurisdiction. Furthermore, it starts to look a lot like the infamous poll tax, one of the most globally unpopular taxes wherever it is imposed.

High reliance on transfer tax

Charges for necessary services such as legal recording of property transfers and ownership changes minimize collection problems; however, high transfer taxes discourage property owners from truthfully recording market value (sale price), which data is essential to establishment of a market value based tax. The transfer tax can be viewed as one of several culprits in the common practice among municipal governments of one-time, event driven fees and charges that are easily collected but discourage investment in a modern property tax system that will generate income from the same properties year after year.

Excessive building permit fees

Excessive building permit fees discourage people from reporting new construction truthfully or at all and so deprive the taxing jurisdiction of the knowledge of what it can tax. Any tax that by its nature encourages avoidance contributes to cynicism regarding payment of that tax or other property related taxes. It is another one-time, event-driven charge that should be limited to the cost to the government for the service provided.

Lack of transparency

This topic was touched upon under the discussion of formula based property taxes. The market value based property tax is also driven by formulas. The difference is that the market value formulas produce values that can be compared to real world market transactions. A key requirement for transparency is making market data available to taxpayers that will enable them to assure themselves of the equity or non-equity of their tax bills compared to those of owners of similar (or dissimilar) properties.

Very low tax rate

In theory, a low tax is more easily collected than one that presents a more serious burden to the taxpayer. A low tax also provides minimal incentive to government entities to collect the tax.

Introducing a Market Based Property Tax – Planning Phase

From the very earliest stages, the collection of the property tax should be included in the considerations presented below.

Who has responsibility for data collection and record keeping

The choices are typically local government, the central government, or some middle government level such as states or counties (USA model) or Oblasts (Russian model). Whichever level will be the beneficiary of the tax should be the level for record keeping and for collection of the tax. Otherwise, the *municipal will* to collect the tax will be deficient. *Municipal will* here refers to the interest of the government, at whatever level, to keep accurate records, issue a complete and transparent tax roll, resolve taxpayer complaints, and collect the tax. A split between the entity assigned to do the leg work to create and maintain the tax roll, and the entity assigned to collect and distribute the tax will inevitably lead to disincentives on both sides. The keeper of records will not have the incentive for accuracy and completeness. The collector of the tax will not be motivated by income for its own programs and will not be as responsive to taxpayer complaints as will be the local government entity.

The issue can be viewed to boil down to accountability. The government entity responsible for collection of the tax should at the same time be the entity responsible to the taxpayers for a complete and fair system of taxation.

Decisions about the database to be established

The lead team for establishing a modern property tax conducts on-site research to determine whether there is (1) an existing building-based database that can be imported into new software, or (2) a strong cadastral agency whose records can be adapted for a modern property tax, or (3) a need to recollect building and taxpayer data in the field. Before making a final decision about which route to take, the team should investigate the accuracy and completeness of ownership information in both the building-based tax systems and the cadastral records. Database design and data collection should begin with a system of linking taxpayers and property within the same database.

Who is the taxpayer?

Where ownership records are complete and credible, the taxpayer is obviously the owner of the property. However, in countries where war or other trauma has displaced large numbers of people, many developed properties are occupied by people with no legal claim to the property. As has already been stated, the property tax must be all-inclusive to be successful.

Where ownership cannot be readily ascertained or where the owner of property cannot get access to the property, identifying the taxpayer as the user/occupier of the property should be considered. The downside of this approach is that people who are occupying

property without legal sanction, and who do not expect to gain title, will not pay the tax. Ideally, the property tax would be introduced in conjunction with an amnesty program to encourage property owners to register property and illegal construction. The reality is, this concurrence is not very common.

Computer software to implement the tax

The entity to be responsible for collection of the property tax should be supported by software that integrates billing and collection of the tax with property and owner data, data maintenance, valuation, and processing of appeals. The delivery and support of software should match the decision that has been made as to who is responsible for implementing the tax. If the decision has been in favor of decentralization, it is better that there still be central support and oversight of the local authorities to ensure that the tax be universally implemented. Central support should include specifying and developing, or purchasing, database software that will support all requirements for a successful property tax, including collection and enforcement of the tax. The obvious reason for this is the enormous impracticality of expecting local jurisdictions to raise the funds and locate the necessary expertise to successfully accomplish this. Plans for purchase, distribution, networking, training in its use, and support of property tax software have to be in place before data collection (whether data conversion or field collection) gets underway.

The power of the lien on the property was discussed under legislation. Computer software supporting the property tax must have the ability to track billing and collection year after year if the lien is to be successfully enforced.

Public Information Campaign

Of course, the public information campaign will accentuate the positive aspects of the property tax, which, if the decision has been decentralization, means more money for local authorities to enhance the municipal environment. A positive and widespread campaign should be explanatory about the entire process. Where field collection of data is being implemented, people should know why data collectors have entered their property and what to expect. While the first effort of the public information campaign should be to encourage cooperation with the data collection process, there should also be emphasis that taxpayers (whether owners or occupants) should expect to pay the tax. Once legislation is in place, information should be made available to taxpayers that explains their obligation to pay and what happens if they don't pay. The first tax bills issued under the new program should include easily read, comprehensive information about not only the valuation and appeal processes, but also the legal basis of the tax and its collection.

Introducing a Market Based Property Tax – Legislation

Typically, as the implementers of the property tax are going through the process of making decisions about the issues discussed above, property tax legislation is being drafted and support for it is being sought among the politicians who must pass the legislation. Not only should reformers work to keep political decision makers informed of the plans for the tax, they should also feel out what is tolerable to the legislators. This is especially sensitive in the area of collection of the tax.

Crucial points of property tax legislation where enforcement is concerned are discussed below. Legislative actions have to be coordinated with the planning decisions discussed in the previous section of this paper.

The tax is a lien on the property

This is the basic premise of the property tax and it is universally recognized. Taxpayers who don't pay now will have to pay eventually.

Who is the taxpayer?

This decision should be based on the findings and recommendation of the lead team who investigated existing databases and the currency of records.

Requirement that all property be registered for the tax

Full cooperation with property data collectors and with collection authorities is required for successful implementation of the property tax. The tax can't be collected if the taxpayers are not located. The law should require that all property be registered with the appropriate taxing authority, thereby giving data collectors the legal authority they need to be successful.

The taxpayer ID should also be required with registration of the property. In many countries, the most powerful datum for collection of the tax is the taxpayer's government issued identification number. This ID provides the taxpayer's location (for billing), and links to databases with the taxpayer's income and employment data, as well links to the taxpayer's bank account numbers. Beyond the valuable information about how to locate and bill the taxpayer, this data, if accessed, can be compiled and analyzed to give guidance to taxing authorities about how to fairly set the tax rate so that it is affordable by most of the taxpayers.

Who is going to set the tax rate

The decentralization model has the local entity making its own decision about the tax rate. This follows the Western model of municipal governments that pass annual budgets and set property tax rates that will support these budgets. The property tax in transitional economies will however most typically be a minor contributor, at the outset, to the

municipal coffers. This is due to the historically low rate of taxation on property, to the low incomes of the taxpayers, and to the disinclination of local legislators to burden the voters. Distributions from the central government frequently are the principal support of local operations. Perhaps it is best to view putting the property tax in place as a preparation for future economies that will see increases in property values and in taxpayers' incomes. For this reason, the taxing authority governments should pass their own tax rates, within limits set by legislation. This gives them experience in preparation for the Western model as economic conditions improve.

What limits should exist for the tax rate

As was alluded to above, there should be minimum as well as maximum limits to the tax rate. Until the property tax becomes a significant contributor to local expenses, legislators may tend to minimize the tax from political motivation. Ideally, whoever sets the tax rate should take into consideration both the fiscal needs of the taxing authority and the ability of the local population to pay the tax. Municipal will to collect the tax is stimulated by a balance of enough money to make collection expenses worthwhile, and a belief that the tax is realistically collectible from the population. Setting the tax rate in transitional economies should include analysis of income data about the local population to ensure that the tax is an amount that can realistically be paid by the typical taxpayer.

Who makes spending decisions

We assume that the more visibly tax money is spent on improvements in the quality of civic life, the less likely will be the need to resort to aggressive collection methods. Sending property taxes to the general fund, at whatever government level is logically a bad idea: the fate of the money sent is abstract. Again, the local government level is the likeliest to know what is bugging the local population the most, e.g., a traffic bottleneck caused by a main road in poor repair; school properties in disrepair; lack of public meeting places; long lines for registration for school, license plates, ID cards; etc.

What happens if you don't pay

To be realistically enforceable, property tax legislation has to conform to local mores. Examples of measures that would most definitely ensure collection of the tax if they were enforced include withholding of the following services:

- school registration
- issuance/renewal of driver's licenses
- issuance of annual ID documents
- vehicle license plates
- issuance of passports.

Probably, in most countries, legislators simply will not take away from citizens rights that they view as not directly related to property. Or, if they do, enforcement authorities most

likely will resist enforcing them. And, this philosophy actually does follow Western practices.

Another knotty issue is that in many countries, even where there has been genocide and massive destruction of property in recent memory, the public conscience views the right of families to have a roof over their heads as sacred and it will be extremely difficult to pass legislation that will take the property from them if they don't pay the property tax. Still, the following inclusions in property tax legislation will help to ensure collection of the tax:

Other sanctions

Withholding of property related services if the property tax has not been paid, for example:

- recording of property transfer documents
- issuance of building permits
- government services to the property such as municipally provided water, electricity, and heat

Fees and penalties

These should be set legislatively. The legislation should provide for penalties that are higher than bank interest but not so steep as to make the tax unpayable.

Authority to seize other assets of the taxpayer

The obvious examples are bank accounts, rents receivable, garnishment of wages. Reference to local mores should advise whether to include personal property such as automobiles. Whatever decisions are made, they should be clearly stated in the law.

Taxpayer rights

Legislation should go into detail about the rights of the taxpayer as the government proceeds to collect the tax or seize personal property or other assets for nonpayment of the tax. The scheduling of notices and demands to be sent to delinquent taxpayers should be explicitly laid out in the legislation. If there is to be a right of redemption, this also should be spelled out in the legislation, with rigorous deadlines.

Whom to protect

It has been stressed repeatedly that every taxpayer should receive a tax bill and expect to pay it. Nevertheless, there are situations where the tax should not be assessed, or where taxpayers should not have to pay the full amount of the tax. There are two categories of full or partial exemption of the property tax. One of them has to do with the use of the property, the other with the personal circumstances of the taxpayer. Property uses that qualify for exemption include the obvious and nearly universally exempted in

international property tax practice: government-owned properties, properties of religious organizations, properties of charitable organizations, including NGO's (non government organizations that provide aid and assistance in developing and transitional economies), educational institutions, etc. Property tax legislation should definitively state that the tax will be imposed and must be paid universally, with the exception of taxpayers who are expressly exempted by the legislation.

The more problematic case is that of taxpayers who genuinely do not have the money to pay. If these taxpayers are given the same treatment as taxpayers who can pay but are evasive, again, the system will be popularly viewed as unfair. First of all, as discussed above, tax rates should be set that are not confiscatory. Then, exemption from the tax due to the personal financial circumstances of the taxpayer should be specific, for example:

- pensioners whose incomes are not sufficient to pay the tax
- social welfare cases
- other taxpayers who can submit adequate information (income tax return being the best) to support their claims

In the last case above, income limits should be identified in the legislation, not numerically, but by reference to qualification requirements for social welfare or other income assistance programs supported by the government.

Authority to collect and enforce the tax

Beyond the lien on the property, property tax legislation should give the government entities entrusted with collection of the tax all the resources that are legally available and politically realistic in the country where the tax is being introduced. Examples include the following:

- confiscation of funds from bank accounts
- confiscation of funds from pay checks: this is especially powerful in the case of government employees, employees of government owned enterprises, employees of governments providing international assistance to the country, and NGO's
- privatization: requirement that the buyer of a government owned property pay all outstanding property taxes
 - ensures payment of current property tax
 - gives buyers the message that the tax must be paid

Implementation Phase I: Data collection

Collection of taxpayer data should be viewed as equally important as property data. If property data is to be collected in the field, this provides further opportunity to verify and correct taxpayer information, including government identification number and mailing address data. Involvement of the taxpayer in all phases of implementation of the modern property tax cannot be overemphasized. Beginning with data collection, if there is field collection of data, the taxpayer (or whomever is on the property at the time) should be

asked to read and sign the data collection form after the data collectors have completed their work.

Implementation Phase II: Billing and Collection

Municipal Will

Incentives to collecting authority

The greatest incentive to the collecting authority is that it keep the money and decide how to spend it. However, since the property tax in its initial stages will probably be quite low, this may not by itself provide sufficient incentive for the collecting authority to invest its resources in collection activities. Further incentive may be required. Where municipal will exists in the central authority, a further incentive to be considered is a central grant bonus to local authorities, calculated based on the collection of the property tax.

Disincentives to collecting authority

Where the tax rate is set by locally elected legislators, there is frequently the temptation among local politicians to keep the tax rate low and to deemphasize its collection. A legislatively established minimum tax rate will help to limit this temptation.

Another disincentive to the collecting authority is the easy money it may currently be collecting from transfer taxes and a multiplicity of event-triggered taxes and fees relating to property. A requirement for certification, or allowing, taxing jurisdictions to assess and collect the property tax should be reduction of other property related fees and charges to actual costs to the jurisdiction of providing the service.

Resources for collectors of the tax

Training and coaching

Before the tax bills are printed and distributed, employees of the collecting authority should be hired and trained to collect the tax. Training people to collect money involves more than teaching them how to do so within the existing legal framework. Just as the municipal will to collect the tax must exist, so also must the tax collectors believe in their mission and understand it in the context of a universal, fair, and transparent tax that exists for the civic good.

Tax collectors have to prioritize their collection efforts to be effective. Pursuing taxpayers who have no assets with the same intensity as businesses and individuals with substantial assets overburdens the collector. New tax collectors need to be taught and provided guidelines for setting priorities. All this requires training, coaching and affirmative support from their employer, the taxing authority. Where the employees who

are assigned to collect the tax have no previous collection experience--and this is quite likely where a decentralized approach to the property tax is replacing a central tax--coaching and mentoring will be required after training as they receive and get to work on their initial assignments. If the decentralized property tax model is to be implemented, regional collection supervisors employed by the central authority should be considered. They would have several functions: monitor and maintain professional standards relating to tax collection, require local collectors to provide performance data, and serve as mentors and advisors to the local tax collectors.

The tax collectors will also need mentoring on individual cases as they learn to independently decide on priorities. It is highly recommended that tax collection experts who are part of the team of advisors tasked with introducing a modern property tax provide more than training, software specification, creation of forms, establishment of procedures, etc. They should continue to be available to coach the tax collectors and teach the senior collectors and/or regional supervisors to do the same.

Software

The tax collectors also have to be supported by software that assists them to organize and track their efforts, and to comply with the law. The series of notices and demands that must precede confiscation of any type of property should be in the legislation and in the software. The software should assist, and even prompt and require the tax collector to keep complete records on taxpayer contacts and communications: written, phone, and interview. Where attachment to bank accounts or assets such as rent receivables are included in the legislation, the software should generate the legal notices and forms to be sent to banks and tenants.

The taxing/collecting authority must have software that can reliably provide tax payment data to the government agencies, including the courts, that are entrusted with enforcement in the above transactions.

Agency infrastructure

Tax collectors should be provided the obvious, necessary equipment and resources: phone, transportation, a well organized and supplied office environment and filing system. While the importance of software driven organization and documentation has been stressed, the collector will also need a good system for storage and reliable retrieval of hard copy documents bearing the required signatures and stamps.

Central support with national and regional institutions

Whether the taxing and collecting authority is central, regional, or local, it the central government that has the greatest influence over banks and large government-owned or regulated companies. Local authorities should not have to march from branch to branch of banks to get cooperation. The requirement to cooperate should come from the central offices in the country. High level meetings should be held between central government

officials and should be held with public companies for two reasons: first, these companies have most likely paid some type of property tax in the past, actually have a budget line for such a tax, and will probably pay if the extra effort is made by the government. Secondly, these companies are large employers, and if the legislation supports garnishment of wages, their payrolls are a resource for collection of the tax.

In most cases it is the central government that sets policies and requirements for privatization of government owned enterprises. The country is transferring its wealth and should ensure that privatized properties will make the same proportional contributions to the economy as other properties across all taxing authorities. Buyers should be required to pay some minimum amount or all the outstanding property taxes that have been assessed on the property and unpaid. Better yet, the privatization agency should be funded to keep property taxes current. At any rate no property of the government should be transferred to private ownership without sending the loud and clear message that taxes will be assessed and collected.

Conclusions

The fact that the tax must be collected should inform all the phases of property tax introduction or reform. Considerations and choices have been identified that should be part of the planning, legislative, automation, and data collection phases, and finally, implementation of the modern property tax.

The tax has to be viewed as fair by the taxpayers. Equity of valuation and access to appeal processes have been discussed under other topics at this conference. The collection focus is that the tax must be universally applied to all properties and taxpayers except those specifically exempted by legislation. Every person or entity that is identified in the legislation as a taxpayer must receive a tax bill. Everyone who receives a tax bill should expect to pay it. Incomplete billing and “voluntary” collection of the tax will generate cynicism among taxpayers who will then wait to see if they really have to pay. All taxpayers should be located and treated equally in registration, valuation, appeal processes, and collection of the tax. An incompletely administered and collected tax is non-transparent, inequitable, and increasingly difficult to collect at all.

Taxpayers should view the tax as a benefit to civic life. Strong public information campaigns and transparent spending decisions concerning property tax revenues are crucial to initial implementation of the modern property tax.

Competing taxes and fees should be eliminated, or reduced to the actual cost of the service. The easy money of one-time charges for services should give way to the property tax which, when fully functioning, will provide a predictable, annual revenue source to the taxing authority, upon which long-term plans can be put in place and financed.

The tax should be affordable by the majority of taxpayers while high enough to stimulate governments to collect it. The affordability is obvious. Municipal will is a more complex topic in a democratic political system. The recommendation was for legislative measures that set both minimum and maximum tax rates.

There should be coordination of accountability for data collection, valuation, appeal processing and collection of tax. It is urged that the same level of government should be accountable for all these tasks. The decentralization model has been stressed in this paper, but with central support and enforcement of standards.

The government employees who are charged with the collection of the tax must be well trained and supported. Training goes beyond the how-to's, to confidence building, ensuring that collection employees have all the resources need to collect the tax, software that both supports and drives collection effort, training and mentoring in priority setting.