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## EC62-817D Nebraska Taxes : IV An Evaluation of the Major Taxes

Everett Peterson

Jack Timmons

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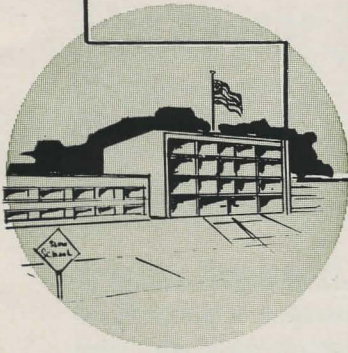
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EC 62-817D

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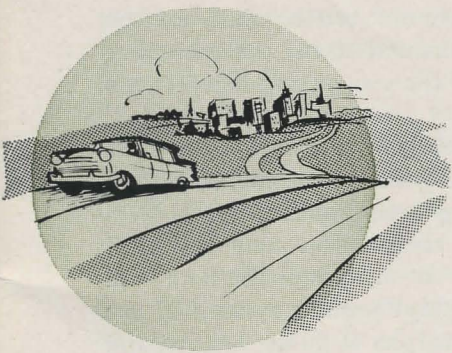
# NEBRASKA TAXES

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## IV

### An Evaluation of the Major Taxes



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UNIVERSITY OF NEBRASKA COLLEGE OF AGRICULTURE  
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Issued November, 1962, 5,000

## Foreword

Nebraska citizens as individuals, as members of organizations, as business managers, as legislators, and as administrators of public institutions and agencies are concerned with important state and local public finance problems.

These problems are: demands for more and better public services; the numbers and types of local governmental units; the increasing costs of state and local government; and the continued reliance upon the property tax for revenue.

Many individuals and groups who recognize these problems have asked for additional information on the possibilities and limitations of alternative courses of action for solving these problems.

The objective of this series of four circulars on state and local public finance in Nebraska is to provide the citizens of the state with factual information on the expenditure and revenue systems of the state and local governments, on basic principles of public finance, and on the advantages and disadvantages of alternative methods of obtaining revenue for public purposes.

The following circulars are included in the series under the general heading *Let's Discuss Nebraska Taxes*:

- EC 62-817A I.     Role of Government in Our Society
- EC 62-817B II.    Public Services: Cost and Financing
- EC 62-817C III.   Basic Principles of Public Finance
- EC 62-817 D IV.   An Evaluation of Major Taxes



**Let's Discuss:**

# **NEBRASKA TAXES**

## **IV. An Evaluation of the Major Taxes**

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Jack D. Timmons, Graduate Assistant, Political Science

### **The Property Tax**

The property tax is an important part of the revenue system of Nebraska's state and local governments. It is, in fact, the most important single source of revenue for local governments, amounting to about 60 percent of the total income and over 90 percent of the tax revenue of counties, municipalities, school districts, and other local units. The state government obtained 18 percent of its income from this tax in the fiscal year 1960-61.

### **Historical Background**

The property tax is the oldest in recorded history. The Bible contains numerous references to taxes on land and livestock. The income base of early nations was mostly land and other tangible property. In nations where agriculture is the primary source of income, the benefits of government are likely to be closely related to the ownership of property.

This tax was the most important source of government revenue when our nation was founded in the late 18th Century. In the early 19th century, property tax levies were extended to urban homes, carriages and merchants' inventories. It finally included most types of property and became known as the general property tax.

A general property tax theoretically applies uniformly to all property. Property is normally classified into three categories for assessment and taxation:

1. Real estate, which includes land and permanent improvements.
2. Tangible personal property, such as merchants' inventories, industrial and business equipment, motor vehicles, farm machinery, livestock, household goods, and personal effects.
3. Intangible personal property, such as stocks, bonds, mortgages, accounts receivable, bank deposits, and cash.



The general property tax has several characteristics which distinguish it from most other types of taxes. The first is the gross property base of the tax. Wealth is the basis of the tax rather than income or expenditures and, as a rule, the taxpayer cannot offset debts against the value of the property. It is sometimes hard to distinguish income from property, since any cash on hand on assessment day is counted as property even though it may be a salary check which has not yet been spent for accumulated living costs.

A second characteristic of the property tax is that it is based on the exchange value or market value of the property. This value is extremely difficult to measure. The result is a serious problem in trying to make the tax meet the test of fairness.

Uniformity apparently was extremely important to the writers of our national and state constitutions. It is invariably included in limitations on the taxing power and evidently was intended to insure impartiality of treatment among various property owners. The generally accepted view today is that a tax must be uniform within various classes of property rather than treating all property the same, or creating different rates for property within the same class.

The original idea of the general property tax was to include all wealth within the tax structure, excluding only a few special items. This concept has been riddled with exceptions which have tended to make the property tax more a real estate tax than a general property tax.

New York and Delaware, for example, exempt all personal property and many other states exempt intangibles, household goods, motor vehicles, farm machinery and other types of personal property. Intangible property is treated in many different ways, ranging from complete exemption or special rates to inclusion in the property tax. The number of special exemptions of real estate has been increasing. With an increasing number of charitable and non-profit organizations escaping the tax, the property tax base is narrowed even further and the tax load on non-exempt property is increased.

The property tax is an impersonal tax. Jurisdiction is normally allotted to the taxing district where the property is situated regardless of where the owner lives. Movable property, with few exceptions, is taxed by the governmental unit classed as the property's "home base" (e.g. motor vehicles, trailer houses, etc.). The security for the tax is the property itself rather than the general assets of the owner. Real property is listed by description rather than by the owner's name. The taxpayer cannot offset debts against the value of the property. No notice is taken of the property a taxpayer owns in other taxing districts in

levying the tax. Each of these factors contribute to the impersonal character of the property tax. The property tax in Europe has often taken on a much more personal character with the wealthy paying higher property tax rates than the lower economic classes.

Another characteristic of the U. S. property tax is the system of local collection and central sharing of the tax. This "multigovernmental" use of the tax has caused a number of problems, since the unit of government which actually collects the tax is often held responsible for high rates which may be the fault of independent school districts or special districts which they do not control. In western Canada, where there are generally no intermediate units between the provinces and the municipalities and where the provinces depend entirely upon non-property tax sources, the local governments have a much broader discretion in selecting the property tax base.

## **The Property Tax in Nebraska**

The property tax was first levied by the territorial auditor in 1854. The territorial legislature adopted the Iowa revenue code in 1857. During the first 50 years of statehood, Nebraska had no other significant source of revenue. Since 1920, its importance has been decreasing as a source of state government revenue, but it remains the main source of revenue for local government.

The present property tax is based on the 1903 Revenue Law, which provided for continued taxation of tangible property and made special provisions for taxing capital stock, shares of banks, railroads, and insurance companies. Subsequent legislation and amendments to the Constitution have provided special methods for assessing cattle and motor vehicles, and special methods of taxing intangibles, domestic corporations, building and loan associations, motor carriers, airline equipment, and grain and seed. Some types of property have been exempt from taxation. These changes have departed significantly from the uniformity concept of property taxation as stated in Article VIII of the Constitution.

## **Operation of the Nebraska Property Tax**

The county assessor is responsible for listing real estate and improvements on the tax rolls and determining their assessed value. The taxpayer is responsible for reporting tangible and intangible personal property, but assessors are required to examine personal property returns. The total value of all property subject to taxation is the base upon which the property tax is levied and collected.



All real and personal property must be valued at market value but assessed at 35% of market value under present law. An exception is intangible personal property, which is assessed and taxed at market value. Real property values are supposed to be determined every year, but in actual practice values are generally carried over from one year to the next unless major improvements or deterioration occur or unless re-evaluation is ordered by the county or state Board of Equalization.

Detailed schedules are provided to county assessors for determining values of motor vehicles, household appliances, farm machinery and equipment, livestock, coin-operated laundry equipment, bowling alley equipment, and industrial earth moving equipment. Uniform depreciation schedules based on book value are provided for pipe line companies, oil and gas well equipment, telephone equipment, REA lines, and business furniture fixtures and equipment. The value of merchants' inventories are determined from the taxpayers' account books and related financial records. These records may be checked against federal income tax returns.

The major types of property exempt from taxation in Nebraska include the property of federal, state, and local governments; the property of educational, religious or charitable institutions not used for financial gain or profit; the property of agricultural and horticultural societies; household goods and personal effects up to \$200 for each family; and domestic real estate mortgages.

The property tax levy is determined by dividing the property tax portion of the fund requests of the various units of government by the total assessed valuation of the taxing district. The County Clerk receives such requests for funds from each unit of local government: county, township, school district, municipalities, or special districts.

The county board of equalization then establishes the mill levies needed to collect the requested funds. For example: If the assessed valuation of a taxing district is \$30 million and a school district needs \$600,000, the mill levy would be 20 mills per \$1 of assessed value or \$20 per \$1,000. In addition to the various levies for local governmental units, state government general fund and special property tax levies are added and collected by the county. Each taxpayer's share of the cost of state and local government which is derived from the property tax is determined by applying these mill levies to the assessed valuation of the taxpayer's property.

The taxpayer may appeal the assessed valuation of his property and, therefore, his share of the cost of the government by going to his County Assessor, County Board of Equalization, District Court, and the State Supreme Court. The County Board of Equalization consists



of the County Board of Supervisors or Commissioners. It equalizes assessments within the county, hears complaints, and can change individual assessments and add property omitted from the tax rolls. The State Board of Equalization and Assessment, consisting of the Governor, Secretary of State, State Auditor, State Treasurer, and Tax Commissioner, equalizes assessments among counties, taxing districts, and classes of property.

After the individual's tax bill has been determined, the County Treasurer may bill him for the amount of personal property taxes due. This is customarily done in Nebraska. The County Treasurer is not required to notify real property owners of the amount of taxes due. Thus, it is the taxpayer's responsibility to find out how much tax he owes and when it is due. Real estate taxes become due January 1, except in Lincoln where the date is the previous December 1. The taxpayer may pay half by the following May 1 and the second half by September 1. These optional dates are April 1 and August 1 in Douglas County.

Unless at least half of the taxes are paid by May 1, the real estate tax becomes delinquent and draws interest at 7 percent per year from the date due. The County Treasurer may sell tax certificates to recover delinquent taxes. These tax sale certificates represent a first lien against the property. The purchaser of such certificates receives the interest. He may obtain a tax deed to the property after three years and title to the property by foreclosing within two years after that. The owner may redeem the property by paying the delinquent taxes plus interest and advertising costs during this five-year period.

Tangible personal property, like real property, is assessed at 35 percent of actual value and taxed at the same rate as real estate within the same taxing district. Personal property taxes are due on November 1 and may be paid in two installments—half by December 1 and the second half by the following July 1. Delinquent personal property taxes also draw interest at 7 percent from the date due. The penalty for failure to report tangible personal property is 50 percent of the amount of taxes due plus interest at 7 percent.

Intangible personal property is taxed at uniform rates throughout the state. Class A intangibles, such as money, savings and checking accounts, accounts receivable, and checks and drafts, are taxed at 2.5 mills of actual value. Class B intangibles, such as stocks, bonds, notes, and other receivables, are taxed at 4 mills of actual value. Federal, state, and local government securities are exempt. Intangibles are given special treatment in an attempt to avoid double taxation when such intangibles represent claims on real property and to encourage more

complete reporting of the ownership of such property. Penalty for failure to report intangibles is 5 times the amount of tax due plus interest at 7 percent. The stock and/or earnings of financial institutions operating in Nebraska get special treatment with rates ranging from 2 mills for credit unions to 12 mills for installment loan companies. Taxes on intangibles are collected by the county treasurer and apportioned one-sixth to the state General Fund, one-sixth to county general funds, one-third to the city or village, and one-third to the school district. Two-thirds goes to the school district if not assessable in a city or village.

In addition to intangibles, certain other classes of property get special treatment under Nebraska property taxes. Public power districts make payments to county treasurers in lieu of property taxes. A tax is imposed on the production, receiving, handling, processing, and transporting of grain and seed. Producers pay 4 mills per bushel on wheat, corn, soybeans, dry beans or flax; 2 mills per bushel on other grain; and 15 mills per hundredweight on seed. Grain and seed dealers pay 15 mills per hundredweight on seeds. First dealers pay 1 mill per bushel on grain handled and each subsequent dealer pays  $\frac{1}{2}$  mill per bushel. Oil and gas wells are assessed on the basis of annual production times average price to determine actual value. Actual value then is multiplied by 35 percent and by the mill levy in the taxing district. Foreign insurance companies pay a tax of 2 percent on the gross amount of premiums and domestic companies pay 0.4 percent.

### **Advantages and Disadvantages of the Property Tax**

Using the criteria or "yardsticks" discussed in EC 62-817C, the property tax has some important advantages as well as some serious disadvantages.

To the individual taxpayer the property tax is a familiar part of the present tax system, and he can see a close relationship between his property tax and the cost of local government services. Activities such as garbage collection, sewage disposal, street and road building, drainage, and irrigation not only provide needed services but increase property values. There is a natural inclination then to expect property to pay much of the cost of those services in the form of a tax. To many property owners, particularly those with productive property, the property tax may be nearly painless. The tax has been anticipated and people paid less for the property than they might have if there had been no tax. If the property tax were to be suddenly removed or significantly reduced, the present owners would receive an unearned "wind-fall" gain.

The property tax also has several advantages to government because



of its flexibility, stability, adequacy, and its adaptability to local administration. The tax is flexible because of the manner in which the mill levies are determined. Once the assessed value of property, the tax base, is established, the mill levy or tax rate can be raised or lowered with relative ease to meet the needs of various units of government.

Except for special levies for state government and mill levy limits set by the legislature, the revenue from the property tax can be varied according to the needs of government. The property tax is stable because the total value of property does not change rapidly from year to year. Property taxes are levied regardless of economic conditions. If the taxpayer cannot pay at the time due, the tax sale certificate can raise needed funds. The property tax meets the test of adequacy because it has a large base made up mostly of real estate and permanent improvements which cannot be removed from the taxing district. It is also a tax which can easily be administered by local units of government such as cities and counties.

A tax system which depends primarily upon the property tax may encourage some types of economic growth, such as the development of businesses and industries which need little tangible property.

Disadvantages of the property tax include problems in its administration, differential treatment among taxpayers, and its regressive nature.

One of the most serious administrative problems is determining actual values of a wide range of classes of property and different types of property within classes. To get an idea of this problem, think of the multitude of items used in modern business, industry, and agriculture, of the differences in types of buildings, equipment, and personal effects, and of variations in quality within rather limited classes.

Another important administrative problem is obtaining complete assessment of all types of property—especially tangible and intangible personal property. It is not too hard to assess the value of land and buildings because these cannot be easily concealed, but assessing household goods, personal effects (cameras, rings, furs, etc.), and intangible property (cash, bonds, stocks, etc.) is difficult because they can easily be concealed and strict enforcement is costly.

A third administrative problem is that many county assessors have neither the experience nor training needed for this extremely difficult task of subjective judgment. They are not paid enough to attract persons with adequate training and, when they are elected as in Nebraska, they may be subject to political pressure.

The exemption of certain types of property and the often hairline distinction between taxable and exempt property create further admin-



istrative complications. Exemptions also reduce the tax base, and the cost of government is shifted to non-exempt properties.

Another problem of interest to the property owner who is left behind, is "tax migration." This problem is particularly serious in cities, where large groups of people move to the suburbs to escape city taxes. Sometimes industries will move outside the city limits if their operations and investments are not too closely tied to the central city. This movement increases the tax load on city residents. Many services such as streets and public entertainment are still used by the people who have moved.

Ownership of property is no longer an accurate measure of ability to pay. As we have shifted from a predominately agricultural to a modern industrialized economy, a larger share of total personal income is derived from non-farm sources which often require very little use of tangible, real, or personal property. As the property tax now operates in Nebraska and other states, some businesses are taxed on production or income, others on total investment, and some virtually not at all.

The property tax also departs from the requirement for impartiality and fairness, since some taxpayers can shift their property taxes while others cannot. In some business, professional, and service occupations, the property tax can be included in the cost of doing business and shifted forward to consumers or backward to suppliers. Other businesses which sell their products on a national market find it difficult to shift the tax in either direction. The farmer, for instance, may be paying the tax on grain elevators through lower grain prices. A home-owner has no way to shift the tax, but the owner of a rental property may be able to shift it to his renter, especially in tight housing areas.

Double taxation can be a problem when the tax applies to both tangible and intangible property. Property which has a debt against it is taxed for full value as real estate and then, in effect, taxed again when the loan agency pays the intangible tax on its assets. The low uniform rate on intangible property in Nebraska is a partial attempt to correct this problem.

The property tax does not meet the requirement of convenience as well as some other tax systems. In the first place the tax is normally paid only once or twice per year and even if tailored to be convenient to the farmer, may fall due at entirely the wrong time of year for many other persons and businesses. The tax is most inconvenient for property which produces long-term income. A forest crop, for instance, may not mature for several years, but the tax is levied annually on the full value of the property.

A valuation problem is the tendency for property to be grouped around an average. Poor farm land tends to be over-valued and good farm land under-valued. This is a problem also in urban areas, particularly when an inexperienced assessor is involved. Even experienced assessors tend to under-evaluate expensive homes and businesses as compared to lower cost property. Under the system of voluntary reporting used in Nebraska and many other states honesty is penalized, since the honest person is going to pay more than the one who under-values his property or does not declare it. This is another example of the shifting of property tax among taxpayers.

The present property tax is regressive. It takes a larger percentage from low income groups than from those with higher income or more ability to pay. Drought, economic conditions, decline in earning power due to old age, sickness, death, etc., can change the average taxpayer's ability to pay. The property tax does not reflect such changes, but continues as a steady, inflexible cost of doing business or of living.

Since the property tax will probably continue to be an important source of revenue for local units of government, regardless of what is done at the state level, these problems should be recognized and efforts to correct them continued. Experience in other states shows that when a general sales or income tax is enacted, there is a tendency to let down in the administration of the property tax. This should be avoided in Nebraska if such alternative sources of revenue are adopted.

## **The General Sales Tax**

### **Introduction**

An alternative to wealth as a basis of taxation is the tax on consumption. There are several different types of consumption tax including the tariff, the sales tax, the manufacturer's tax, the turnover tax and others. The variations within the sales tax category alone are nearly as numerous as the number of units which use the tax. This discussion is primarily concerned with the general retail sales tax as applied in various states, but it might be useful to explain briefly how the special or specific sales tax, the general retail sales tax, and the gross receipts tax differ.

The special sales tax or excise tax applies only to specific items. The tax on liquor, gasoline, cigarettes, and the federal tax on "luxuries" are examples. Every state, as well as the federal government, has a number of these specific taxes and a number of cities have adopted them since World War II. New York City, for example, has sales taxes on cigarettes and on admissions. At present, Nebraska gets



a major part of its revenue from special taxes on cigarettes, liquor, and gasoline.

The general retail sales tax applies to all retail sales and is added to the final retail sale. A percentage of the retail price, usually about 2 or 3 percent, is added to the sale price at the time of purchase. The tax is collected by the retailer and paid monthly or quarterly to the taxing unit. This tax generally has been administered by the states, but an increasing number of large cities are adopting the tax where they can administer it with some degree of efficiency.

The gross receipts tax is similar to the general retail sales tax but applies to the gross sales of a retailer. It is included in the price of the purchased item. It could be applied to the gross sales of manufacturers and wholesalers in addition to retailers. This tax cannot be deducted from the purchaser's Federal income tax because he does not know exactly what tax he is paying. This tax is still paid by the consumer but the cost of compliance to both the consumer and the retailer is considerably less than with the general sales tax.

## **Development of the General Sales Tax**

The retail sales tax has become the most important source of tax revenue for state government in the United States. In 1960, this tax was being used by 34 states and provided about 25 percent of all state government revenues. At least one state, South Dakota, depends almost entirely upon special and general sales taxes for its tax revenue.

The sales tax developed originally as a way to eliminate deficits acquired during the depression of the '30s and to meet a demand for relief from the property tax. Its precedent came from the low-rate taxes on the receipts of business firms applied by many states, essentially business occupation taxes. The first general retail sales tax in the United States was levied by Mississippi in 1932. Thirteen other states followed the next year. Most of the original sales taxes were limited to the period of the financial emergency, but nearly all became permanent. By 1940, 23 states were in the general sales tax field. Since World War II, 11 more have been added. These 34 states include four with gross receipts and gross income taxes, two with general sales taxes. The remainder have retail sales taxes.

One rather difficult problem of the general retail sales tax has been the treatment of out-of-state purchases. If these purchasers are not covered somehow there is an incentive to avoid the tax by purchasing outside the tax district. The *use* tax is an effort to plug this loop-hole and ease the loss to domestic retailers. This tax applies the same rate as the sales tax to all goods purchased out of the state and imported



for use in the state. This has been fairly easy to administer on automobiles, on purchases from large mail order houses, and on goods bought by business firms for taxable uses. For most other purchases, the law is difficult to enforce. The problem is more serious for cities near the border, where buying across the state line is relatively easy.

## Operation of the General Sales Tax

Retail sales are the basis for most general sales taxes in the United States. Retail sales are defined as those which are for consumption rather than for resale. A truly universal general sales tax would cover all sales of goods, services, and materials. This has never been done, for there are always a number of exceptions to the tax.

Usually there is an attempt to exclude producer goods, although the system is not entirely consistent. The practice of limiting the tax only to final *retail* sales is an attempt to prevent double taxation and to remove the tax from producer goods, since most manufacturers and businesses buy their supplies wholesale. This system does not reach all producers, however. Many, like the farmer, buy seed, fertilizer, and other production items in retail outlets. Some states have excluded these items in order to treat all producers as nearly alike as possible.

The retail sales tax is collected by the retailer, who obtains a license every year from the taxing unit. He collects the tax under a system which divides the dollar into parts. Under a 2 percent sales tax the bracket might look this this:

Under 25¢.....	0¢ tax
25¢ to 74¢.....	1¢ tax
75¢ to \$1.25 .....	2¢ tax, etc.

Although the retailer collects the tax upon individual sales and adds it to the purchase price of the item, the retailer pays according to his *gross sales*. Collection costs are higher for a variety store than for a business which makes comparatively few large sales, like an automobile dealer. On the other hand, the variety store has an opportunity to collect more taxes than it has to pay. This can be done if more than half of its sales are in the lower half of each bracket. For example, in the above bracket the sales would have to be in the 25¢-49¢ and 75¢-99¢ ranges in order to collect more than the liability. The dealer may be allowed 1 to 3 percent of the tax revenue for collection costs over and above the excess the bracket system may return to him. This is a fairly common practice in Canada. Most states in the United States do not allow any deduction.

The state general sales tax is fairly easy to administer, providing it is not complicated by many exemptions, since all of the retailers

are tax collectors. Sales tax experience of other states indicates that the cost of administration is about 1 to 1½ percent of the tax revenue collected. This does not include the costs to the retailer or the purchaser.

## A General Sales Tax in Nebraska?

Consideration of a sales tax in Nebraska must take into account the Duis Amendment adopted in 1954, which provides that "when a general sales tax, or an income tax, or a combination of a general sales tax and income tax is adopted . . . the state shall be prohibited from levying a property tax for state purposes."<sup>1</sup> This means that a sales tax, if enacted by itself, would have to replace both general and special state levies from tangible and real property, as well as the state's share of the intangible property tax. Since this amounted to \$28.5 million in 1961, a general sales tax would have to produce at least \$28.5 million in order to replace the property tax. It would have to be flexible enough to change with the revenue needs of the state.

If Nebraska were to apply the general sales tax, the base would include all retail sales in Nebraska except for a few special exemptions. Dr. Edgar Z. Palmer of the College of Business Administration, University of Nebraska, has estimated the following retail sales in Nebraska for 1961.<sup>2</sup>

Type of store or dealer	Omaha and Lincoln	Other cities	Rural counties	State
Million dollars				
Food stores	207	115	199	521
Equipment dealers	77	79	205	361
Automotive dealers	171	112	210	493
Dept., Misc., stores	234	131	177	542
Total	689	437	791	1,917

Food stores include grocery stores, restaurants and retail dairies and bakeries. Equipment dealers include lumber and building materials, hardware, furniture and appliance, and farm implement dealers. Automotive dealers include new auto dealers, used cars, accessories, and gasoline service stations. Department and miscellaneous stores include department and variety stores, clothing stores, sporting goods, book and stationery, liquor, gift and florist shops, and drug stores.

<sup>1</sup> Nebraska, *Session Laws* (1954), c. 5.

<sup>2</sup> Edgar Z. Palmer, "Retail Sales in 1961," *Business in Nebraska*, No. 211, April, 1962.



A truly general retail sales tax in 1961 would have had a base of \$1,917 million. Most states have found several exemptions necessary and desirable. Sales to governmental agencies are exempt. Sales of cigarettes, gasoline, and motor fuel are usually exempt because a fairly high excise tax is already imposed on them. Sales of newspapers are usually exempt. Ten of the 34 states which have a retail sales tax exempt food eaten at home. The actual base for the general retail sales tax then is the total state retail sales minus the exemptions. The following table shows some possible exemptions in the Nebraska retail sales base.

	Total retail sales—\$1,917
Feed (1960) .....	\$154
Seed (1960) .....	15
Fertilizer and lime (1960) .....	32
Gasoline sales (est.) .....	180
Cigarette sales (est.) .....	50
Total exemptions .....	<u>\$ 431</u>
Sales tax base .....	\$1,486

Items used in production are usually purchased at wholesale and would not be subject to a general retail sales tax. However, some agricultural items used in production, such as seed, feed, fertilizer and lime, are purchased at retail. These items would be taxed unless the law exempts them in order to treat farmers the same as other manufacturers.

Several items could be included to increase the tax base. Utilities are taxed by many states. Including services such as hairdressing, barbering, TV repair, auto repair, and medical and dental care also would increase the size of the tax base.

For simplicity, we will use the tax base of \$1,486 million to show how the sales tax might work in Nebraska. A two percent tax on this base would yield almost \$30 million and a three percent tax would yield nearly \$45 million. The two percent rate would replace the state portion of the property tax but leave no room for flexibility. The need for future state expenditures, from general tax sources, may increase faster than the general sales tax base unless Nebraska has a rapid economic growth. A two percent general sales tax would tie state expenditures from general tax sources to the general sales tax base.

A three percent rate would leave about \$15 million for return to local government units or for operation of state mental institutions and hospitals for county mental patients if so desired. It would provide the flexibility needed for possible expansion of state expenditures by shifting the excess from local government units to the state as additional funds are required. Local governments might then have to cut expenditures or increase property tax levies.



## Incidence of the Sales Tax

The incidence of a sales tax falls heaviest on low income groups and large families. This is because the lower income groups spend a larger part of their income on consumer items than do the higher income groups who may save or invest a part of their earnings. A few states have exempted food from the sales tax to equalize partially this tendency. Following are the average general sales tax payments in 1961 in Kentucky and Ohio under a three percent tax. Food was taxed in Kentucky but not in Ohio.

Gross Annual Income	Kentucky Family with Four Children	Ohio All Families
\$ 1,000	\$ 46	\$ 19
2,000	54	26
5,000	108	59
10,000	170	115
Percent of Income		
\$ 1,000	4.6	1.9
2,000	2.7	1.3
5,000	2.2	1.18
10,000	1.7	1.15

Source: Commerce Clearing House, 1962 *U. S. Master Tax Guide*, pp. 47 and 49.

In Kentucky a family with four children and a \$1,000 gross annual income has 4.6 percent of their income taken by a three percent general sales tax. The Ohio family spends less than one-half that. Comparing the two states, we find that the tax is regressive in both states but much less so in Ohio, which exempts food. The revenue is reduced by a considerable margin, however.

## Evaluation of the General Sales Tax

The sales tax has a number of advantages and disadvantages. These may be offset in some specific sales tax systems by exemptions and special administrative procedures but this practice invariably means additional problems of administration and possible tax evasion or avoidance. The advantages and disadvantages below apply to the general retail sales tax without special allowances.

**Advantages**—The sales tax meets the test of *convenience* because of the small tax payment made at one time and the spread of payments over the entire year. Many people who find it difficult to make one payment of \$50 per year or even two payments of \$25 per year do not object to a payment of 15¢ per day. The tax is paid each time a purchase is made and is often associated with the price of the item. The

gross receipts tax is even more painless since it is absorbed directly in the purchase price and is not noticed by the consumer.

Since the tax is paid by the consumer on each purchase and the retailer acts as the tax collector, the general sales tax is *simple* and *certain*. The rate and the liability are easy to understand by the taxpayer. When the tax is a truly general retail sales tax, there is little opportunity for evasion or avoidance.

It is also a *stable* form of revenue, if it covers all types of retail sales, since consumption is relatively consistent over long periods of time even though income will fluctuate. Savings are usually reduced before consumption decreases.

A large tax base of \$1.5 billion or more and a tax rate of three percent would provide an *adequate* revenue for state government needs in Nebraska and some revenue for the local units. The various exemptions and the tax rate are the basic determining factors for providing adequacy in the sales tax.

The sales tax creates greater tax awareness on the part of the taxpayer and obtains the widest possible sharing of the responsibility for supporting government. Not only does the sales tax fall upon all of the residents of a community but it also is paid by the transient population, such as tourists and other persons traveling through the state or remaining for only short periods of time.

Industrial expansion is less affected by a sales tax than by most other taxes since the tax involves the consumer, retailer, and farmer more than it does the manufacturer.

**Disadvantages**—The main disadvantage of the sales tax is its *regressive* nature. The person with a relatively small income and a large family spends all or nearly all of his income—most of it for retail items where the tax is levied. The higher income recipients are able to save more and also make a higher portion of their expenditures for personal services which are normally not reached under the general retail sales tax. The system generally discriminates in favor of saving at all levels since even those persons who have the same income will spend different amounts in sales taxes depending upon the proportion of their income that is spent or saved.

Another objection to the sales tax is that it is a nuisance because it must be computed and paid with each purchase. There is usually objection from both the retailer and the consumer on this point since the American practice has generally not allowed the retailer a percent of the tax for costs of collection.

Administration of the sales tax is not well adapted to local government. Unless the state administers the local sales tax, as in Illinois,



administration is costly and disproportionate to the amount of the tax collected. It is also easier for the consumer to avoid a city sales tax since he may go outside city limits to make his purchases. It is nearly impossible for a city to enforce a use tax upon items other than automobiles and a few other major purchase items. There is some possibility that even a state sales tax may cause a loss of some sales. This would normally apply only to those cities near the border of the state and would depend upon what the tax system and the alternative retail outlets were in the neighboring state.

The sales tax is not a *flexible* tax unless the tax base and rate are large enough to provide a reasonable margin for expanded activity and increasing costs. Small changes in the tax rate will make large changes in the revenue. This makes it difficult to adjust the revenue to actual costs of government. From the standpoint of flexibility the sales tax works best in conjunction with the property tax which is an excellent residual tax. The Duis Amendment prohibits this flexibility.

One of the most difficult problems in the general retail sales tax is in defining just what is a retail sale. This introduces all of the problems mentioned previously in trying to adjust the tax so it treats all producers the same unless specifically intended to discriminate. The equity problem is a most difficult aspect of administration and construction of all taxes. The sales tax is particularly difficult since a truly general sales tax system would have unequal effects on many businesses and individuals. Any attempt to adjust the exemptions or refunds in order to attain some semblance of equity increases the administrative cost and decreases the tax base. The sales tax is normally used to supplement other tax sources and when it is applied in this way the disadvantages can sometimes be offset by the other taxes used in the system.

## State Income Tax

Thirty-four states and the District of Columbia (New Hampshire taxes only dividends and interest) now use personal income as a source of tax revenue. All of these states except New Hampshire also tax corporate income. Three other states tax corporate income without taxing personal income.

The income tax as a source of state revenue is older than the general sales tax since it was first used prior to the Civil War. Early experience was highly unsuccessful since it was the duty of the local assessors to determine the income of individuals. The first state to successfully apply the income tax was Wisconsin which, in 1911, inaugurated central administration by the state tax office. This process was so successful

that six other states followed suit before 1920. Recent years have shown a decided trend toward use of the sales tax for additional income rather than the income tax. New Jersey (1962) is the first state since 1939 to adopt the personal income tax.

A number of cities have, in recent years, begun taxing income to supplement their revenues and to relieve property of some of the cost of government. This has been one approach to solving the problem of tax migration. Income has normally been taxed at a flat rate at the source of the income, hence cities can obtain some tax revenue from those persons who live in suburban areas but come into the city to work. Philadelphia, Washington, D. C., Toledo, Detroit and St. Louis are examples of cities which have entered the income tax field.

The major consideration for using income as a base for taxation lies in the "ability-to-pay" concept. A person who makes \$10,000 per year has the ability-to-pay at least twice as much in taxes as the person who makes \$5,000. For most people the value of each additional dollar earned is less than the value of the last dollar earned. This means that the higher income groups not only can pay higher taxes but can afford to pay a higher proportion of their income in taxes. A tax which increases in rate as income increases is called a progressive tax.

Income might be defined as the total economic gain of a person during a particular period of time. According to John F. Due this would include:

1. The total amount received from other persons less the expenses involved in gaining this amount;
2. The value of consumption activity enjoyed by the person which does not involve receipt of money or goods from other persons during the period (e.g. rent value of owned home, home produced goods and services, etc.);
3. The increase in the value of assets held during the period (capital gains).<sup>3</sup>

This definition then would include, as income, the total of consumption plus the increase in net wealth.

Actual legislation has been based upon the flow-of-wealth definition which includes only the first item of the above elements. Under this system the tax has applied only to income actually realized during the taxing period. The increase in value of property is only taxed when it is sold and a flow of money takes place. The tax does not include consumption of home produced goods or the use value (rent) of a resident-owned home. A few states have tried to take into consideration

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<sup>3</sup> John F. Due, *Government Finance* (Homewood, Illinois: Richard D. Irwin, Inc., 1959), p. 126.



home produced goods (Wisconsin, for example), but most of the states and the federal government have not. England and Australia have devised means of reaching the income represented by the rental value of owner-occupied homes.

The flow of wealth definition has been adopted by most taxing units because it presents fewer administrative problems than the alternative. There are, however, some inequities involved in this system.

Almost everyone is generally aware of the federal income tax collecting methods. Nearly all wages and salaries are subject to the withholding process whereby the employer withholds the proper amount of tax from each salary payment and sends that amount to the federal government. This method simplifies the administration of the tax and makes it more convenient for the employee. For non-salaried persons, quarterly payments are made on the basis of estimated yearly income. Quarterly declarations and payments are required of all income not subject to withholding in excess of \$200.

The federal income tax system generally has been well administered. All of the enforcement machinery is in operation. Consequently, the most efficient state income tax system is one based in some way upon the federal system. It is easier for state tax administration and also for the individual since a simple transferral of already computed information is all that would be necessary to complete the state tax form. Both a list of the people filing returns and the amounts which they filed can be checked against the federal income tax list. This would result in less evasion of the state tax by not reporting or under reporting.

The personal income tax is a difficult tax to shift to someone else since it is paid by the individual, either directly or indirectly, from his wages or salary. Some states have required withholding from dividends and interest which increases the efficiency of administration and further decreases the possibility of evasion.

An income tax in Nebraska would have to replace the state property tax if it were adopted without the sales tax. It would have to provide a minimum of \$28.5 million (1961).

The total amount of personal income in Nebraska in 1960 was \$2,988 million. The base for the state personal income tax might be any one of several choices, all based upon the federal income tax definition. Those most often used are:

1. Gross personal income.
2. Adjusted gross income, which is gross income minus awards, life and accident insurance benefits, proceeds from the sale of property, and social security retirement benefits (for farmers the figure transferred

from 1040F to 1040; for businessmen the figure transferred from Schedule C to 1040).

3. Taxable income as defined by the Internal Revenue Service which is adjusted gross income minus a personal income exemption of \$600 per taxpayer and dependent and a standard 10 percent deduction or itemized deduction.

4. The federal income tax paid.

In 1959 these possible tax bases in Nebraska were:

	(millions of dollars)
1. Total personal income received.....	2,757
2. Adjusted gross income reported.....	2,085
3. Federal taxable income reported.....	1,097
4. Federal income tax after credits.....	242

To raise about \$40 million annually, the following flat tax rates could be applied:

	(percent)
1. Total personal income received.....	1½
2. Adjusted gross income.....	2
3. Federal taxable income.....	4
4. Federal income tax after credits.....	17

If these rates were applied and \$40 million raised, the first priority would be to replace the state's share of the property tax to operate the state government and to comply with the Duis Amendment. The rest of the revenue could be distributed among local government units, used for operation of the state mental institutions, or in any other way directed by the State Legislature. Another alternative to distributing revenue not needed by state government would be for the legislature to give rate-setting power to the executive branch as is now done with the property tax.

The progressiveness of the tax would depend upon which of the above bases were chosen, what additional exemptions and deductions (if any) were to be applied, and the type of tax rate used. A flat rate on total personal income would be neutral and not progressive at all. On adjusted gross income a flat rate would be only slightly progressive. A flat rate on federal taxable income would be progressive since it excludes \$600 income per person and 10 percent or itemized deductions which are not taxed. A 17 percent flat tax rate on the federal income tax paid would be highly progressive since the federal tax is on a scale from 20 to 91 percent and would be reflected directly in the state tax.

Since the federal tax is 91 percent for the highest bracket many persons may wonder if a 17 percent state tax would bring the tax above 100 percent. This is impossible since state taxes are deducted from the federal taxable income. The higher the state tax the lower the federal taxable income. This is especially important to the person in the 91



percent bracket since each dollar he pays in state taxes reduces his federal tax liability by 91¢. Whether or not the federal income tax is deductible from the state taxable income would depend upon the legislature.

We have been discussing only a flat state income tax rate. It could also be progressive. In other states the progressive rates on taxable income range up to as high as 11 percent in North Dakota and 12 percent in Minnesota.

If the state used adjusted gross income as a base, the legislature could define equitable personal deductions, if any are used. A personal tax deduction might be used rather than an income deduction and give equal treatment to all persons regardless of income. This method is used in Kentucky, Arkansas, Iowa, Minnesota, Wisconsin and New York. Using the income deduction, the person in the 90 percent federal tax bracket has a \$540 tax saving for each \$600 income deduction and the person in the 20 percent bracket has a \$120 tax saving—although he may need the tax deduction more than the person in the 90 percent bracket.

## **Evaluation of the Personal Income Tax**

The main argument for the income tax is that it places the emphasis on those persons with higher income or the ability to pay and is heaviest during a person's high income earning years. When a person is just starting his career, when he is unable to work because of illness, injury or unemployment, and when he has reached retirement and is living on a lower income the tax does not create a heavy obligation for him. When used in conjunction with the property or sales tax, a progressive income tax will offset some of the regressiveness of these taxes.

The income tax is also fairly certain and, if the withholding procedure is used, quite convenient. The tax comes out of the salary before it ever reaches the individual and in small enough amounts so that it does not accumulate into a large liability. The withholding system also increases the certainty of the tax since there are fewer methods of evading or avoiding the tax, at least by wage and salary earners and people receiving interest and dividends.

If the state income tax system is tied to the federal income tax system the administration costs are low since the same persons are liable to both units of government and can check their returns against the other. From the standpoint of government the tax is a productive source of revenue. In 1961 the state income tax produced over \$2 billion for the use of 34 state governments. If the tax is used in conjunction with other taxes it may reduce the rates of the other taxes.

The income tax is one of the best taxes for increasing economic stability. When incomes are high the tax productivity is high and when they drop during periods of economic distress the tax also drops. This is a disadvantage from the standpoint of the balanced budget. The Nebraska Constitution specifically forbids the state government from going into debt. There is a possibility of the state accumulating surpluses during prosperous years which could be used to take up the slack during poor years. This additional money would then go into the economy of the state and the area to help stimulate business. This "pump priming" theory is one proposed primarily for the national government but it would be more effective if supplemented by state cooperation. During the depression of the "Thirties" most state and local governments were tightening up on expenditures and raising taxes. This had a counteracting effect upon the attempt by the federal government to boost the economy.

Among the primary disadvantages to state and local government is the tendency for the tax to respond to economic conditions. This cuts down the stability of the tax and provides a hardship for the unit of government that has no surplus and has strict debt limitations. The tax also is difficult to administer on the local level, although if the state is operating an income tax the local unit can turn the administration over to the state agency.

The steeply graduated tax may result in an uneconomic use of resources. If saving and investment are discouraged by a too high rate on the last dollar of income then the state's economic capacity may be injured and additional work and investment required for economic growth would not take place.

One disadvantage often cited is that the federal government is already taxing income and that the state should not "double tax" this source. However, the federal government also taxes cigarettes, gasoline, liquor, and a number of other items which are taxed by the states at the present time.

The flexibility and adequacy of the income tax depend primarily upon the rates and method of distribution of the tax. With the Duis Amendment, a Nebraska income tax must provide enough revenue to replace the property tax and also give some surplus for adjustment to changing costs and additional demands for services. The tax might be made large enough to allow for redistribution of part of it to the local governments but the state government must retain first priority over that surplus in case they need it for state purposes.



## **Corporate Income Tax**

Many states, and the federal government, levy a corporation tax, usually very similar in administration and rate structure to the personal income tax. The effects of the corporation tax are quite different than those of the personal tax. In the first place the tax on corporate income is always shifted to the stockholder, the producers, the consumer or in some cases the wage earners and potential wage earners. If too high the tax may curtail expansion of business or move it out of the state. This then shifts the tax to the people who worked there or the potential employees of the company.

There is also the argument that the corporation tax is a double tax since it taxes corporation income and then later the personal income tax is levied against dividends received by stockholders.

One major argument in favor of the corporation tax is that it reaches undistributed corporate income which may not be reached by the personal income tax. This tax prevents the company from converting major portions of its profit into expansion and taking advantage of capital gains taxes which are lower than the income tax rate structure for upper level incomes. Another favorable argument is that it taxes some foreign corporations which may not be reached by any other state tax.

## **Grain and Seed Tax**

The grain and seed tax has been of some importance to local governments in Nebraska. This tax is essentially one on production although there are also smaller rates on the distribution of grain and seed. Distribution taxes on this commodity are probably shifted to the producer since the products are on a national market and the price cannot be set by the farmer.

The primary reason for the adoption of the tax was to relieve stored grain and seed from being taxed as property at full value every year in storage. Also important was the contention that many producers harvested and sold their grain during the summer months and thus this property escaped the property tax entirely.

The grain and seed tax and the oil and gas severance tax are the only taxes in the state on production. This creates a unique position for these producers. Why should these commodities be taxed on production and not other farm produce and livestock or the production of manufactured goods? There may be other items which would be more equitably taxed in the same manner.

The revenue from the grain and seed tax is distributed to the vari-

ous state and local subdivisions according to their respective tax levies for the current year. This method of distribution allows for the replacement of the property tax which was formerly levied on grain and seed.

### **Insurance Company Taxes**

The tax on insurance premiums is supported by the arguments that their business role is little different from other businesses and hence they should pay a fair share of the costs of government, although they may not possess a very large amount of real property. This tax is essentially borne by the stockholders and policyholders.

Foreign insurance companies operating within the state pay two percent of their gross premiums into the state general fund. Domestic companies pay 0.4 percent. Fire insurance companies pay an additional tax on premiums—0.5 percent for foreign companies and 0.25 percent for domestic companies. This tax is deposited for use by the State Fire Marshal in state fire prevention activities.

### **Other Taxes**

The property, consumption, and income taxes comprise the heart of most of the tax systems of state and local governments in the United States. However, there are several other taxes which are used. None of these are as important to revenue totals in Nebraska as the property and special sales taxes but they are significant.

The taxes discussed below are by no means all of the remaining taxes levied. There are hundreds of variations within the several hundred communities in the state. For example, the labor tax is still levied in many communities. This provides each adult male, within certain age limits, the choice of working a certain number of days on the streets or paying a set tax to replace him. This tax was used in the early colonial period of this country when money was scarce and many men preferred to work rather than to pay a money tax for public service.

### **Death Taxes**

The death tax is said to be the "only 'personal' tax on property in the American system"<sup>4</sup> because there is no possible way to shift the tax to someone else. In total revenue the death tax represents about two percent of national and state revenues but the social implications of the tax are of more importance than the income it represents.

Arguments for the tax are based upon the allegation that it is a

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<sup>4</sup> Harold M. Groves, *Financing Government* (New York: Henry Holt & Co., 1958), p. 221.



good measure of ability to pay for either the deceased or the heir. This is one place where the state can step in and assert its claim on a portion of the estate and to reach the proceeds of earnings which may have escaped taxation when accumulated. It is also held that this is unearned income for the heir except for the surviving spouse who always has a generous exemption.

Another social argument influential in the retention of the death tax is that persons who inherit large sums of money are being given an opportunity which most persons do not have and one which they have not earned by their abilities and work. Along with this is the idea that the death tax is a means of redistributing wealth. This presumes that a highly unequal distribution of wealth is not good and inserts a number of subjective social and economic arguments into the justification of the tax.

The arguments against the tax are based primarily upon the beliefs that it interferes with private property and the propensity to save and invest. There are important instances also, when the tax does not conform to the ability-to-pay principle. This occurs especially when the tax falls on the inheritance of a widow and minor children. It is argued by many that the tax should not be levied until the children have reached majority and are in a position to support themselves.

The death tax is applied in two major ways. The *estate* tax is a tax levied directly upon the total estate of the decedent and the *inheritance* tax is levied against the separate shares of the estate which have been transferred to the heirs. The estate tax then would apply a standard percentage liability against the estate, usually progressive, and would be shared by the heirs in direct proportion to their shares of the estate. The inheritance tax is also progressive, normally, but the actual rate varies considerably depending upon the relationship of the heir to the deceased.

The federal government entered the death tax field to prevent discrimination among the various states. Florida and Nevada repealed their death tax laws in 1924 and 1925 and made a strong appeal for wealthy elderly persons to move to those states to escape estate and inheritance taxes. Other states raised a cry of "foul" since many of them depended on the tax for revenue. The federal government, in 1926, adopted a graduated estate tax and provided that up to 80 percent of state death taxes, at 1926 rates, could be subtracted from the federal tax. This put all states back on an even level and Florida immediately reinstated its death tax. Nevada is now the only state which does not have either an estate tax or an inheritance tax. The only discrimination which exists now applies only to those estates below \$60,000

(exempted from the federal tax) and these are not apt to migrate as readily as the larger estates. However, the federal rate has changed without adjustment of the 80 percent clause so the exemption now applies to only a fraction of the total federal estate tax.

The gift tax is related closely to the death tax and is designed to prevent avoidance of the latter by making large gifts to proposed heirs prior to death. This tax has been complicated by a number of separate classifications. Gifts made in contemplation of death are normally included in the inheritance and estate tax base, but the proof of whether the gift was actually in contemplation of death is very difficult and is often settled on quite arbitrary grounds. The ordinary gift between living persons is allowed tax free if it does not exceed \$3,000 per donee per year and all amounts above that amount are taxed at three-fourths of the estate tax rate. These latter exemptions and rates are those applied by the federal government. The states have a number of variations on this taxing principle but most of them are similar to the federal government, although less progressive.

## **Severance Taxes**

A severance tax is a specific duty per ton, barrel or cubic foot, or, a percentage tax on the value of a natural resource that is extracted. This tax may be assessed against any of the various minerals mined or pumped from below the surface of the earth. It is applied in some states to long term crops such as forests in place of a yearly property tax on total value. Nebraska has a severance tax of two percent on all oil and gas produced in the state. This tax is placed in the permanent school fund. A conservation tax is also levied against oil and gas for the activities of the Oil and Gas Commission. This tax is not to exceed 2 mills and may be set anywhere between 0 and 2 mills by the Oil and Gas Conservation Commission.

The incidence of the tax over a long period of time will fall on the owner of the resources since these are in a national market and cannot be shifted to the consumer. The tax in Nebraska is paid by the person actually taking the resource out of the ground, whether or not he is the owner of the property. The conservation tax is paid by the producer of the oil on behalf of all interested parties, unless the oil is sold within the state, in which case the purchaser pays the tax.

The severance tax is a good producer of revenue in those states richly endowed with mineral resources. Texas and Louisiana receive a major portion of their revenues from this source. Administrative costs are low and evasion and avoidance negligible. It is also a convenient tax for the producer since it taxes income as it is produced rather than



accumulating large tax liabilities during periods of non-production and after the resource has been exhausted.

The main disadvantages are that the public is generally unaware of it and if the tax becomes too high the production of natural resources could become uneconomical.

## Poll or Head Taxes

The poll tax is one of the oldest methods of taxation known to man. There are records of this type of tax in the ancient civilizations of Greece and Rome and in medieval England. The tax was used then as a means of raising revenue and had nothing to do with benefits received from government or voting rights. The tax was carried over into the colonial settlements in America where it was often an alternative to putting in a day's work on public roads and other projects.

Although this tax is of little real significance as a revenue producer it is defended from the standpoint of sharing the burden of government. Many persons say that everyone receives some benefits from government and that everyone should then share, even in a small amount, the cost of government. Another aspect of the poll tax which has been of decreasing importance, except in a few states, is the requirement that the poll tax be paid before the person is allowed to vote. This tying of the tax to the vote is defended as a means of creating some sense of responsibility in the voter for the policies he supports. This requirement is now only applicable in a few southern states who use the tax mainly to discourage negro voting.

The obvious disadvantages of the tax are its regressiveness and low revenue producing capabilities. There is also little relation to ability to pay or benefits received. The tax is easy to administer on those persons who have property and adequate income but they already are paying taxes on their property while low income groups which may not pay other taxes will be very hard to find and to collect from.

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