

The Property Tax in a New Environment: Lessons from International Tax Reform Efforts

*Joan Youngman and Jane Malme**

Introduction

Contemporary property tax reforms face the challenge of identifying the appropriate role for a tax on immobile physical assets in an economy ever more reliant on mobile and intangible factors. The property tax can offer a stable revenue source particularly well suited for local government and a valuable adjunct to land reform initiatives. At the same time, it requires administrative capability, legislative support and political acceptance that are often lacking in highly developed and long established systems as well as in transition economies. Technological advances offer potential efficiency gains in assessment, administration and collection, but they can also consume vast sums for glamorous but inappropriate projects that yield little additional revenue.

* Lincoln Institute of Land Policy, Cambridge, Massachusetts

In the past decade, nations as diverse as the United Kingdom, Indonesia, South Africa, Japan, the Netherlands and Kenya have undertaken major property tax initiatives with potential lessons for future efforts. At the same time, a number of central and eastern European nations have instituted or reformed their property tax systems against the background of enormous changes in governmental and economic institutions. In the context of entirely new fiscal policies and new approaches to property rights, the political role of taxes on land and buildings as an adjunct to privatization, restitution and decentralization has been more significant than their fiscal role as a revenue-raising tool. For example, Estonia introduced a land tax not primarily as a means of raising revenue, but as an incentive for productive use of land returned to the families of pre-1939 owners.

Land and building taxes can also serve as an independent local revenue source even when it is impractical for small jurisdiction to impose or vary the rates of income or sales taxes. Immovable property is unique in this respect, for by definition it cannot be relocated to escape tax. Partly for this reason, real estate taxes have been designated as local revenue sources in Hungary, Poland, Romania, Bulgaria, the Czech and Slovak Republics, the Russian Federation, the Baltic nations and Armenia. Times of fiscal stringency at state and national government levels also highlight the importance of an independent source of local revenue. Moreover, international integration through the European Union and other trade zones encourages development of taxes not subject to international competition.¹

The central questions facing all states considering the introduction or reform of taxes on land and building include:

- The role of the property tax as an autonomous revenue source for local or other sub-national levels of government.
- The efficacy and desirability of using taxation as a tool for countering land speculation and disruptive fluctuations in land values.

¹ See Bengt Kjellson, "Taxation of Real Property in Sweden," *Journal of Property Tax Assessment & Administration*, Vol. 1, No. 3 (1995), 93-100, at 99 ("The integration in Europe should also be mentioned. Property taxes are national taxes, in the sense that real property does not move across borders in the same way as capital and people. An increased use of property taxes can be seen as a possible way of generating the necessary tax revenue without touching more 'sensitive' taxes.").

- The nature of the property tax as a legal enactment, and how legal standards for its interpretation and application mediate its effects upon land use and land prices.
- The justification for and problems presented by a tax upon real estate asset values, in effect a specialized form of wealth taxation.
- How the property tax system of a particular jurisdiction reflects the social and political values of its residents.

Part I: The Changing Context for Property Taxation

Political and Economic Integration

International efforts toward political and economic integration have in some cases led to a surprising reconsideration of a role for taxes that do not cross borders—taxes on immovable property being one of the few that meet this description. The ease with which capital, technology, and information can be transferred across geographic boundaries poses a fundamental challenge to tax systems developed in response to an entirely different model of economic activity.

Some contemporary policy prescriptions assume new growth in the economic importance of intangible property should lead to a reduction or elimination of the tax on real property. This is not necessarily the case. In fact, three closely related considerations argue for an expanded role for the real property tax in a era of globalization. First, at a time when markets and economic activity cross borders with ease, immovable property offers one of the few tax bases that cannot be readily shifted to another jurisdiction. Second, in an era of tax harmonization, only a purely local revenue source permits local fiscal autonomy. Third, globalization has drawn renewed attention to the goals of devolution and subsidiarity, which require stable local revenue sources to be effective. Each of these factors influences and reinforces the others. The mobility of capital, sales and labor encourages harmonization or convergence in response to tax competition. A period of globalization also places a great premium on preserving accountable, independent local governments to deal with those tasks for which they are best suited.

A jurisdiction seeking to improve its competitive position might well consider a tax on land: a tax object that is immovable and in fixed supply, which cannot be withdrawn from production or reduced in availability in response to the tax. To the extent the tax is capitalized into the price of land, its burden falls on the owner at the time the tax is introduced, and not on future purchasers or businesses considering location or expansion in that jurisdiction. A tax on land does not discourage new construction, renovation, or other improvements. Professor Robert Wassmer has commented: “[M]obility has left many urban places with a diminished base on which to raise the local revenue needed to fund urban service demands....Concerning my own opinion on the innovative use of urban property taxation, I would like to raise the idea of separate market-based assessments of capital and land (with land value assessment based on highest and best use)... . As Oates and Schwab show, this form of property taxation is essentially neutral. Its institution is not expected to slow or hasten a city’s economic development. What it does is provide an urban area caught in the vicious circle described above with an alternative tax instrument that generates additional local revenue, but not additional exodus.”²

The Impact of Political Decentralization

Far from diminishing the role of local governments, international economic and political integration has heightened attention to the importance of independent, accountable and responsive subnational governments.³ This is by no means limited to transitional economies, as illustrated by devolution initiatives within the United Kingdom. The National Assembly for Wales and the Scottish Parliament are the first democratically elected regional bodies to serve the distinct nations of the British Isles.

It is not paradoxical that devolution and integration might proceed in tandem, for the complementary strengths of subnational and international bodies means that

²Robert W. Wassmer, “Thoughts on Innovative Financing Options for Urban Governments,” National Tax Association, *Proceedings of the 90th Annual Conference on Taxation* (1997), at 387-390. The Oates and Schwab article referred to by Professor Wassmer is Wallace E. Oates and Robert M. Schwab, “The Impact of Urban Land Taxation: The Pittsburgh Experience,” *National Tax Journal*, Volume L, No. 1 (March 1997), 1-21.

³Sometimes international bodies directly encourage these developments. For example, Armenia joined the Council of Europe in 2001, and pressure from this organization contributed to strengthening local government in the 2002 Law on Local Self-Government.

development of one could well highlight the need for the other. A lack of accountability is the greatest political drawback to a centralized intergovernmental apparatus such as the European Commission.⁴ The efficiency of centralization must be tempered by political representation and responsiveness. Uneasiness with governing bodies perceived to be distant and unaccountable led to the Maastricht amendments to the treaty of European Union that recognize “subsidiarity”—assignment of responsibility and authority to the most decentralized level of government feasible for a particular task—as a formal constitutional principle.⁵

In transitional countries, political decentralization has proceeded more rapidly than its fiscal counterpart. Taxes are rarely subject to local control, although some limited local discretion is permitted in Estonia and Poland. Property taxes comprise only a small part of local government revenues, the greater part of which usually derives from shares of central taxes, primarily VAT and personal income tax. Croatia is the only transitional country to have adopted a local income tax on the Nordic model, rather than an assigned local share of a national income tax. Hungary authorizes municipal land parcel taxes and building taxes in addition to other local taxes on businesses and individuals. Budapest raises 35 percent of its revenue from local taxes, but does not tax land or buildings.⁶

More than forty years ago, Ursula Hicks considered the role of local government in economic development, and concluded, “If local bodies are to play any significant part in economic or social development, they must clearly have access to adequate finance. If they are both to act responsibly and to show initiative, some, not negligible, part of this control over resources must be independent, in the sense that the local councils are free to choose the rates (and to some extent the conditions) of their taxes or service charges.”⁷

⁴See, e.g., Emma Tucker, “Culture of Mismanagement Dates Back to the ‘Golden Era,’” *Financial Times* (London), March 17, 1999, p. 3.

⁵See, e.g., Werner F. Ebke, “Company Law and the European Union,” 31 *International Lawyer* 961 (1997), at n. 98-99. (“Generally speaking, under the principle of subsidiarity, the Community shall pursue only those objectives which can be better attained by the Community than Member States acting individually....Article 3B(2) provides that in areas which do not fall within the Community’s exclusive jurisdiction, the Community shall take action, in accordance with the principle of subsidiarity, only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale or effects of the proposed action, be better achieved by the Community.”)

⁶Pallai 2003.

⁷Ursula Hicks, *Development from Below: Local Government and Finance in Developing Countries of the Commonwealth* (1961), at 277.

The experience of intervening decades has only reinforced the validity of this advice, yet it is not easy to identify an appropriate autonomous revenue source for local government. Independent rate-setting for sales and income taxes is problematic when small jurisdictions are placed in direct competition for business location. The efficiency loss that accompanies such taxes is also compounded when they are utilized by multiple levels of government. Grants, transfers, and taxes subject to short-term approval by state, provincial or national legislatures are inherently unstable, at risk of falling prey to budgetary pressure or political considerations.⁸ Around the world, many municipalities without a significant source of local revenue must rely upon a patchwork of nuisance taxes, fees, and charges that may lead to the worst of all fiscal worlds, imposing high administrative costs, yielding low revenue, and contributing to a discouraging business climate.⁹

The property tax offers an independent revenue source particularly suited for local governments, permitting the option of decentralized rate-setting, administration, and collection. The highly visible nature of the property tax is its greatest political burden, yet also its most important contribution to transparent, politically accountable taxing and spending decisions.

Property Rights and Property Taxes

The long history of the property tax is closely related changing concepts of property, and the shifting relative importance of various classes of property within that increasingly complex category. In the United States, the “property” tax was originally exactly that, a tax on all forms of property, real and personal, tangible and intangible, “upon every man according to his estate, and with consideration to all his other abilities

⁸An interesting example in the U.S. context concerned the New York State legislature’s astonishing abolition of New York City’s 33-year-old commuter tax in an effort to win support from suburban voters. “The rush to pass the bill left even some supporters acknowledging privately that lawmakers were perhaps not setting the best example by altering the city’s longstanding tax structure with no hearings or study, little debate and political considerations at the forefront.” Clifford J. Levy, “Legislature Ends a Tax in a Hurry,” *The New York Times*, May 18, 1999, p. A19.

⁹A 1998 report listed a few of the 31 fees paid by McDonald’s restaurants in Beijing, including a waste water treatment fee, food and drinks industry fee, traffic safety fee, sanitation fee, greenification fee, air-raid shelter maintenance fee, river dredging fee, family planning fee, and fire protection fee. Christine Wong, “Municipal Finance in China: The Development of Extrabudgetary Revenues,” The World Bank, International Forum on Municipal Finance (1998), citing *China Economic Times*, *Asian Wall Street Journal*, and State Council Circular.

whatsoever.”¹⁰ This suited an agrarian economy in which major elements of wealth, such as land and farm equipment, were readily identified for the tax rolls, and could not easily be concealed or removed to another jurisdiction in order to evade tax.

The nineteenth century saw enormous changes in the nation’s economic structure, with a shift to new forms of capital, new forms of wealth, and new forms of property. Intangible property, from cash to bank accounts to securities, took on far more importance, yet at the same time became ever more difficult for local officials to identify, locate, value, and assess. The evident injustice of farmers paying a tax that financiers could easily evade gave rise to an important reform movement to redefine the property tax as a real property tax—a tax on land and buildings—and to reach intangible forms of property wealth through a tax on the income they yielded instead.¹¹

Thus, the most familiar form of the property tax in the U.S. today, an annual ad valorem levy on land and buildings, actually took shape in response to a change in economic activity that increased the importance of intangible forms of property. What are the implications for the property tax of the international economic transformation taking place today?

The rising importance of intangible property in the nineteenth century led not to greater inclusion of intangibles in the tax base, but to just the opposite—restriction of the property tax largely to tangible property, and immovable tangible property at that. The administrative problems of identifying and assessing intangible property, acceptable when these constituted only a small portion of the tax base, undermined the equity and acceptability of the tax when this category grew to major importance.

Perhaps the most important effect of a property tax is its reservation of a portion of private real estate value, importing a public element into the basic structure of property rights. An annual tax of one percent of market value at a time when property yields rental income of five percent effectively makes the public a twenty percent limited partner in the property-owning enterprise—sharing in the proceeds, but not in managerial decisions. This is an ambitious and important step, and it is not surprising that it elicits controversy.

¹⁰Jens Jensen, *Property Taxation in the United States* (1931), p. 27 (quoting 1634 Massachusetts property tax statute).

¹¹See, e.g., Edwin R. A. Seligman, *Essays in Taxation*, 10th ed. (1931) at 27-28 (quoting an 1897 New Jersey report: “[I]t is now literally true that the only ones who pay honest taxes on personal property are the estates of decedents, widows, and orphans, idiots and lunatics.”).

A value-based tax establishes a public element in property while retaining private ownership and control. It recognizes that a portion of the growth in property value results from public investment and community growth. This is not an easy argument to convey in an accessible manner, but it touches on the most critical aspects of the tax, which extend beyond the fiscal sphere. It is particularly relevant to the situation in transition countries, where there is often strong support for retaining a public interest in land as a fixed, nonrenewable element of common heritage which, once sold, cannot be reproduced.

The relationships between property taxes and claims of property ownership are complex and sometimes conflicting. A requirement of tax payment can of course be a disincentive to registration of ownership, but a tax payment can also be a welcome means of securing evidence of a claim to property at a modest price. This has been particularly true in areas of informal settlement in Africa, Indonesia and Latin America..

Property Taxation and Land Use

As urban centers throughout the world experience rapid inflation in land values, the property tax has received new attention as a potential means of counteracting the disruptive social and economic effects of an uncontrolled rise in land prices. Many questions concerning the actual effect of a land tax on speculation and price levels remain unresolved, including even ambiguity as to the meaning of speculation itself.. In particular, for taxes to have a significant impact on land prices, they may need to be imposed at much higher levels than are currently typical.

Speculative purchases may generally be defined as those motivated by expectation of further price increases rather than by the purchaser's own plans to use the property. The subjectivity of this definition makes a legislative response problematic, yet many governments have attempted to use tax policy as a means to counteract land speculation. The U.S.-Japan Structural Impediments trade initiative in the early 1990s focused in part on the role of property tax reform in helping to moderate Japanese land price increases, and the German Ministry of Economics hoped that raising assessed values to actual market levels would "reduce the tendency to hoard sites" and thus

increase the supply of affordable housing.¹² Similar motivation led to the adoption of a land-gains tax in the U.S. state of Vermont when increasing development threatened the rural character of that region. The tax reaches a maximum of 80% when land held less than three months yields gains of over 200%, and drops to 5% when land held at least five years yields gains of less than 100%. No tax applies to gains upon the sale of land held for more than six years.

The difficulty of defining speculation with legal precision has undermined the effectiveness of many anti-speculative measures. For example, in the United States special exemptions from full capital value taxation for land in agricultural use were enacted to counter development pressure upon family farms. In fact, these exemptions have often encouraged speculation by reducing the cost of withholding land from the market in anticipation of future price increases. In many cases, speculators may avoid being taxed on full market value by continuing some nominal amount of agricultural activity in the interim. Various states have attempted, without notable success, to distinguish bona fide farmers from speculators by such criteria as the price paid for property and whether purchasers filed applications for a zoning change. Such efforts are fundamentally flawed insofar as they assume a complete separation of the categories of speculators and bona fide farmers. There is no reason why a bona fide farmer should not consider his property a business asset, capitalizing upon market changes and obtaining the maximum price for it when a sale is appropriate.

This raises the highly political question as to the taxation of farmland generally. Many countries maintain assessments upon farmland at their agricultural level, even when land in the urban fringe is ready for development and would command a market value far above the price that agricultural use alone would justify.¹³ When lack of administrative resources led the German government to substitute a 40% increase in real property values for an actual revaluation for the 1964-1974 period, agricultural and forest properties were exempted from this increase.¹⁴ Systems providing for uniform treatment of agricultural and urban land are the exception rather than the rule.¹⁵ Sweden and the

¹² W. Kleiber, "Land-Related Taxes," (unpublished, 1992), quoting Federal Ministry of Economics, *Problems of the Housing Economy*, No. 35 (Bonn, 1982), p. 56.

United Kingdom have removed agricultural land from the base of the property tax altogether.¹⁶

Proponents see these measures as a means of avoiding development pressure from escalating property taxes; critics see them as a subsidy to developers and speculators holding land for future construction. One economist has written, "In the absence of evidence supporting artificial deferral, special farmland exemptions are inequitable and should be repealed. They specifically reduce taxes for owners of a rapidly appreciating asset and, hence, rapidly growing wealth."¹⁷ Among the points to consider in evaluating such programs are (1) the ability of farmers to borrow against the value of their property in order to pay taxes; (2) the desirability of preserving farmland in the urban fringe, and its effect upon community development; (3) the criteria for distinguishing between "speculators" and farmers holding land but willing to sell it upon a high enough offer; (4) the importance of property taxes to a family's decision to continue farming or to sell their land, and (5) fairness to the other property owners in the jurisdiction whose taxes are higher as a result of these preferences.

Countries that offer reduced taxation on agricultural land have faced a difficult set of classifications to determine what land is eligible for these preferences. Chile, for example, includes mining land in its agricultural category. The existence of a special approach to the taxation of agricultural land also opens the way for a proliferation of special categories and classifications, to the detriment of uniformity and neutrality in taxation.

Denmark has one of the most straightforward approaches to the taxation of farmland, basing its assessment upon its zoning. Farmland that has not been transferred to the urban zone will continue to be taxed at its agricultural value, even though an expectation of urban zoning in the near future will raise its actual sale value. Once the

¹³ In fact, such preferences are so widespread that one scholar could write that "In British Columbia, tree-farm land is assessed at its actual value without regard for the value of the land in alternative uses." H. Kitchen, "Canada," in 1989 *Proceedings of the International Fiscal Association*, p. 219. Of course, "actual" value generally refers to value for all legal purposes.

¹⁴ U. Lehner, "Germany," *id.* at 134.

¹⁵ For a description of a uniform system, see R. Kelly, "Implementing Property Tax Reform in Developing Countries: Lessons from the Property Tax in Indonesia," 4 *Review of Urban and Regional Development Studies* 193 (1992).

¹⁶ See K. Hort et al., *The Swedish Property Tax*, Gävle, 1992, and *Cross on Local Government Law*, Chapter 8 (1993).

¹⁷ H. Aaron, note 1, above, at 86.

land is legally transferred to the urban zone through a change in the planning regulations the land is then taxed at its urban value. In addition, a special land development gains tax, the “frigørelsesafgift,” requires payment of approximately 50% of the increase in value due to the change in zoning. These proceeds are split between the central government and the municipalities.

Part II: Implications for Tax Structure and Tax Reform

Value-Based Taxes and Their Alternatives

Land and building taxes utilize a wide variety of tax bases, including capital value, annual value, original purchase price, non-value measures such as an area base or parcel taxes, and formulary approaches. Where the current use of the property is also the most economically profitable use, rental value and capital value will stand in a predictable relationship to one another. The two standards diverge when a prospective purchaser would bid an amount unrelated to current yield in the expectation of a different and more profitable use in the future. The capital-value base has the advantage of more closely approximating a tax on real property wealth and more effectively discouraging speculative withholding of land from the market. The annual-value base more closely tracks the realized cash income with which owners may expect to pay the tax and exerts less development pressure on unimproved properties. Whatever the land-use goals, there will always be intense political resistance to tax levels requiring sale or mortgage of family farms, open space, and the homes of senior citizens. These problems of “cash-poor” taxpayers illustrate one set of structural conflicts between economic and political considerations.¹⁸

If a building and its current use no longer reflect the most profitable use of the land, may the land be valued at the amount a purchaser seeking a change in use would offer? In the United Kingdom, the answer is generally negative under the principle of “rebus sic stantibus,” which requires that the actual condition of the property govern the

¹⁸ One economist remarked to a government commission, “Those that become welfare cases should be treated by the welfare system on an impartial basis, without special favor to property owners. To use property tax relief as a substitute for welfare is to distribute welfare in proportion to wealth, surely an odd notion.” Mason Gaffney, quoted in Henry J. Aaron, *Who Pays the Property Tax?* (Washington, D.C.: The Brookings Institution, 1975), at 76 n. 9.

valuation process.¹⁹ In the United States, the alternate principle of “highest and best use” is designed to estimate the amount that would be bid for the property by a prospective purchaser looking to put it to the most profitable use that is both legal and feasible. This distinction between these two approaches demonstrates the importance of national history in the development of tax law. The more restrictive approach to private development rights in the U.K. may be linked to that nation’s more restrictive view of a property’s highest and best use for planning purposes.²⁰

A true area base that takes no account of differences in land value has the obvious drawback that “residents who own undesirable land must pay at the same effective rate as residents who own highly desirable land in a prime location with access to all services and amenities. This system is unequal in that it effectively requires residents with unequal value assets to pay the same tax per square meter.”²¹ For this reason, property taxes based on area have generally been replaced by ad valorem measures (as in the Netherlands) or a proliferation of special provisions designed indirectly to recognize some value gradations (as in Tel Aviv).²² This latter situation negates the simplicity of application that is the prime recommendation for an area-based measure.

Other bases for property taxation include parcel taxes and acquisition-value taxes, both utilized in California after the “Proposition 13” tax revolt eliminated the traditional form of taxation at market value. Parcel taxes or flat taxes sometimes find favor on grounds that all property owners should contribute a minimum amount toward the cost of public services. A similar rationale lay behind the short-lived poll tax imposed in Great Britain, which extended this obligation beyond property owners to all adult residents. The state of Victoria in Australia has taken this approach, raising 20% of its property tax

¹⁹ For a discussion of this principle, as well as many puzzling issues in the valuation of specialized property, see W. Britton, O. Connellan and M. Crofts, *The Cost Approach to Valuation* (Kingston upon Thames: School of Surveying at Kingston Polytechnic, 1991), especially Chapter 3.

²⁰ See generally J. Barry Cullingworth, *The Political Culture of Planning* (New York and London: Routledge, 1993). The more restrictive approach to development “as of right” in the U.K. is reflected in the Layfield Commission’s reference to “any change of use for which no planning permission would be required,” in note 16, above.

²¹ Sandra Bettger, et al., “The Economic Impact of and Strategy for Implementing an Ad Valorem Property Tax: A Case Study of Krakow,” International City/County Management Association Report to the U.S. Agency for International Development (September, 1994), p. 7 (discussing drawbacks of area-based tax in Krakow).

²² Joan Youngman and Jane Malme, *An International Survey of Taxes on Land and Buildings* (Deventer and Boston: Kluwer, 1994) at 141-149 and 157-173.

revenue through a municipal charge on each property and the remainder through an ad valorem levy. Some form of enterprise value, going-concern value or business income is often found in the base of a property tax. This is true even where the tax is nominally limited to tangible or immovable property.

Even when sufficient data exists for individual valuations of taxable parcels, a statutory formula based on objective criteria approximating an index of market value may be preferable to an explicit market-value standard on grounds of certainty and ease of administration. For properties that have not been the subject of recent sales, market value is often an imprecise standard.

Area-Based Taxes

Before the development of widespread land markets, many transitional countries utilized area-based measures for land transactions generally—sales, leases and tax payments.

Area-based systems persist in transitional countries for varied reasons. Lack of well developed property markets and land registration systems have hindered consideration of value-based taxes in Albania and Belarus. Armenian officials have been unwilling to undertake tax changes that will draw on scarce administrative resources. Although the Czech Republic and Poland have acknowledged potential benefits to value-based taxes during more than a decade of public debate, this change has never commanded sufficient support to overcome doubts as to its political and administrative feasibility. Municipalities in Poland may impose maximum property taxes of approximately \$0.15 per square foot (NZL 3.6 per square meter), \$0.004 per square foot (NZL 0.09 per square meter) for apartments, and \$0.006 per square foot (NZL 0.15 per square meter) for other buildings.²³ Hungary and Slovakia have not yet entertained formal proposals for ad valorem taxation.

Even some countries that have not adopted value-based taxes, many have adjusted their formulary systems to include more value-related elements in their calculation of the tax base. In time they may encounter the same difficulties that led the Netherlands, long

²³ Ann Louise Strong, Thomas A. Reiner, and Janusz Szyrmer, *Transitions in Land and Housing: Bulgaria, the Czech Republic, and Poland* (New York: St. Martin's Press, 1996), at 231.

known for its area-based tax option, to eliminate that alternative. Formulas designed to adjust the area base to reflect value-sensitive factors became so complex that they offered neither the benefit of a value-based tax nor the simplicity of a cadastral levy. Certainly an approach too complex for successful implementation in the Netherlands has little chance anywhere else in the world.

Formulary and Cadastral Taxes

Taxes based on specific property characteristics, including location, provide an intermediate step between systems based on market value and systems that disregard market value. In 1993 Estonia became the first to introduced a tax based on market value, but those market values were based on formulas reflecting area, location, quality and usage. Other transition countries have taken various steps toward market-based values. Lithuania has produced land value maps in anticipation of introduction of a value-based tax on land next year. Slovenia is preparing land and building values, with World Bank support, for a tax on real estate that may be implemented in 2005. With USAID assistance, Montenegro and Kosovo have begun experiments with locally administered ad valorem systems.

In 1998 Latvia introduced a tax based on cadastral values, utilizing officially recorded data as the basis for assessment. The two approaches differ in the role that official data plays in determining the assessment. Estonia's model resembles a rudimentary form of mass appraisal in which property characteristics are utilized to help estimate market value. In Latvia, designated property characteristics set the taxable value, whether or not this coincides with market value. At the extremes, cadastral values can simply replicates the pre-1989 approach. In Armenia, for example, the apartment value based on specific locational and amenity characteristics currently used for tax purposes is nearly the same to the value used to calculate maintenance fees during the Soviet era. An appeal may be made against incorrect attribution of characteristics, such as wrong location, but not against a final value figure at odds with market value. If characteristics

are listed correctly, the fact that two nearly identical units have dramatically different tax values is not a basis for appeal.²⁴

Fairness and the Perception of Fairness

Patrick Doherty, past President of the Institute of Revenues, Rating and Valuation, supervised a study of “Principles for Local Government Finance” that focused on elements such as efficiency, accountability and horizontal equity. He made a telling point when he wrote that a tax must “feel fair” to taxpayers, and not merely satisfy technical assessments of ability to pay. Tax revolts, from the passage of Proposition 13 in California to the rejection of the community charge in the UK, have demonstrated that “unless a tax is perceived as fair then it will not be acceptable.” Conversely, taxes that fail technical standards for progressivity, such as the council tax, will be acceptable if they are “felt fair.” Doherty pointed out that the council tax “is not related to ability to pay nor are the Bands related to socio-economic groups but it gives the appearance of being progressive whilst it is, in practice, regressive in nature. It is, however, accepted by taxpayers and is actually perceived as fair”²⁵

Value-based taxes on immovable property are a natural target for taxpayer dissatisfaction. They are highly visible, generally not withheld from income, and not necessarily accompanied by cash earnings with which to make payment. Many examples support Doherty’s position that technical arguments are inadequate in this regard. Public perception of the tax as regressive has been largely unaffected by several decades of economic analysis analyzing the tax as in part a progressive levy on capital. Nor have charges of regressivity been appreciably diminished by sophisticated studies of housing expenditures which link these much more closely to long-term earnings than to yearly income. A pensioner with a small income and a large house may not be evidence of

²⁴ Formulary approaches are not limited to transition economies. Chile bases property taxes on the “fiscal value” of land and buildings rather than their market values. On the basis of sale transactions and determinations of soil quality, set values are assigned to specific zones of urban and rural land. Buildings are valued according to specified characteristics and size, adjustments for regional differences in construction costs. In France, dwellings and professional buildings are classified for purposes of the “taxe foncière sur les propriétés bâties” into eight categories of construction. A specific tax rate developed for each group is applied to the individual property according to its size and other characteristics. A similar approach is taken to the valuation of land under the “taxe foncière sur les propriétés non bâties.”

²⁵Patrick Doherty, “Collection of Local Taxes,” 4 *Journal of Property Tax Assessment & Administration* 31, 35-36 (1999)..

regressivity if the house represents the invested returns of many years of high-income labor. Similarly, the critical phenomenon of capitalization has no influence on attitudes towards the tax. To the extent capitalization has reduced the price paid for the property, economic analysis considers the current owner to be free of the burden of the tax. Even to state this proposition, however, emphasizes how wide a gulf separates economic analysis and public perception.

A more informed public debate would direct attention to the benefits of the tax as well as its drawbacks, for it has important claims to fairness. In many cases it balances extremely favorable income tax treatment of property ownership. It can provide an independent revenue source for local governments and help address the underpricing of land use that leads to urban sprawl. Generous preferential treatment is often available to owner-occupied residences, farmland, open space, and the property of senior citizens. The tax is one established form of asset or wealth taxation in an era ever more reliant on relatively invisible and often regressive consumption taxes. The tax is transparent—perhaps a perverse virtue, for its visibility is responsible for a great deal of the animus towards it. Yet this taxpayer awareness also promotes accountability and public responsibility.

The Role of Valuation Professionals

Land and cadastral agencies have contributed to the development of value-based taxes in a number of transitional countries.²⁶ These agencies' traditional roles in recording ownership and transfers of property rights, together with their data bases and information systems, have led naturally to a larger role encompassing valuation as well, both for individual properties and in computerized mass valuation systems. These agencies are not precise equivalents to assessing departments or valuation agencies in the United States or Canada, but have similar goals for professional information processing and political independence.

South Africa presents a particularly interesting example of questions concerning the role of valuation agencies and professional associations, combining as it does

²⁶ Cadastral agencies in Lithuania, Russia and Slovenia, and the Land Services agencies in Estonia and Latvia, are responsible for developing market-based land values for tax purposes.

elements of Anglo-American property tax background and political transition. The new property rates bill²⁷ maintains past practice by requiring that municipal valuers be members of the South African Council for the Property Valuers Profession. There are approximately 2,000 registered valuers in South Africa, and it has been estimated that only 20 percent are involved in municipal activities.²⁸ Given the extension of municipal government to all areas of the country, there may be future tension between the supply of accredited valuers and the requirements of assessment administration. The Property Valuers Profession Act of 2000 allows registered valuers to direct, control and supervise nonaccredited valuers if they assume responsibility for the work so performed.²⁹ The City of Cape Town made extensive use of international and private consultants under this provision in completing its general reassessment of more than 500,000 residential parcels in 2002.³⁰

Assessment and Self-Assessment Systems

Self-assessment can be a reasonable administrative option when taxes are based on a formula considering objective physical characteristics. This is presently the approach of a voluntary self-assessment system in Bangalore, India. Self-assessment has not been a realistic option under market-value taxes. It has sometimes been suggested that this would be workable if owners were required to accept the sale of their property at the amount they assign to it for tax purposes. This meets the obvious problem of deliberate understatement of value, but its administrative and political difficulties are evident. The taxing jurisdiction should not be required to assume the role of real estate broker in order to administer a tax system, and, more critically, homeowners should not face the loss of their houses by reason of a mistaken value estimate. Just as widespread dispossession by reason of nonpayment of tax is politically unacceptable, so would be a forced sale (even at a price set by the owner) of a residence. Thus in Florida, which at one time experimented with a version of this approach, called "Pope's Law," the owner's ability to prevent consummation of the sale by posting a bond meant, in the words of the court

²⁷ Cl. 33 (1) (a),

²⁸ Zybrands, 2003b.

²⁹ Section 27(4).

³⁰ Weichardt, 2003.

overturning that statute, “Under Pope’s law, there will never be a ‘willing buyer’ or ‘willing seller’ as those terms have been historically utilized in case law.” (*ITT Community Development Corp.*, at 1028).

The efficacy of the property owner in reneging on the purchase influences both the prospective buyer and the prospective seller. Were the taxpayer compelled to relinquish his property, once the auctioneer lowered his hammer, he would be more disposed to value the property at a higher price than if, as here, he could renounce this sale and merely forfeit his deposit. Concomitantly, a prospective buyer at a Pope's law auction perceiving the owner's power to terminate the agreement surely must react more phlegmatically in the bidding process than he would in negotiations with an ordinary seller. In essence, then, the public auction does not establish the fair market value of property. Rather, it ascertains how substantial a cash offer will be made for it when the buyer realizes that the sale remains contingent upon the owner's willingness to sell which may continue undeclared for at least 30 days after the auction. (*Id.* at 1027 [footnotes omitted])

Auctions would necessarily take place some time after the assessment date, leaving the owner at risk of a rise in market value in the interim. No taxation mechanism that exposed a homeowner to what the court in this case termed a “quasi-forced” sale as the result of a good-faith self-assessment error could be deemed fair or acceptable. Lesser penalties, such as fines or even simply collection of understated taxes with interest, could not draw on the market data of a bona-fide auction to enforce the self-assessment standard.

Property Tax Developments in Transitional Economies

Amid the enormous transformations that have taken place since the fall of Soviet communism, an examination of property tax developments offers a unique perspective on these countries’ progress in transitional reforms. The introduction of taxes on land and

buildings in the 1990s reflected the varied approaches taken to key elements of transition - privatization and the establishment of private property rights, devolution of public decision-making and service delivery, development and maturation of real estate markets, and the restructuring of legal and administrative systems needed for market-based economies and democratic governments.³¹

The transition is well under way, but still in progress. The pace of economic and fiscal integration with central Europe will quicken for the Baltic countries of Estonia, Latvia and Lithuania, and for the Czech Republic, Hungary, Poland, Slovakia and Slovenia, which became members of the European Union in May 2004. In this new context, it is useful to review these countries' experiences in property taxation over the past decade, and reflect on future developments.

Each of these countries differs in important ways and continues on a distinct path reflecting its size and population and its specific political, legal and economic circumstances and priorities, but all have included some form of property taxation in their reforms. Earlier practices of sharing tax proceeds between national and local governments have been discontinued, and local governments receive all property tax revenues. Property taxes remain a relatively small part of total tax revenues³² and are overwhelmingly paid by "legal" rather than "individual" taxpayers. Housing and land plots of individuals are either not subject to tax or taxed at minimal rates, and new construction is normally exempt from taxation for a number of years. Market value-based taxation is being seriously considered and debated, but until 2003 had only been adopted as a basis for land valuation in two Baltic countries, Estonia and Latvia.

The Baltic countries, credited with achieving "impressive progress over a decade of transition"³³, have been in the forefront of implementing value-based taxes on land and

³¹ Jane Malme and Joan Youngman, Ed., *The Development of Property Taxation in Economies in Transition: Case Studies from Central and Eastern Europe*, The World Bank Institute, Washington DC (2001) pp 1-10.

³² Anders Müller in a paper delivered to the IRRV International Conference, June 2003, Tallinn, Estonia, drawing on sources including OECD, IMF and country statistics, reported that recurrent property tax revenue as a percentage of total taxes in 1999 was 0.6% in the Czech republic, 1.2% in Estonia, 0.5% in Hungary, 3.5% in Latvia, 2.0% in Lithuania, and 3.1% in Poland. Although these percentages are far less than many developed countries, they are consistent with many Central European and Nordic countries which do not rely heavily on property taxes

³³ *Baltic States* OECD Economic Survey 2000

have recognized the importance of regional real estate markets in economic development and fiscal policy. The national land agencies of Estonia, Latvia and Lithuania have published reports on land and real estate sales, prices, taxes, and trends in the three countries since 2001.³⁴ All three countries levy an annual tax on land, and Latvia and Lithuania also tax buildings and structures of “legal persons” under a separate law. Taxes on land reflect market value to a greater or lesser extent. Estonia was the first to develop a value-based tax on land in 1993, followed by Latvia in 1998. Lithuania has introduced market elements in its area-based rates, and has developed up-to-date land value maps in anticipation of new Law on Land Taxation for 2005.

The development of these tax systems incorporated elements of both land and fiscal reform objectives. Reinstating individual property rights expropriated by the Soviet Union in 1939 was a major priority for each of these countries. Estonia and Latvia had extensive restitution programs, permitting former owners or their heirs, regardless of their present place of residence, to regain their land. A major purpose of the value-based land tax imposed by Estonia was to stimulate more efficient use of restituted and privatized land while not discouraging development by taxation of improvements. In addition, a tax on land did not burden residents in privatized apartments whose ability to pay bore little relationship to their recently acquired asset. Lithuania’s restitution program was limited to those currently residing in Lithuania, which lessened the risk of speculation by non-resident owners and was easier to administer. Their land reform efforts focused on developing an integrated modern real estate register and cadastre to secure property rights and provide access to reliable information on property interests and markets. The results of this approach have produced a state enterprise with a high degree of sophistication in its legal and cadastral land record systems that is well-prepared and equipped to develop and implement mass valuation for tax purposes.³⁵ The Baltic countries view accession to the European Union as likely to increase demand for real estate investment and leasing, and seek to capture price increases in their tax revenues.

³⁴ *A Review of the Baltic States Real Estate Markets*, Annual publication, Estonian Land Board, Land Service of Latvia, State Enterprise Centre of Registers of Lithuania 2001, 2002, 2003.

³⁵ The State Enterprise Centre of Registers, Vilnius, Lithuania. For descriptions of their accomplishments see *Land Lines*, October 2002, pp11-13, April 2004, pp.5,6, and “The Case Study of Lithuania”, *Fair and Equitable*, December 2003, magazine of the International Association of Assessing Officers, Chicago, pp. 7-11.

The remaining countries entering the European Union retained many aspects of private property rights during the communist era and have been less likely to view property taxation as an instrument of land policy. Nevertheless, property tax proponents in Poland have stressed the non-fiscal benefits of value-based taxation for improved urban productivity.³⁶

A key reform goal for transitional economies has been decentralization, the devolution of powers and responsibilities from central to local governments. The desirability of strong local governments has been reinforced by the subsidiarity principle in the Maastricht Treaty of the European Union and the European Charter of Local Governments by the Council of Europe.

Political decentralization in transitional countries has far exceeded fiscal decentralization.³⁷ Although local governments are firmly established, fiscal and governmental interrelationships are still evolving, and local government fiscal authority and discretion remains limited. The major revenue sources for local governments are commonly shares of central taxes (personal income tax and VAT primarily), and grants from central government.³⁸ The rationale for fiscal decentralization is that the local populace can best decide the level and quality of services offered by their local governments and, in order to make those decisions responsibly, must fund a substantial portion of these services with their own revenues.

The benefits of a tax on immovable property as a local government tax are well known³⁹ Nevertheless, its lesser role generally in European taxation and the still evolving functions of local government have not yet established the property tax as the preferred tax for local governments in Central and Eastern Europe. The transfer of responsibilities for housing and other social benefits to municipal government in the 1990s has resulted in local governments having somewhat different roles than western municipalities in regard to social services and income redistribution. Their citizens are still less mobile and a majority still live in standard housing built in the Communist era.

³⁶ Malme and Youngman, Ed. 2001. "Property Tax Developments in Poland" Malme and W. Jan Brzeski, p.23.

³⁷ Ebel and Yilmaz 2002

³⁸ Ibid.

³⁹ See Bird, Ebel and Wallich, 1995, Ebel and Yilmaz, 2002, Malme and Youngman, 2001, Oates 1972, 1999.

Local governments are also accustomed to relying on central grants, and continue to receive substantial, if reduced, funding from the central government.

With greater economic integration with EU countries and broader employment opportunities, there is likely to be increased mobility and competition that will make a tax on immovable property a more compelling choice.

Local governments (gmina) in Poland rely more heavily on Real Estate Tax revenue than do municipalities of other new entries into the European Union, and have authority to set their own tax rates, within maximum limits prescribed the national government and adjusted for inflation. The rates, per square meter, vary considerably by type of use with the major burden being borne by property “in economic use”.⁴⁰

The Czech and Slovak Republics that began the transition together have diverged in their rates of fiscal decentralization since their “velvet divorce” in 1993. With more than 6000 local governments, the Czech Republic has retained its central authority and there are no purely local taxes. The revenue from taxes on land and on buildings, although assigned to local government, plays a minor role, and both the tax base and rates are set at the national level. In contrast, the Slovak Republic, with 3000 local governments, has gradually reduced its central grant support resulting in greater municipal reliance on local sources of revenue, including the property tax. Both countries continue to tax land and buildings separately, based on varied rates per square meter, according to location and use. A proposal being developed in the Czech Ministry of Finance is to shift gradually to valued-based taxation of land that will be administered locally under central government supervision.

In Hungary, the choice of local funding is left up to municipal governments which may levy a land parcel tax, building tax, communal tax on private individuals, communal tax on entrepreneurs, tourism tax and local business tax, or any combination of these taxes. The City of Budapest has selected several of these taxes, raising 35% of its budget with own source revenue, but does not tax land or buildings.⁴¹

⁴⁰ .According to Bird and Slack, 2001 rates varied from USD 0.02 per square meter for residential land to USD 0.13 per square meter for land “connected with economic activity”).

⁴¹ Pallai 2003.

Slovenia, a former part of Yugoslavia has developed, with support from the World Bank, a property registration system and cadastre and is preparing for the introduction of market value-based tax on real estate that will replace its separate land and buildings taxes, in the expectation it will provide revenue growth for local governments. Currently highly centralized, Slovenia provides a significant portion of local revenue through shared taxes and grants.

Post communist countries are still experimenting with the size, number, authority and responsibilities of regional and local governments, as well the intergovernmental fiscal relationships. The number and size of governments affect their capacities for revenue generation, administration and service delivery. Small towns reasserting their independence multiplied in many countries; regional governments, formerly administrative agents of central government, are taking on more decision-making authority (Latvia), or are being transformed into self-governing units (Poland's *Powaitis*), but are largely dependent on central government funding. All of the new members of the European Union have unitary forms of government, which may explain the limited role given to intermediary levels, except for tasks of administrative coordination.

To further the goals of fiscal decentralization, local governments in these advanced transitional countries will need increased authority to decide the rate and level of taxation and to raise sufficient revenues from taxation of real property and from both residential and commercial taxpayers to link desired local services and the revenues from taxation needed to fund them. Value-based taxes on land will enhance the growth capacity of this revenue source, without competing with national tax levies.

These countries have the capacity to introduce modern property tax systems provided they establish a clear legal framework, develop effective coordination among the various public agencies and local governments that have responsibilities and interests related to tax assessment and taxation, analyze the impact of changes in tax burdens and design appropriate mitigation measures, and give priority to public information and education programs and services for taxpayers and other stakeholders that will increase public understanding and acceptance of value-based taxation of real property.

The Case of Russia

Because of its size and importance, Russia's experience with property taxation requires a special mention. Federal taxes on real property were adopted in 1991 and 1992 as part of a new tax structure and to coincide with extensive privatization. The *Law on the Payment of Land* provided for normative rates per square meter on which the lease, sale and taxation of land would be based. In addition, separate taxes were imposed on the property (buildings, structures and other assets) of enterprises and on the property of individuals. The proceeds of these taxes were shared among federal, Oblast (state) and municipal governments until 1999 when 100 percent of the individual property tax revenue was assigned to municipalities; the revenue from the tax on enterprises was equally divided between the Oblast and municipality in which its property was located, and only land tax revenue was shared among all three levels of government. Revenues from land and property taxes fell considerably in the late 1990's largely due to inflation. The 1999 Tax Code contemplated that a tax on real estate value would replace these three taxes in 2003, but the particular provisions relating to the new tax have not yet been enacted.

Beginning in 1997, a USAID-supported pilot project in two cities experimented with introducing a locally administered real property tax,⁴² but only a few large enterprises that own both the land and buildings in the city of Novgorod Veliky are currently subject to the tax. These enterprises benefit considerably since their movable property and certain other assets are no longer subject to the Enterprise property tax.

However, tax law and administration are under the control of the federal government, and there remain impediments to local government autonomy. More recently, reforms have been proposed for the Land Tax that would introduce cadastral values, developed by the Federal Land Cadastre Service, as a base for taxation by local governments. Tax rates would be determined locally, within limits set by the Federal law. The land cadastre authorities are developing mass valuation methods within the

⁴² See Malme and Youngman, 2001, "Property Tax Developments in the Russian Federation", Malme and Natalia Kalinina, pp 75-80.

constraints of limited reliable market data, and have completed the first cadastral valuation of urban land throughout Russia.⁴³

Given the many challenges facing the Russian Federation, it is significant that its government is devoting considerable resources and attention to the development of value-based taxation to benefit local governments.

Legal and Administrative Design Features⁴⁴

Among the many challenges of transition has been creating new legal frameworks for the fundamental rights and obligations of individuals, particularly in regard to private property ownership, taxation and democratic institutions. In creating a legal framework for property taxation, there are particular issues that have arisen regularly in transitional countries that require special consideration, as well as those that simply differ from the basic elements used in the general tax laws. In addition to answering the important questions of whether central or local governments set the tax rates and receive the tax proceeds, laws for value-based property taxes need to establish an integrated legal and administrative framework for real property valuation, assessment and taxation that clearly answers the questions:

- What is to be valued?
- Who is the taxpayer?
- What is the standard for valuation?
- What valuation method(s) should be used?
- How will the valuations be used?
- How frequently will property be revalued?
- Who is responsible for valuation and tax administration?
- How are the results of the valuation monitored and evaluated?
- What rights and responsibilities do taxpayers have in regard to the taxable values on their properties?

⁴³ The mass valuation process and the reform agenda are described by Alexey Overchuk, the Deputy Chief of the Federal Land Cadastre Service of Russia in “Mass Valuation of Land in the Russian Federation”, *Land Lines*, April 2004, pp. 6-7.

⁴⁴ See generally Malme (2000, 2003) Teaching Modules for Transitional Economies

The Tax Base

In transitional countries, land and buildings have been treated separately, with different owners of land and buildings, and “property” may be defined in the Civil Code as including vehicles and other forms of tangible movables. In defining the tax base for property taxation, it is useful to use recognized international definitions for immovable property, but to subject all property to taxation, unless specifically exempted by law. Increasingly land and buildings are being integrated into single units of real estate. Latvia has introduced an annual “Real Estate Tax” to replace separate taxes on land and buildings, and such unification is being proposed in Slovenia and is under consideration in Russia. Nevertheless, there are benefits of taxing land and buildings separately, as have been discussed earlier.

In addition, an assessment date that identifies that all property be valued in its physical condition and at its value as of the same date, permits taxation of partially completed construction. Whether the property is under construction, unregistered, unoccupied or awaiting occupancy permits may influence the taxable value that will be determined, but should not eliminate the property from the tax base.

Exemptions

Limiting the number of exemptions at the start is important to maintain revenue growth potential, limit individual tax burdens by creating a broad tax base, encourage taxpayer support and compliance, minimize unfair competition, increase fiscal transparency and reduce administrative costs.

Tax exemption is commonly provided to properties owned and used for exempt purposes by international organizations and governments under treaty agreements; qualified organizations providing benefits to society, such as religious, charitable, educational organizations and services. Government buildings may be taxable or not. Most property tax systems, for reasons of social equity and compassion, provide tax relief to persons whose personal circumstances make it a hardship for them to make tax payments on their housing, such as elderly and disabled homeowners with low income.

The Taxpayer

The differentiation between legal and physical persons, found in most post-soviet legal systems, is not necessary for property tax law, but neither is it an impediment to property taxation as long as a taxpayer can be identified for each taxable parcel of property within the taxing jurisdiction. *In rem* property tax systems define the property itself as the subject of taxation. This simplifies the administration and enforcement of the tax because it is not necessary to determine who has legal title to the property. The owner, possessor or user of the property can be held liable for payment. To avoid multiple taxpayers and divided liability for payment that add cost to administration and complicate enforcement, taxpayer liability can be established on the assessment date for the full year. A change in ownership during the year does not relieve liability; taxes can be allocated between the parties, and the tax records are not changed until the next tax year. The proceeds of tax payments accrue to the taxing jurisdiction where the real property is located, not to where the legal owner may be situated.

The Valuation Standard

The legal basis for value-based taxation confronts immediately the contrast between official normative or rates per square meter that have served as the basis for taxation of land and buildings in the past nearly all transitional countries and the new values estimated from private market transactions. There is a strong desire to specify valuation methods and procedures in the tax law in great detail, rather than stating the legal standard and assigning the authority with administrative responsibility for valuation with the duty to specify its methods by regulation. It is recommended that the law *not* mandate particular techniques and procedures for performing these functions, since many factors - in the real estate market, in the resources of the valuation administration, and in the development of a modern assessment system- are under development. A degree of flexibility will be required in applying various methods to achieve acceptable results. The valuation administration should be held responsible for its results, not for its adherence to rigid methods and instructions. It is sufficient to specify in the law the legal standard of market value, the use of mass appraisal/valuation techniques as the preferred method for estimating real property value, the assignment of administrative responsibilities and

authority with requirements for quality assurance testing of the valuations, and an effective appeals system with adequate notice and information for taxpayers to evaluate and dispute the accuracy and fairness of their taxable values.

The Purpose of Valuation

Stating that the valuations shall be used for taxation of real property serves several purposes. It makes clear that taxes will be based on the property value established in accordance with this law; it recognizes that this value may differ from valuations made for other purposes, and it permits the valuation administration to develop its procedures and methods with a single focus on uniform and equitable taxation.

Revaluation Cycles

Periodic reappraisals will ensure that values for taxation will not lose touch with market values. Frequent revaluations not only ensure great equity in taxation, but also promote a well-functioning valuation administration and improve taxpayer understanding and acceptance of the tax system. Revaluation cycles of three to five years required by law are generally considered reasonable; with indexing of values permitted in the interim to reflect general market changes.

Valuation Administration

Because the government determines the valuation tax base, it is essential to have a strong legal structure to promote professional, ethical administration, provide for an appropriate organizational structure, and clarify authority and responsibility. Functions may be shared among agencies and levels of government, as long as the means of coordination and cooperation is carefully considered. The size, capabilities and interests of the various candidates will differ among countries.

Land and cadastral agencies have contributed to the development of value-based taxation in a number of transitional countries.⁴⁵ Professional interest in property value has developed naturally from these agencies' roles in developing land and property

⁴⁵ Cadastral agencies in Lithuania, Russia and Slovenia and Land Services in Estonia and Latvia are responsible for developing market-based land valuations for taxation.

information systems, that, in some cases, have been combined with responsibility for recording private property ownership and transfers of property rights. Their database and information systems can be drawn upon for cost-effective tax base development. As real estate markets have developed, these agencies have recorded and evaluated sales prices and become familiar with real estate market forces. This has led to an interest among agency personnel in analyzing the markets, in educating themselves in classic methods of property appraisal, and in exploring mass valuation modeling techniques for use in estimating land values for both privatization and taxation. As market activity increases, these agencies are in a position to share information and help to increase understanding of market concepts.

Increasingly these agencies are being assigned the responsibility of assessment for value-based land taxation and are prepared to take on the challenge of developing values for real estate taxation. As a result, they are overcoming an important roadblock to administering a value-based property tax. Their varied land-related responsibilities do not correspond exactly to assessing departments and valuation authorities in the U.S., Canada, and other English-speaking countries, but they enjoy the same independence from fiscal authorities and pressures that encourages professional conduct and standards.

Tax Administration

The collection of taxes in many transitional countries has often been criticized as ineffective and costly in relation to the tax yield.. The objective of the legal provisions related to tax collection are to encourage payment, minimize delays and cost in collection of overdue taxes, discourage extra-legal collection methods, and protect taxpayers' rights. This requires tax collection and payment procedures and deadlines to be clearly stated in law, communicated to taxpayers and uniformly enforced.

Rights and Responsibilities of Taxpayers

In transitional countries, taxpayers' rights and responsibilities are being considered in a new light. Public notice and public information, the right of taxpayers to review information on their property, and to challenge the accuracy of the records concerning their property did not exist in the Soviet era. Although certain information

may be held in confidence by the valuation and tax administration in accordance with law, a transparent tax administration is essential for democratic governance. The Baltic countries have taken bold steps in posting valuations in public places and on websites. Property taxation also benefits from a special appeals system that provides an opportunity for a taxpayer to challenge the assessed value of taxable property at multiple levels, beginning with an informal administrative review process according to rules and procedures established by the valuation administration. Factual errors can be corrected that will improve the over-all quality of the assessment list. In most transitional countries, the only appeal is directly to a court where a decision may take years. Consequently, there are few appeals. Instead, it is recommended that an appeal from decision of the valuation administration be made to an independent tribunal, made up of members with appropriate qualifications and with no economic interest in the outcome. The tribunal has authority to require from the valuation administration and from the taxpayer the information necessary to arrive at a decision, and to rule on both facts and law. The tribunal members also have the right to inspect the property under appeal. An appeal to a court of law would only be a final remedy.

The obligations of taxpayers under law to provide truthful and accurate information to valuation and tax authorities ensure fairness and integrity in the tax system. Submission of information reasonably required by the valuation administration, including property information verification forms encourage accuracy and fairness in assessment.

In summary, the introduction of property tax systems challenges countries in transition to adopt new laws and practices that reflect the demands of market economies and democratic institutions, while at the same time producing quality results at reasonable cost.

References

- Almy, Richard (2003).“Modernizing Property Taxes, The Case Study of Lithuania, *Fair & Equitable Magazine*, International Association of Assessing Officers, Chicago, IL, Vol. 1: 12, pp.7-11.
- Bird, Richard M., Robert D. Ebel, Christine I. Wallich, eds.(1995). *Decentralization of the Socialist State: Intergovernmental Finance in Transition Economies*. Washington, DC: World Bank Regional and Sectoral Studies.
- Bird, Richard M. and Enid Slack (2002). *Land and Property Taxation: A Review*
- Phillip J. Bryson and Gary C. Cornia (2001).“Taxes on Real Property in the Czech Republic”, “Land and Building Taxes in the Slovak Republic”, *The Development of Property Taxation in Economies in Transition: Case Studies from Central and Eastern Europe*, Malme and Youngman, ed. The World Bank Institute, Washington DC.
- Ebel, Robert D. and Serdar Yilmaz (2002). Fiscal Decentralization – on the Measurement and Impact of Fiscal Decentralization”, *Conference Proceedings, Fiscal Decentralization in Croatia*, Zagreb.
- Malme, Jane H. (2004). Valuation for Land Taxation in Transitional Economies”, *Land Lines*, Lincoln Institute of Land Policy, Cambridge, MA, April, pp 5-6.
- _____ (2003). *Legal Issues In Valuation For Real Property Taxation*, Teaching Module for Transitional Economies, Lincoln Institute of Land Policy, Cambridge, MA
- _____ (2000). *The Legal and Administrative Framework for Market Value-Based Taxation of Immovable Property*, Teaching Module for Transitional Economies, Lincoln Institute of Land Policy, Cambridge, MA
- Malme, Jane H. and Joan M. Youngman, eds. (2001) . *The Development of Property Taxation in Economies in Transition: Case Studies from Central and Eastern Europe*, The World Bank Institute, Washington D.C.
- Oates, Wallace (1972). *Fiscal Federalism*. New York: Harcourt, Brace and Jovanovick.
- _____ (1999). “Local Property Taxation: An Assessment,” *Land Lines*, 11(3):1-3.
- OECD (2000), *Baltic States*, Economic Survey, Paris
- Overchuk, Alexey L., (2004).“Mass Valuation of Land in the Russian Federation,” *Land Lines*, Lincoln Institute of Land Policy, April , pp 6-7.

Pallai, Katalin, ed. (2003). *The Budapest Model*, Local Government and Public Service Reform Initiative, Open Society Institute, Budapest.

Review of the Baltic States Real Estate Markets, (2001, 2002, 2003). Annual publication, Estonian Land Board, Land Service of Latvia, State Enterprise Centre of Registers of Lithuania.

Sabaliauskas, Kestutis and Albina Aleksiene (2002). "Progress Toward Value-Based Taxation of Real Property in Lithuania," *Land Lines*, Lincoln Institute of Land Policy, Cambridge, MA, October, 11-13.

Swianiewicz, Pawel (2003). "Foundations of Fiscal Decentralization: Benchmarking Guide for Countries in Transition," Discussion Paper, Local Government and Public Service Reform Initiative, Open Society Institute, Budapest.

Proceedings: Mass Valuation Systems of Land (Real Estate) for Taxation Purposes, (2002). United Nations Economic Commission for Europe, Working Party on Land Administration Workshop, Federal Land Cadastre of Russia, Moscow.

Youngman, Joan M. and Jane H. Malme (1994). *An International Survey of Taxes on Land and Buildings*, Kluwer Law and Tax Publishers, Deventer.