Research Plan: Personal Property Tax

Deputy Executive Director:	Melissa Brown	
Lead Research Manager:	Michael Mount	
Support:	Michael Strickland	
Deputy Executive Director Approval:	Initial:	Date:
Executive Director Approval:	Initial:	Date:

Purpose

To study and recommend improvements to personal property taxes in Tennessee.

Background

For the purposes of taxation, property is classified as either real or personal. Tennessee's Constitution defines personal property as all property that is not real property and as "articles of value that are capable of manual or physical possession," and it requires that property taxes uniformly apply to all commercial, industrial, and public utility personal property. All 95 counties in Tennessee have a property tax, along with most cities (270 of 345), and in 2020, personal property tax revenue totaled nearly $450 million, about 6% of total property tax revenue, which local governments rely on to fund schools and other local services.

Personal property tax assessments' percentage of total property tax assessments vary significantly across local governments in Tennessee. Although personal property tax assessments were about 7.1% of total property tax assessments in 2020, the percentages for counties range from 1.6% (Bledsoe County) to 28.6% (Moore County). For cities with a property tax, personal property tax assessments vary even more, from 0.1% (Cottage Grove) to 44.4% (Vonore).

Local government stakeholders have raised concerns regarding the administration of personal property taxes in Tennessee. They say that a large proportion of accounts have only very small tax bills—on the order of just a few dollars—and that the costs to collect them, especially if they become delinquent, may exceed what is owed. Local governments pay for postage to notify the taxpayer that their personal property taxes are overdue and may have difficulty tracking businesses that have closed but still owe personal property tax.

Business stakeholders also have concerns about the personal property tax. All businesses that are located in Tennessee are required to file and pay taxes on their personal property. To file their taxes, businesses can task their employees to track and value their personal property, or they can hire outside help. Either way, this imposes costs on businesses. Some business stakeholders say that the tax is inefficient because the cost to file the tax can be large relative to the personal property tax paid, especially for small accounts. In addition, some business stakeholders say that the personal property tax is a double tax. Businesses purchasing personal property owe sales tax on the purchase in addition to the personal property tax owed each year that the personal property is owned by the business.

The General Assembly has previously acted to reduce the administrative cost of small accounts. When Tennessee's Constitution was amended in 1972, it included a tax on household personal property in excess of $7,500 for individuals or $15,000 for married couples. The cost to collect taxes on this property proved to be greater than the revenue, however, and in 1977 the General Assembly enacted Public Chapters 262 and 337, which together effectively exempted household personal property. In 1998, the General Assembly enacted Public Chapter 898, giving businesses that certify that they have personal property valued at less than $1,000 an option to pay a nominal amount and avoid a full filing. The original bill would have effectively exempted taxpayers with less than $5,000 in personal property from the tax by deeming that property to have no value. The bill was worded that way because outright exemptions, including partial exemptions, other than those outlined in the state constitution in Article II, Section 28 (e.g. religious, charitable, scientific, literary or educational properties) are unconstitutional, according to several Attorney General Opinions. The General Assembly may, however, enact provisions that reduce or eliminate personal property tax liability as they have for certain taxpayers (e.g. telecommunication, loan, investment, and cemetery companies) and certain types of property (e.g. pollution control equipment) as long as they are not directly exempted. Similarly, payment-in-lieu-of-tax (PILOT) agreements often function as indirect property tax abatements for both real and personal property.

Changes to personal property taxes may affect the existing balance that has been reached regarding the assessment of various businesses in Tennessee. Although most personal property is assessed locally, about 15% is centrally-assessed by the Comptroller's Office of State Assessed Properties. Centrally-assessed businesses are typically large utilities, telecommunications, railroads, airlines, and similar businesses. Over the years, centrally-assessed businesses have reached settlements and agreements with the State Board of Equalization while arguing for lower personal property tax assessments and equitable treatment when compared with locally-assessed businesses. For example, in the 1998 case *Northwest Airlines et al. v Tennessee State Board of Equalization*, a group of airlines argued that Tennessee's personal property tax is discriminatory and "imposes an unfairly high levy on their loading equipment, access gates, and machinery." The case was settled, and the settlement requires the State Board of Equalization "to apply an equalization factor of 15% to reduce the Airlines' personal property tax assessments in 1996 and future tax years." The settlement will stay in place "so long as Tennessee Code Annotated, Section 67-5-903(f) [the personal property tax depreciation schedules] is not amended or superseded by legislative action or unless the Board determines, after an appropriate rule-making or declaratory proceeding allowing public comment, that the depreciation schedules reflect fair market value." In other words, the airlines reserve the right to bring equalization claims if the 15% equalization factor or the statutory depreciation schedules are changed. Following the settlement, the 15% equalization factor was expanded to all centrally-assessed businesses (e.g. telecommunications, railroads, and public utilities). See *re All Assessments* (1999).

At the January 2022 Commission meeting, Senator Lundberg asked TACIR to study the personal property tax in Tennessee. He said the study should examine:

- costs to businesses, large and small, to file and pay the tax, and compliance levels,
- variances among local governments, large and small, as to the percent of the tax collected to overall revenue bases,
- costs to local governments, large and small, to collect delinquent payments,
- possible revenue replacement models that would be fair and equitable to businesses, large and small, and to local governments, and
- recommended actions on elimination and/or reductions in the tangible personal property burden on businesses and local governments (phase-out or one time).

Step 1. Define the Problem

Stakeholders, both business owners and local government officials administering the tax, say that filing, paying, and collecting personal property taxes can be burdensome for businesses and local governments in Tennessee; however, local governments rely on personal property tax revenue to fund schools and other services, and Tennessee's constitution requires that local governments with a property tax apply the tax uniformly to all commercial, industrial, and public utility personal property.

Step 2. Assemble Some Evidence

- Interview the study's sponsor, Senator Lundberg.
- Interview stakeholders to determine what is driving this issue.
  - Association of Assessing Officers
  - County Commissioners Association
  - County Mayors Association
  - County Officials Association
  - County Services Association
  - County Technical Assistance Service (CTAS)
  - Municipal Technical Advisory Service (MTAS)
  - National Federation of Independent Businesses

    - Tennessee Association of Property Tax Professionals
    - Tennessee Chamber of Commerce
    - Tennessee Comptroller of the Treasury
    - Tennessee Department of Revenue
    - Tennessee Municipal League (TML)
- Review Tennessee's statutes and regulations relevant to personal property taxes.
- Review relevant case law and Attorney General opinions.
- Review past bills meant to address this issue, including committee hearings on those bills and the fiscal notes.
- Review existing laws and regulations of other states.
- Review relevant federal statutes and regulations.
- Review relevant literature.
- Gather relevant data sets, including statistics related to personal property taxes.

- **Problem Statement and Research Plan**
  - May 2022
- **Research**
  - Step 2 (April 2022 through June 2022)
  - Steps 3-4 (June 2022)
  - Steps 5-7 (June through July 2022)
- **Storyboard, Outline, and Write the Report**
  - Step 8 (July 2022 through September 2022)
- **Draft Report to the Commission for Comments**
  - September 2022 Commission Meeting
- **Final Report to Commission for Approval**
  - December 2022 Commission Meeting