

ORIGINAL

# In the Supreme Court of Ohio

BEAVER EXCAVATING COMPANY,  
ET AL.,

*Plaintiffs-Appellants,*

v.

RICHARD A. LEVIN  
[JOSEPH W. TESTA],  
TAX COMMISSIONER OF OHIO,

*Defendant-Appellee.*

Case No. 2011-1536

On Appeal from the  
Court of Appeals,  
Tenth Appellate District

Court of Appeals  
Case No. 10-AP-581

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## REPLY BRIEF OF AMICUS CURIAE COUNTY ENGINEERS ASSOCIATION OF OHIO IN SUPPORT OF APPELLANTS

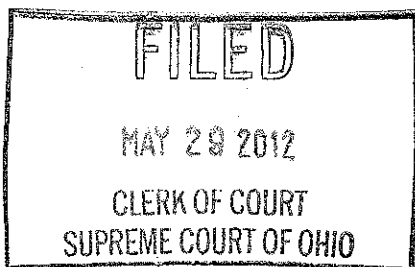
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## INTRODUCTION

Amicus Curiae County Engineers are struck by the conspicuous lack of authority supporting the Commissioner's various propositions of law. Throughout his Brief, the Commissioner assumes legal conclusions favorable to himself and then claims victory based on nothing more than his own assumptions. It's like watching the Commissioner play baseball against himself. He pitches, he strikes out, he congratulates himself on a well earned win.

For example, his entire standing argument is based upon multiple erroneous assumptions. First, he erroneously assumes standing is a subject matter jurisdiction issue that cannot be waived. *See State ex. rel Jones v. Suster*, 84 Ohio St.3d 70, 77, n. 4, 1998-Ohio-275, 701 N.E.2d 1002 (1998)(holding that standing is not jurisdictional unless the case was brought at an administrative forum). The remedy argument upon which this subject matter jurisdiction is based relies upon the assumption that the purpose of the Ohio Commercial Activity Tax ("CAT") is legally permissible and "in pursuance of law" as required by Ohio Const. Article 12, Section 5, and does not contravene Article 12, Section 5a ("Section 5a") restrictions on that object. In addition, the Commissioner completely ignores Civ. R. 12(H)(requiring Civ. R. 12(b)(6) pleading defect arguments to be raised with the trial court or be waived) and R.C. 5751.31(granting standing to file a petition for reassessment based on an alleged violation of Section 5a to any taxpayer paying the CAT). His flagrant attempt to avoid the merits is notable only for its lack of substance.

The Commissioner's self-serving pitches do not stop there. He assumes, again without support, that the language of Section 12 of the Hayden Cartwright Act of 1934 supports his narrow interpretation of Section 5a. He assumes that Ohio voters intended to enact the alleged meaning of the Hayden Cartwright Act even though they used entirely different language. Again, the Commissioner failed to offer a reference or citation to even one contemporaneous (i.e., 1947)

mention of Section 5a and the Hayden Cartwright Act. He also assumes without support that the Ohio corporate franchise tax and the CAT are indistinguishable in nature and effect although no state tax experts have ever published an opinion agreeing with this conclusion. The Commissioner pitches his arguments as though the corporate franchise tax and not the CAT is before the Court. He assumes that because the CAT was passed in 2005 as part of tax reform at the same time the franchise tax phased out, the CAT is the same as the franchise tax for purposes of Section 5a. He further assumes, that there is a “national consensus” regarding Section 5a-type amendments and their non-applicability to sales or gross receipts taxes, but again he fails to provide the Court even one example from this claimed plethora of authority. He assumes that the CAT and the Ohio motor fuel tax are different taxes in type, nature and effect but offers no support. All of these assumptions are wrong. All are easily disprovable.

### **ARGUMENT**

**A. The Commissioner’s characterization of the CAT as fundamentally different from the Ohio motor vehicle fuel tax and therefore outside the scope of Section 5a is unsupported and objectively disprovable.**

The Commissioner asserts that Section 5a (and similar road funding restrictions within other states’ constitutions) contains an implied restraint limiting its application to motor fuel and liquid fuel taxes. Stated another way, the Commissioner maintains that a business privilege excise tax (including gross receipt taxes like the CAT) and the sales tax are outside Section 5a coverage. He claims that, as a historical matter, a business privilege excise tax like the CAT and a transactional excise tax like the sales tax are fundamentally different than the motor fuel tax and therefore fall outside the reach of Section 5a. Once again, the Commissioner’s recitation of “history” lacks any authority that compares the nature and affect of these taxes. Had he performed actual research, the Commissioner would have discovered that in the 1940’s 80% of



state motor fuel taxes (including Ohio's) were business privilege taxes imposed on Motor Vehicle Fuel dealers. *See Keeley v. U.S.*, 126 F.2d 863, at n. 1 (8<sup>th</sup> Cir. 1942). The remaining 20% were sales taxes imposed directly upon consumers. *Id.*

Had he continued his research, the Commissioner would have found authorities that conclude gross receipts taxes and motor fuel taxes (both measuring-stick-business-privilege excise taxes) and sales taxes (transactional excise taxes) always have been understood to be of the same species of excise tax. All three were the "same or similar" in their relationship to business privileges and to the sale of the use of the underlying commodity to establish the measure of these taxes. In the absence of language specifically providing a basis to distinguish between them (e.g., "imposed upon"), these taxes were all considered to be the same thing. For that reason, state sales taxes and gross receipts taxes normally included exemptions on sales of or gross receipts from sale of Motor Vehicle Fuel at least to the extent a state motor fuel tax applied. This is true because the legislatures and citizens of those state understood these taxes to be the "same or similar" when applied to the same line of business (Motor Vehicle Fuel), all these taxes were considered to "related to" the underlying commodity in the same or similar way.

Appellants cite authorities in their Reply Brief that motor fuel, gross receipts and sales taxes historically were considered to have the same or similar relationship to the underlying commodity for Section 5a restriction purposes. In contrast to the foregoing, no authorities exist that describe the corporate franchise tax as within the species of excise taxes that include motor fuel, gross receipts and sales taxes. Not surprisingly, state corporate franchise taxes did not provide exemptions for the sale or sellers of Motor Vehicle Fuel. This is true because no state considered corporate franchise taxes comparable to motor fuel, gross receipts or sales taxes. Thus, the Commissioner's focus on the Ohio corporate franchise tax (which is properly defined

as an artificial entity tax) as alleged predecessor to the CAT appear to be completely “off topic” as a historical matter.

If there were a “national consensus” as the Commissioner suggests that gross receipts or sales taxes were fundamentally different from motor vehicle fuel taxes, and therefore outside the reach of Section 5a-type amendments, we would expect to see a host of examples presented from those jurisdictions showing application of gross receipts and sales taxes to motor vehicle fuel sales or sellers without any earmarking of that tax revenue for roadway funding. Similarly, we would expect other states to have answered the question here before this Court, “whether gross receipts or sales taxes are reached by Section 5a-type amendments when such taxes are applied to sales or sellers of motor vehicle fuel?” Yet, the Commissioner was unable to introduce a single authority wherein a gross receipts or sales tax is applied to motor fuel sales or sellers with the resultant tax revenue funding non-roadway purposes. Instead, he simply assumes a legal conclusion and tells the Court his unsupported assumption is a “national consensus.”

Contrary to the Commissioner’s claims, the normal structure nationally among states that have Section 5a-type amendments is to exempt motor fuel sales or sellers from their general gross receipts or sales taxes to the extent they are already subject to state motor fuel taxes. *See* Haas, William L., *Sales Taxes Affecting Motor Vehicle Operation*, Public Roads, 22: 147 at 150 (Sep. 1941) (“describing gross receipts taxes on business and retail sales taxes as part of the national “general sales tax” structure studied, and making no distinction between those taxes for purposes of the study) (Ex. A); *Id.* at 155 (“[g]asoline for highway use is generally exempt from general sales taxation). Such exemptions recognize that that the generally applicable sales and gross receipts taxes and specifically applicable motor fuel taxes are one and the same as applied. *Id.* This Court has acknowledged the principle that the reason a sales tax exemption is provided

for motor vehicle fuel is a policy against double taxation because motor vehicle fuel already was burdened by the same or similar excise taxes in the form of motor fuel and liquid fuel tax.

*Haeffner v. Youngstown* 147 Ohio St. 58, 65, 68 N.E.2d 64 (1946).

The same policy would have applied to a proposed gross receipts tax that was debated at the same time the Ohio Sales Tax was under consideration. *See Sales Tax Bill Bobs Up In Ohio Senate Today For Consideration*, The Piqua Daily Call, Piqua, Ohio (Apr. 24, 1934) (setting forth exemption from proposed gross receipts tax because of existing Ohio motor vehicle fuel tax)(Ex. B); *Gross Receipts Tax Measure is Drafted*, The Evening Independent, Massillon, Ohio (April 25, 1934)(“ . . .tax as approved would exempt gasoline liquid fuel. . .)(Ex. C); *Committee Votes Down Sales Tax*, The Star Journal, Sandusky, Ohio (April 24, 1934)(describing pyramiding nature of proposed gross receipts tax on manufacturers, wholesalers and retailers, and exemption for receipts from gasoline and liquid fuel because of existing motor vehicle fuel taxes) (Ex. D).

Ohio’s consideration of gross receipts taxes did not end in the 1930s, nor did its understanding that a general gross receipts tax was the same or similar to the Ohio motor fuel tax. In 1949, the school lobby pushed for a gross receipts tax known as the “gross sales tax” that was intended to replace the Ohio Sales tax. *See School Lobby Backs Sales Tax Hike*, Mansfield News Journal, (April 24, 1949)(Ex. E); *School Interests Open Drive for New Tax Bill*, The Lima News, (April 24 1949)(Ex. F). Merchants were to pay that tax. *Id.* Whether the merchant passed the burden of the tax along was up to the merchant. *Id.* Like the gross receipts tax proposed in the 1930s, the gross receipts tax contemplated in 1949 exempted sales of gasoline. *Id.*

Thus, the norm nationally for states with Section 5a-type amendments and in Ohio specifically is that the motor fuel tax will not share the tax base with a gross receipts or sales tax competitor. In those very few states that apply a gross receipts or sales tax and a “gasoline tax” to motor fuel sales or sellers, and that have a Section 5a-type amendment, there is an exception specifically allowing that tax set forth within the relevant amendment. *See Michigan Constitution Article 9, Section 9; WA Const. Article 2, Section 40; See also Wash. AGO 2001 No. 2, 2001 WL 406985 (Wash. A.G.). That is the true “national consensus,” and one which Ohio always followed until 2007.*

The Commissioner claims that Section 5a only addressed taxes “targeting” highway users. The Commissioner claims this constitutional “targeting” must consist of a direct reference to motor vehicle fuel. However, the Ohio motor vehicle fuel tax has always been understood to “target” highway users within the meaning of Section 5a only because the cost of this wholesale tax is passed to consumers in the form of higher commodity price. *Hickok Oil Corp. v. Evatt*, 141 Ohio St. 644, 653 (1943) (“As the ultimate consumer pays a price enhanced by the tax, the burden is spread upon those who use the privilege of driving motor vehicles on the highways and streets of the state.”). The 10<sup>th</sup> District decision recognized the truth of the foregoing proposition stating, “This ‘pass through’ structure means that the gasoline tax is effectively a tax targeted at drivers, notwithstanding the fact that the tax is collected from dealers.” *See Beaver Excavating Co. v. Levin*, 2011 Ohio 3649, at ¶ 44, 2011 Ohio App. LEXIS 3085 (10<sup>th</sup> Dist. 2011). The 10<sup>th</sup> District concurring opinion went on to suggest that there is some distinction to be made between business taxes the General Assembly “intends to be passed along” versus identical taxes without such an expression of intent.

Such a claimed “distinction” is utterly without substance. All business taxes will be passed along in whole or in part as the business sees fit without regard to suggestions or expectations of the General Assembly. The suggestion that \$140 million of CAT revenue will be collected annually from dealers but not passed along to customers is an absurdity. It is particularly absurd to claim that the existing motor fuel tax is passed along, but if we add another business tax, that one will not be passed along. If the first tax was sufficiently large that it must be passed along, the second also must be passed along. Indeed, how does one distinguish which business taxes are passed along and which are absorbed? Perhaps it is a portion of the Ohio motor fuel tax that will be “absorbed” while the CAT is “passed along.” Perhaps both will be passed along and a non-tax cost will be absorbed. The truth is that all such taxes form a component of overhead expense. All or virtually all will be passed along in the same fashion that non-tax overhead costs will be passed along. The burden of the CAT is nothing more than an add-on to the Ohio motor fuel tax. It necessarily will be passed along to consumers.

The CAT does not substantively differ from the Ohio motor fuel tax. Like the Ohio motor vehicle fuel tax it is a measuring stick business privilege tax that is measured over a period of time and not per transaction. *Compare* R.C. 5735.06 (motor fuel tax calculated and reported monthly by comparing gallons received versus gallons on hand and applying statutory rate) with R.C. 5751.051 (reporting quarterly gross receipts, applying rate, and filing return on that basis). In short, neither the CAT nor the Ohio motor fuel tax are transactional taxes. Neither are directly collected from purchasers. They are both measuring stick doing business taxes imposed upon commodity dealers that they have the same impact on the driving public. Section 5a should apply equally to both.

The Commissioner points in Brief to refund rights of the consumer as somehow transforming the Ohio motor fuel tax into a transactional sales tax. This position is directly contrary to Ohio law, and directly contrary to the position argued successfully by the Commissioner in *Hickok*. See *Hickok, supra* at 652-653 stating:

While some of the language in Section 5527 respecting the distribution of the burden of the tax, such features as the refunding provisions of Section 5531 or Section 5534, General Code, or the agreement to assume the liability for the taxes on the shipments into the state might, if isolated, raise some question as to the relationship, yet when the entire act, and especially Sections 5527 and 5541, is considered it is clear that the tax is levied against the dealer for the privilege of doing business as a dealer and is to be measured by the amount of business done.

Similarly, contrary to the assumption of the Commissioner, federal courts also have not afforded refund rights in the purchaser such transformative powers. See *Gurley v. Rhoden*, 421 U.S. 200, 206 (1975)(stating that the federal excise tax on gasoline is tax on dealer and not on purchaser and that refund rights held by purchaser merely reflect understanding that the burden of business taxes are passed along to the customer); *Keeley v. U.S.*, 126 F.2d 863, n. 1 (8<sup>th</sup> Cir. 1942) (stating that 80% of all state gasoline taxes in 1942 were understood to be business privilege taxes on the dealer and noting arguments of taxpayers attempting to avoid state tax within federal enclaves on that basis). To state it another way, if the CAT had a similar refund right for purchasers recognizing the passed along tax burden, it would still remain a business privilege tax.

It should be noted that even if the Commissioner's assumption were correct that the Ohio motor fuel tax is a transactional sales tax, the Section 5a phrase "excises and license taxes" applies equally to both transactional sales taxes and business privilege taxes. Thus, this "distinction" would go nowhere.

**B. The Hayden Cartwright Act of 1934 and federal authority do not support the Commissioner.**

The Commissioner has suggested throughout his Brief that Ohioans in 1947 were wringing their hands about meeting the thirteen year old requirements of the Hayden Cartwright Act of 1934 ( at Section 12 therein)(“HCA”) wherein a state could lose up to one-third of its federal highway funding if it diverted additional tax revenues away from highway funding after June 1935. That section provided in pertinent part:

... Federal for highway construction shall be extended only to those States that use at least the amounts now provided by law for such purposes in each State from State motor vehicle registration fees, licenses, gasoline taxes, and other special taxes on motor vehicle owners and operators. . .

The Commissioner reads the foregoing provision to exclude gross receipts and sales taxes because it references “gasoline” and “other special taxes.”

However, there are no contemporaneous authorities supporting the contention that Ohioans were concerned about this provision in 1947, and the Commissioner utterly fails to explain why Ohioans would use the language of Section 5a if they intended the language of the HCA. Lastly, the Commissioner offers no authorities supporting his assumption that the phrase “gasoline tax, and other special taxes” excluded gross receipts and sales taxes. Thus, the Commissioner cannot even support the proposition that his interpretation of the HCA is correct, much less his interpretation of Section 5a.

**1. There are no contemporaneous authorities or historical writings suggesting Ohioans were concerned about the Hayden Cartwright Act of 1934 in 1947.**

The Commissioner does not present a single contemporaneous newspaper article or governmental authority of the day supporting the proposition that Ohioans were concerned about

meeting the thirteen year old requirements of the Hayden Cartwright Act of 1934. Indeed, he presents nothing suggesting they were even aware of that Act. He ignores the fact that the Governor and other public officials were uniformly against enactment of Section 5a. If federal funding were remotely at risk, one would not have expected such resistance from Ohio government. Instead, the Commissioner's sole contemporaneous "authority" is the following Section 5a ballot language:

Ohio needs road money to tie-in with the promised federal highway program which will include many city streets and rural roads.

The Commissioner claims that this ballot language is a cryptic reference to the HCA. However, like his other self-serving assumptions, this one too is incorrect. The ballot reference is to the Federal-Aid Highway Act of 1944 (58 Stat. 838), not the HCA.

The federal government's subsidization of state highway spending via the Federal Aid Highway Program had been around since 1916. *See* Federal Aid Road Act of 1916, 39 Stat. 355. New statutes were enacted every few years as new appropriations were made. The general requirement over the decades was a 50-50 match of federal funding by the states. Like its predecessors, the Federal-Aid Highway Act of 1944, which allocated \$500 million to the States for the three years after WWII ended (including 1947, the year in which Section 5a was on the ballot), required states to match on a 50-50 basis the federal funds apportioned to that state. *Id.* at Sec. 5(a). Similarly, federal funds apportioned to a particular state would lapse if they remained unexpended after the close of the fiscal year for which the sums were authorized. *Id.* at Sec. 4(d). It should be noted that the tax revenue source from which the states met their federal funding match was irrelevant. Thus, a general revenue source was fine with regard to the 50-50 match.



The Court can know with absolute certainty that it is the Federal-Aid Highway Act of 1944 that is being referenced in the 1947 ballot language and not the HCA because of the reference to "city streets." Federal funding specifically *earmarked* for urban areas was new to the 1944 Act. See *America's Highways, A History of the Federal Aid Highway Program*, p. 156 (U.S. Dept. of Transportation, 1976) (stating, "... the main interest of the State highway departments was in the rural highway systems outside the cities. Congress changed all this in 1944 by specifically earmarking \$125 million annually for post war years for roads in urban areas.")(Ex. G). Thus, it was the Federal-Aid Highway Act of 1944 and road funding generally that was of concern in 1947, not the obsolete anti-diversion requirements of the HCA.<sup>1</sup> So, the one single contemporaneous 1947 Ohio authority that the Commissioner repeatedly points out in Brief as the seminal Ohio reference to the HCA, not surprisingly, has nothing to do with the HCA. Accordingly, the Commissioner does not have one single citation to any contemporaneous 1947 authority suggesting that either Ohio government or Ohio citizens were even aware of the technical anti-diversion requirements of the HCA. The average Ohioan could not have intended to enact the provisions of HCA of 1934 if they did not even know about the HCA.

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<sup>1</sup> The HCA's anti-diversion requirements were obsolete in 1947 for several reasons. First, Ohio had already accomplished most of its revenue diversion prior to 1934 (e.g., the liquid fuel tax was always a general revenue tax). Thus, the prospective nature of the HCA was largely irrelevant in Ohio. Similarly, the prospective anti-diversion spending requirements of the HCA were not inflation indexed. It became less relevant with each passing year. Exploding post-war highway usage guaranteed that spending restrictions based upon 1934 era highway spending levels were never again going to be a relevant issue for state governments. That was the case long before 1947 in Ohio. Thus, Ohio's complete failure to reference the anti-diversion requirements of the HCA in either newspapers or any other official discussion in 1947 in the months leading up to the enactment of Section 5a should not be surprising. As a historical matter, it was an absolute non-issue

**2. It is improper to interpret “excise or license taxes relating to . . . fuel” to mean the same thing as “gasoline taxes, or other special taxes.”**

The Commissioner relies on several bare commentator references to the anti-diversion “spirit” of the HCA several decades after enactment of the HCA for the proposition that all other anti-diversion provisions in the various states must mean precisely the same thing as the HCA no matter what language they used, and no matter how long after enactment of the HCA the various state amendments were adopted. In essence, the Commissioner argues that Congress precisely set forth the limits of the anti-diversion will of citizens of all states in 1934, and neither Ohioans nor citizens of any other state would ever after be capable of expressing a will that deviated an iota from that dictated to them by Congress. Thus, per the Commissioner, no matter what you say, you mean “HCA.” Such arguments do not provide any meaningful discussion for the Court.

The Commissioner asks the Court to ignore that Section 5a does not use the potentially limiting term “gasoline tax” or “special tax” or otherwise reference the HCA of 1934 in any fashion. The Commissioner asks the Court to take it on faith that the voters illogically decided to use entirely different language in Section 5a to express their hidden intent to enact Section 12 of the obsolete act. The Commissioner’s argument runs contrary to the directive of this Court to apply *expressio unius est exclusio alterius* when interpreting the Constitution. *See Bd. of Elections v. State ex rel Schneider*, 128 Ohio St. 273, 283 (1934); *see also State ex rel. Robertson Realty Co. v. Guilbert*, 75 Ohio St. 1 (1906) (When interpreting the Ohio Constitution, “[i]f the maxim ‘expressio unius est exclusio alterius’ is involved, [courts] must consider it.”). This tool of interpretation means that “the express inclusion of one thing implies the exclusion of the other.” *O’Toole v. Denihan*, 118 Ohio St.3d 374, 383-84, 2008-Ohio-2574

at ¶ 57 (2008). In short, if Ohio citizens had intended to enact the HCA of 1934 for Ohio, they would have referenced it directly, or at least utilized the same language. If they meant “gasoline taxes, and other special taxes” they would have said that, not the broader phrase “excises and license taxes . . . relating to . . . fuel.” These phrases are not remotely similar yet the Commissioner interprets them to be identical. Similarly, the phrase used by Ohioans fit the broad understanding at the time that general sales and gross receipts taxes were in the same family as gasoline taxes, and that such taxes differed only as to scope.

- 3. The Commissioner assumes that the HCA would not apply to a generally applicable sales of gross receipts tax applied to motor vehicle fuel sales or sellers. His conjecture runs contrary to the broad construction in favor of highway funding that the HCA was always afforded.**

There is yet another problem with the Commissioner’s reliance on the HCA. The Commissioner has assumed that the phrase “gasoline taxes, or other specific taxes” in the HCA would not reach a gross receipts or sales taxes. Again, the Commissioner has not produced a single federal or state authority addressing the truth of that assumption. The Commissioner produces no federal authority defining “gasoline tax” or “other special taxes” for purposes of the HCA, nor does he offer any interpretive authority that would bear on that question. The bare fact that a commentator mentions in passing that the HCA of 1934 applied to “gasoline taxes” does not bear on the question of whether the HCA anti-diversion provisions would also have applied to gross receipts or sales taxes. Similarly, such passing references certainly do not stand for the proposition that the HCA could not apply to any generally applicable excise tax as the Commissioner contends.

As set forth above, there was a general understanding nationally both before and after 1947 that general gross receipts and sales taxes were the same tax as a motor fuel or “gasoline

tax” to the extent they were applied to sales or sellers of motor fuel, and gasoline sales and sellers were normally exempted from such general taxes for that reason. In that regard, the Commissioner’s assumption that the HCA would not reach such general excise taxes is at least questionable.

Federal authorities provide cause for additional doubt. In the case of *Keeley v. U.S.*, 126 F.2d 863 (8<sup>th</sup> Cir. 1942), the court described the history and purpose of the Hayden Cartwright Act from 1934 forward as a road funding enactment and stated it should be broadly construed to effectuate that road funding purpose. Other courts have followed suit and broadly interpreted the HCA to effectuate its road funding purpose. *See, e.g., Sanders v. Oklahoma Tax Commission*, 197 Okla. 285 (OK 1946)(applying a broad interpretation of an amendment to the HCA in favor of increased road funding). Thus, if the question of whether a general gross receipts tax on fuel sellers met the HCA definition of “gasoline taxes, or other specific taxes,” it is plausible to assume that the HCA would have applied to that tax. Similarly, the Commissioner’s attempt to use the HCA as a purported authority to *limit* the road funding reach of Section 5a runs contrary to the broad interpretation in favor of road funding that the HCA was always afforded. Amicus has not found one case interpreting the HCA in the manner the Commissioner suggests.

To summarize, the Commissioner has failed to provide (1) any authority corroborating his claims as to the reach of the HCA; (2) any authority or evidence suggesting that the HCA was on the minds of Ohioans, or even relevant in 1947; and (3) any explanation as to why Ohioans would use entirely different language in Section 5a if they intended the meaning of Section 12 of the HCA. In short, the Commissioner’s arguments are imaginative and fanciful but they are completely divorced from the text, the history of Section 5a, and construction in favor of road funding (i.e., the common purpose of both the HCA and Section 5a). In that regard the

Commissioner's arguments are hardly "plausible" grounds to subvert a provision of the Ohio Constitution.

C. The CAT tax as applied to motor vehicle fuel cannot continue and be held unconstitutional as applied because the expenditure of the revenues generated may only be expended for purposes allowed by Section 5a and the CAT tax law provides only for expenditures other than those allowed by Section 5a.

**C. The CAT as applied to motor vehicle fuel cannot continue to be collected and also be held unconstitutional as applied, because Article 12, Section 5, requires that tax revenues may only be expended for the stated purpose(s) for which the tax was levied. Section 5a specifies the only permissible purpose for excise taxes relating to motor fuel. The CAT specifies purposes for the tax that are all outside Section 5a restrictions.**

Commissioner attempts to argue that even if the CAT tax is held to be an excise tax relative to motor fuel that the tax should continue because the levying of a tax is separate from the spending issue. That argument fails. All taxes must state the reason for which they were levied, i.e., their "object." Thus, specification of how the tax will be spent later is part and parcel of enactment of a valid Ohio tax. In the current instance, the CAT tax lists specific purposes for which the tax can be spent, and none of those purposes are a purpose allowed by Section 5a. Compare Article 12, Section 5a with R.C. 5751.20.

There is no rational basis for the application of a tax where the use of the revenues from the tax is constitutionally prohibited from being used as set forth in the enacting statute. No public purpose can be served by the continuation of the tax because the revenues cannot be used. Article 12, Section 5 states that the tax revenue can only be spent on the purposes set forth in the enacting statute. *See id.* ("to which only it shall be applied."). If the Court enjoins the use specified in the enacting statute as the Commissioner suggests, how could the revenue ever be

spent consistent with Section 5? For this reason, the CAT tax must be held unconstitutional as applied to the gross sales of motor fuel.

In his Article 12, Section 5 argument, the Commissioner attempts to find support in the language therein which provides: "No tax shall be levied, except in pursuance of law; and every law imposing a tax shall state, distinctly, the object of the same, to which only, it shall be applied." The Commissioner claims that the semi-colon in the sentence separates the sentence into two distinct unrelated requirements. This Amicus position is that the drafters of the Constitutional provision placed both phrases in a single sentence to emphasize the interrelationship of the two requirements. Similarly, Section 5a was given subpart enumeration as part and parcel of Section 5 to make clear that the failure of the legislature to state a purpose consistent with Article 12 results in a failure to state a proper purpose for which the tax funds can be collected or expended. Therefore the CAT, as applied to motor fuel sellers and to the extent CAT revenue is measured by gross receipts from sales of highway use motor fuel, results in a violation of both Section 5 and Section 5a, and that portion of the tax as applied to motor fuel must be struck down as unconstitutional.<sup>2</sup>

### CONCLUSION

The historical manner in which gross receipts taxes have administrated by other states is to apply different tax rates on different industries. *See, e.g.*, Chapter 82.04 Rev. Code Wash; (*Washington* gross receipts tax return showing many different tax rates)( Ex. H); Blakey, *State Sales and Use Taxes*, 20 *Taxes* 155, 159 (1942)("States imposing gross receipts taxes have long

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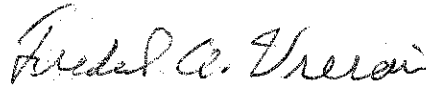
<sup>2</sup> Appellants set forth in their Brief the observation that the Court could *Sunburst* its decision such that it would apply prospectively only. Such a remedy would avoid both refunds and loss of tax revenue (assuming that the General Assembly acts soon after the Court's decision to insert a proper Section 5a purpose into R.C. 5751.20). Amicus agrees that a prospective decision is the proper way to proceed.

schedules of rates.”)(Ex. D). Accordingly, if the Court affirms the decision of the 10<sup>th</sup> District, Ohio citizens and businesses can expect an unrestrained General Assembly to use the CAT to take an increasingly large share of the protected Section 5a tax base for unrestricted use while the Ohio motor fuel tax withers on the vine.

If the Court affirms the 10<sup>th</sup> District decision, the General Assembly could repeal the Ohio motor fuel tax and simply increase the rate of CAT by the same amount. After all, the Court will have held that the CAT does not “relate to” motor vehicle fuel for Section 5a purposes despite its clone-like resemblance to the Ohio motor vehicle fuel tax as applied to fuel sellers. In that fashion every bit of the business privilege excise tax revenue from fuel dealers could be directed to the general revenue fund without violating Section 5a. It follows then that the real issue before the Court is whether Section 5a will be relegated to the dustbin.

The Court’s decision here need stretch no further than holding that any excise tax that historically has been understood to be the same or similar tax as a “gasoline tax” as applied to gasoline sellers, that reaches the same business privilege, and that has a similar indirect impact on the community/road users must be subject to Section 5a. The Court should restore Section 5a to its historical role of protecting road funding and declare the CAT unconstitutional as applied to sales of highway motor fuel.

Respectfully Submitted,



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# SALES TAXES AFFECTING MOTOR-VEHICLE OPERATION

## AN ANALYSIS OF GENERAL SALES TAX REVENUES RESULTING FROM MOTOR-VEHICLE OPERATION

BY THE DIVISION OF CONTROL, PUBLIC ROADS ADMINISTRATION

Reported by WILLIAM L. HAAS, Assistant Transportation Economist

SEVERAL KINDS of taxes are imposed on the ownership and operation of motor vehicles, the most productive being taxes on motor fuel and the fees and licenses levied annually on motor vehicles. These taxes, commonly known as highway-user taxes, have been imposed directly upon motor-vehicle owners for many years.

A special study of the extent of such taxes in 1932, made by the Public Roads Administration,<sup>1</sup> indicated that more than one billion dollars was collected in that year from State, county, and local highway-user fees and taxes, personal property taxes, Federal excise taxes, and public bridge and ferry tolls.

Data collected annually by the Public Roads Administration indicate that the receipts from such taxes have increased so that the State motor-vehicle and motor-fuel taxes alone yielded approximately \$1,250,000,000 in 1939. At the time of the special study in 1932 the general sales tax was but little used in the United States and yielded only a small amount of revenue. The effect of such taxation on motor-vehicle operation in 1932 was too small to warrant its inclusion in the special study. The study reported herein was, therefore, undertaken to supplement the special 1932 study of other taxes affecting motor-vehicle operation and the subsequent statistical summaries of such other taxes that have been made and reported each year since 1932.

The general sales tax, evidently a product of the depression, has grown rapidly in importance since 1932 so that its relation to motor-vehicle operation can no longer be ignored in any analysis of the total extent of taxes affecting motor-vehicle ownership and operation.

From 1932 through 1939, approximately \$357,443,000 was contributed by motor-vehicle owners through sales taxes affecting motor-vehicle operation. This

Motor-vehicle owners and operators contributed approximately \$357,443,000 from 1932 to 1939 in the form of sales taxes affecting motor-vehicle operation. All but a very small part of this was directed to the general support of State governments and was not used for highway purposes. This amount was in addition to the regular highway-user tax contributions by motor-vehicle owners.

Collections from the various types of sales or excise taxes levied by the several States were very small in 1932, but increased rapidly in succeeding years. Although only 2 States levied sales taxes in 1932, 22 States were levying such taxes in 1939. In addition Kentucky and Maryland levied excise taxes specifically on motor vehicles.

Sales or excise taxes on new or used vehicles accounted for 64.5 percent of the total sales taxes levied on motor vehicles and allied automotive sales from 1932 to 1939. The next largest item was accounted for by the operations of filling service stations, parking lots, and auto hotels, whose contribution was 17.7 percent of the total. Garages and repair shops contributed 6.2 percent of the total while the sales of accessories, tires, batteries, and parts accounted for 5.7 percent.

Contributions of sales and excise taxes in 1938 averaged \$4.40 per vehicle in the 24 States in which such taxes were levied. In the same 24 States the average highway-user taxes per vehicle were \$35.22.

Sales taxes have not been initiated in recent years by any additional States but the increase in receipts from these taxes on motor-vehicle owners has been occasioned by the increase in motor-vehicle ownership, the increase in general price levels, and improved economic conditions.

amount constituted 17.2 percent of the total of approximately \$2,077,836,000 which was collected in general sales taxes, use or compensating taxes, and motor-vehicle excises in the States that levied such taxes during that period. The contribution by motor-vehicle owners, essentially all of which was directed to the general support of State governments and was not assigned for highway purposes, was accounted for by:

1. Taxes on sales of motor vehicles, amounting to \$230,418,000 or 64.5 percent.

2. Taxes on filling and service station sales, amounting to \$63,309,000 or 17.7 percent.

3. Taxes on garage and repair shop sales, amounting to \$22,311,000 or 6.2 percent.

4. Taxes on sales of accessories, tires, and batteries, amounting to \$20,360,000 or 5.7 percent.

5. Taxes on the sale operations of the automotive and petroleum industries, amounting to \$17,276,000 or 4.8 percent.

6. Taxes on the sale of other allied motor-vehicle goods and services, amounting to \$3,769,000 or 1.1 percent.

Only two States had imposed general sales taxes in 1932 and the revenue was relatively insignificant. In that year revenues from sales taxes on automotive goods were less than \$200,000. By 1937, when 30 States had adopted and 22 States still retained a sales tax, the automotive portion of collections exceeded \$75,000,000. Although the automotive portion in 1939 dropped slightly below \$74,000,000, it is expected that with improved economic conditions and the probable adoption of sales taxes by additional States, the motor-vehicle portion will increase.

### STUDY MADE TO DETERMINE EXTENT OF TOTAL HIGHWAY-USER TAXATION

While the concept of special taxes on the highway user to finance road improvements has generally been limited to such levies as registration fees and gasoline

<sup>1</sup> Then the Bureau of Public Roads. Report was published as "The Taxation of Motor Vehicles in 1932," G. P. St. Clair, October 1934.

taxes, the amount of sales taxes paid on account of highway use is an important related problem. Some consideration has been given to the amount of highway-user taxes used for other than highway purposes but little thought has been given to the amount of these other taxes specifically resulting from motor-vehicle operation, of which only a small portion finds its way to the support of highways. Since all levies to which the motor-vehicle operator is subject because of his use of the highways directly affect the amount he is willing or able to pay for such highway services, the extent of all taxes affecting his use of the highways must be given adequate consideration in any taxing program.

Since the beginning of motor-vehicle transportation, almost every year has witnessed the imposition of a higher aggregate of specific taxes on the highway user. While the extent of direct taxation in the form of gasoline taxes and registration fees is largely a matter of general information, the public is not generally aware of the contributions, particularly in recent years, by the highway user in the form of other indirect but inescapable charges.<sup>2</sup> Legislators—Federal, State, and local—seeking new sources of revenue for various purposes, and undoubtedly impressed by the apparently inexhaustible source of funds which the highway user appeared to provide, soon cast covetous eyes in that direction for additional funds. The multiplicity of taxes now levied on the highway user is such as to make it almost impossible to determine the full extent of his contribution toward the support of government in the form of taxes resulting from his ownership and use of a motor vehicle.

The following summary of the principal taxes on motor-vehicle owners by the various governmental agencies outlines the types of taxes levied at the various levels of government.

1. Federal.
  - Excise taxes on gasoline, lubricating oil, automobiles and motorcycles, trucks, tires and tubes, and parts and accessories.
2. State.
  - a. *Special*.—Taxes on gasoline and lubricating oil; registration, title and operators' and chauffeurs' permit fees; gross receipts and ton-mile taxes; occupational and privilege taxes; road and bridge tolls.
  - b. *General*.—Personal property and sales taxes.
3. County.
  - a. *Special*.—Taxes on gasoline; registration fees and wheel taxes; operators' license fees; road and bridge tolls.
  - b. *General*.—Personal property taxes.
4. Municipal.
  - a. *Special*.—Taxes on gasoline; registration fees and wheel taxes, operators' license fees, operating and franchise taxes; road and bridge tolls and parking meter charges.
  - b. *General*.—Personal property and sales taxes.
5. Other units.
  - a. *Township, special road districts, etc.*—Personal property and special franchise taxes.
  - b. *Special road and bridge authorities*.—Tolls.

These are by no means all of the taxes eventually paid by the motor user, but they illustrate the com-

plexity of the problem. Partial figures on the various kinds and amounts of motor-vehicle taxation prepared by various governmental agencies, industrial organizations, and other interested parties are available, but these have been confined largely to State and Federal taxes.<sup>3</sup>

The report by the Public Roads Administration entitled "The Taxation of Motor Vehicles in 1932," published in 1934, is still the most comprehensive survey ever made of motor-vehicle taxation in the United States. However, that report purposely excluded indirect charges such as real property taxes on automotive properties (factories, garages, truck and bus terminals, etc.), State chain store and retail sales taxes, and income and similar taxes which are not levied directly on the ownership and operation of the motor vehicle.

#### SALES TAXATION AN IMPORTANT ELEMENT IN MANY STATE TAX SYSTEMS

Renewed attention has been directed recently to the problem of determining the extent of taxation, other than the specific highway-user taxes, imposed on motor-vehicle owners. Inquiry into State and local taxation has been made by field representatives of the Public Roads Administration in connection with the highway planning surveys. Efforts were directed toward making a general survey of conditions in each State relative to real and personal property taxes, special assessments, sales, and other special taxes on motor-vehicle ownership or operation, as well as on allied properties and businesses directly associated with the motor vehicle or its operation.

One of the primary facts disclosed by this investigation in several States is that general sales taxation has become an important element in many State tax systems. In 7 of the 22 sales tax States the tax has increased in importance until in 1937 it was the largest single source of revenue, displacing the gasoline tax which held this distinction for many years.<sup>4</sup> Moreover, examination of the reported collections from this type of tax indicated that motor-vehicle owners as a class contributed more than was ordinarily supposed. The magnitude of these contributions and the disclosure that these data were readily available prompted a Nation-wide survey to determine the approximate amount of sales taxes paid by the motor-vehicle owner.

The data were obtained by field representatives of the Public Roads Administration from the various State departments or sales tax department records, with the assistance of the highway planning survey personnel in many States.

Generally, sales tax data were available showing the amounts paid by the principal tax-paying groups. Though variations existed between the States in the business classifications followed, major groups were generally common to all States. In some instances it was necessary to use estimates provided by State officials or based on the previous or the following year's data. In the majority of cases, however, the desired information was available directly from the State records.

The data reported here vary in some instances from published figures, but these variations are the result of

<sup>2</sup> For recent trends in highway taxation, see Trends in Highway Financial Practices, a report of the Department of Highway Finance, Highway Research Board, Thomas H. MacDonald, chairman. Proceedings of the Nineteenth Annual Meeting, 1939, page 15.

<sup>3</sup> A special report, Local Imposts on Motor Vehicles in Missouri, by John H. Long and Bailey H. Mayes appeared in PUBLIC ROADS, May 1940, page 49.  
<sup>4</sup> Ohio, Illinois, Michigan, Iowa, Missouri, North Dakota, and California; see Tax Systems, Eighth Ed., Tax Research Foundation, pp. 325-348.

necessary adjustments to allow for refunds, errors, and similar items. The amounts include penalties and interest, registration and permit fees, and merchants' or retailers' commissions. In some cases it has been necessary to present gross figures, but generally net figures are presented and all data are reconcilable to official published releases.

Although an attempt was made to obtain the sales tax data for the same fiscal period in each State, it was impossible to do so. Consequently, the data are presented for the fiscal period used in each State. The fiscal period applying to the data in the respective States is indicated in table 1. The period of this study extends from the year 1932, when the first retail sales tax was enacted, through the fiscal years ending during

the calendar year 1939. For convenience of analysis and comparison, the States have been grouped according to the geographic divisions followed by the United States Bureau of the Census.

The sales tax employed by most States is a flat or ad valorem levy made upon the sale or gross proceeds derived from the sale of commodities, properties, or services. It may be imposed upon retailers, wholesalers, manufacturers, producers, public utilities, trades, occupations, or professions. It may be imposed upon the sales of a particular commodity or it may be restricted to sales of tangible personal property at retail for use or consumption. In any event the sales tax is usually paid by the ultimate consumer to the retailer or vendor, who pays the money to the State.

TABLE 1.—Total collections from State general sales taxes, use taxes and motor-vehicle excise taxes, 1932-39

Geographic division and State	Collections for fiscal year ending in—									Data for fiscal year ending—	Sales tax effective—	
	1932	1933	1934	1935	1936	1937	1938	1939	Total			
<b>Middle Atlantic:</b>												
New York <sup>1</sup>	\$1,286	\$1,001	\$1,020	\$1,590	\$1,900	\$1,500	\$1,600	\$1,600	\$1,000	June 30	May 1, 1935.	
New Jersey <sup>2</sup>			23,130	7,623	9,111	2,26	3,15	3,15	20,236	June 30	July 1, 1935.	
Pennsylvania <sup>3</sup>		9,122	4,442	1,940	5,327	3,127	3,81	4,2	7,173	May 31	September 28, 1934.	
Subtotal		9,122	23,698	7,580	7,017	243	132	4	47,984			
<b>East North Central:</b>												
Ohio		36,633	36,034	38,913	48,105	57,979	63,013	69,699	47,911	December 31	January 27, 1935.	
Illinois			32,736	32,736	32,736	32,736	32,736	32,736	32,736	December 31	July 1, 1935.	
Michigan				48,105	57,979	63,013	69,699	47,911	309,979	June 30	July 1, 1935.	
Subtotal		36,633	68,770	71,651	148,826	158,704	175,418	150,346	431,013			
<b>West North Central:</b>												
Iowa			1,44	11,288	13,452	13,041	15,803	15,803	71,328	June 30	April 1, 1934.	
Missouri			5,287	6,493	11,688	17,263	20,924	32,665	83,901	December 31	February 13, 1934.	
North Dakota			1,360	2,742	2,880	2,806	3,906	3,906	13,595	December 31	May 1, 1935.	
South Dakota				2,658	3,676	4,122	4,201	4,201	13,778	June 30	July 1, 1935.	
Wisconsin			2,301	19,536	30,230	28,204	54,800	45,689	202,870	June 30	June 1, 1937.	
Subtotal			2,301	33,225	41,276	41,276	78,733	81,799	213,472			
<b>South Atlantic:</b>												
Maryland			1,760	7,012	8,341	8,447	9,799	8,980	34,339	September 30	April 1, 1935.	
West Virginia			6,012	7,656	10,184	11,328	11,013	10,908	43,179	June 30	April 1, 1934.	
North Carolina				1,923	3,135	710	438	576	6,751	June 30	July 1, 1933.	
Subtotal			7,772	16,678	21,660	20,485	21,312	20,464	84,229			
<b>East South Central:</b>												
Kentucky				9,347	7,230	1,760	1,131	955	20,722	June 30	July 1, 1934.	
Alabama		1,371	2,459	3,848	3,956	5,016	5,314	5,882	14,929	September 30	March 1, 1937.	
Mississippi						3,003	3,974	4,516	11,493	December 31	May 1, 1935.	
Subtotal		1,371	2,459	3,848	11,206	13,991	10,421	11,368	46,644			
<b>West South Central:</b>												
Arkansas					3,298	4,200	4,200	5,092	17,795	June 30	July 1, 1935.	
Louisiana <sup>4</sup>			3,825	4,765	5,835	11,561	4,425	5,219	34,710	December 31	October 1, 1933.	
Oklahoma					9,781	13,249	21,723	23,035	47,769	June 30	July 10, 1933.	
Subtotal			3,825	4,765	19,924	29,010	31,348	33,346	99,274			
<b>Mountain:</b>												
Idaho <sup>5</sup>				1,595	1,832				3,427	December 31	July 1, 1935.	
Wyoming				1,494	1,776		1,544	1,800	7,013	April 30	April 1, 1935.	
Colorado			4,411	6,481	8,119	8,414	9,281	9,281	36,777	December 31	February 2, 1935.	
New Mexico		1,112	2,131	2,917	5,630	3,400	3,813	4,126	18,726	December 31	June 1, 1934.	
Arizona		1,139	2,687	3,929	2,703	3,895	3,569	16,916	June 30	July 1, 1933.		
Utah		14	1,791	2,959	2,997	3,443	3,465	3,020	17,725	June 30	May 1, 1933.	
Subtotal		14	3,925	12,260	18,432	20,656	21,126	23,655	99,281			
<b>Pacific:</b>												
Washington			45,586	65,515	8,054	13,279	13,765	11,772	46,465	April 30	May 1, 1933.	
California				73,296	92,441	92,441	92,441	92,441	465,100	June 30	August 1, 1933.	
Subtotal			45,586	138,811	80,495	26,558	27,206	23,213	491,565			
<b>Total</b>	1,371	48,278	187,610	270,094	533,043	591,812	601,347	521,985	3,077,398			

<sup>1</sup> States that have repealed sales tax or permitted law to expire. Louisiana subsequently repealed sales tax effective December 31, 1940.  
<sup>2</sup> Delinquent assessments; law expired June 30, 1934.  
<sup>3</sup> Delinquent assessments; law repealed October 25, 1935.  
<sup>4</sup> Delinquent assessments, penalties and interest; law expired February 28, 1935.  
<sup>5</sup> Amount estimated; largely permit fees.  
<sup>6</sup> Includes highway privilege taxes.  
<sup>7</sup> Includes original license fees for calendar year.  
<sup>8</sup> Data for 13 months; law effective June 1, 1937.  
<sup>9</sup> Includes excise tax on motor vehicles.  
<sup>10</sup> Includes tax on certification of title for motor vehicles.  
<sup>11</sup> Includes highway privilege tax on motor vehicles.  
<sup>12</sup> Includes motor-vehicle usage tax effective May 15, 1936.  
<sup>13</sup> Includes approximately \$55,000 delinquent collections made subsequent to repeal of law in 1936.

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STUDY INCLUDED BOTH GENERAL SALES TAXES AND  
SPECIAL USE TAXES

This study is confined to the States levying general sales or use taxes on the sale of commodities and services variously designated as "gross receipts," "retail sales," "occupation," "use," "compensating," or "retailers." A general analysis of the operation of the various sales taxes in the several States was necessary to a determination of the relation of automotive goods taxation to the total sales taxation structure. Therefore, discussion of the basic principles of the operation of general sales taxation has been included in this report because the taxation of automotive goods under the general sales taxes is not an independent part of the tax structure.

Twenty-two States levied general sales or use taxes on the sale of commodities during 1939. It should be noted that neither the business or occupation taxes of West Virginia and Washington, nor the retail sales taxes levied by several larger cities, notably New York City, are included.

Connecticut, Delaware, Pennsylvania, and Virginia at present levy a restricted sales or merchants' license tax, but, because of their limited nature, the data for these States have been omitted from this study. Data for the general sales taxes imposed by Pennsylvania for a 6-month period in 1932-33, however, have been included. The gross income tax of Indiana is in the same category as general sales taxes, but because of the fundamental difference from the predominating type of "sales" taxes studied, data for that State were also omitted from the study.

Vermont passed a gross retail sales tax law effective in 1934, but it was declared unconstitutional in 1935 and was repealed by the legislature. The tax was in effect for approximately a year and yielded only a small amount of revenue. Consequently, Vermont's sales tax data have not been included in this study.

Similarly, Rhode Island imposed a restricted sales tax in 1932 to help finance unemployment relief. The law provided for levy and collection by local township authorities but was loosely interpreted and failed to produce the desired amount of revenue. Data for the Rhode Island sales tax were therefore also omitted from this study.

To make the data for the various States comparable, it was necessary to include certain special sales or excise taxes. For example, the motor-vehicle excise tax levied by Oklahoma is in effect a tax on motor-vehicle sales and therefore has been included. Likewise, it was believed desirable to include in this study the automobile usage tax levied by Kentucky, which is 3 percent on the retail price of the vehicle with standard equipment the first time it is registered in the State, and the excise tax levied by Maryland for every original motor-vehicle certificate of title issued at the rate of 2 percent of the fair market value.

The highway privilege tax in North Dakota, the original license fee in South Dakota, and the privilege taxes in West Virginia and North Carolina, all of which are in effect special sales taxes, have been included in this study. Maine, Massachusetts, New Hampshire, and Washington impose special excises or permit fees on motor vehicles. However, these imposts are in the nature of property tax levies, or in lieu of property taxes; they are not special sales excises and, therefore, have not been included in this study.

The extensive use of general sales taxation in the United States is evidently a product of the depression.

Of the States included in this study, the earliest general sales tax law was enacted by Mississippi in 1932 and the latest States to impose sales taxes were Alabama and Kansas in 1937. In almost all cases, the primary reason for the original enactment of the sales tax laws was a desire to bolster declining revenues as well as to provide for property tax relief. In most cases, too, the sales tax was adopted as a duration-of-the-emergency measure, usually for a 2-year period, under the belief that conditions might later become such that the impost could be dropped from the State's tax system.

STATE SALES TAX REVENUES 1932-39 EXCEEDED 2 BILLION DOLLARS

However, the startling success of the sales tax as a revenue producer has made an impression on legislators and even the severest critics of the tax have had to admit its success in that particular. In addition, the period during which sales tax laws were most widely adopted witnessed an increasing demand by the people that the States assume new functions and provide new services. The social security programs inaugurated by the Federal Government and several States in recent years, probably more than anything else, have led many States to seek other sources of revenues than those on which they had previously relied. The ease with which the sales tax could be collected, the large sums that could be derived therefrom, and the quickness with which the tax could be applied for emergency purposes were factors leading to the adoption of this particular form of taxation by many States.

The total revenue derived by the States from general sales taxation since 1932 is well in excess of 2 billion dollars. The annual income to the States from this source during the last few years has been approximately 400 million dollars, the proceeds during 1939 being \$421,945,000. In that year the sales tax income constituted 22.5 percent of the State tax revenues in sales tax States, evidence of the importance of sales taxes in the taxation systems of those States.

The relative magnitude of sales tax revenues in so many States suggests that reliance has been put on this form of taxation. The continued failure of property and other taxes to meet governmental requirements, the inertia of long established tax systems and consequent inability to meet rapidly changing social and economic conditions, the growing disapproval of the property tax as a major source of revenue, and the changing attitude on the part of the public toward the sales tax may result in the sales tax becoming more than a temporary or emergency tax.

A summary of the sales tax collections by years and the per capita collections are shown in figure 1 and table 2.

Table 3 presents data by States showing the relative importance of the sales tax in each State's fiscal structure in 1937 and 1939. Sales tax collections in 1937 represented 25.2 percent of the total State tax revenues, and although this percentage was only 22.5 in 1939, receipts, as shown in table 2, were actually greater than in 1937. This change was caused by the increasing importance in more recent years of such imposts as the unemployment insurance taxes. Of all the States, Illinois derived the greatest percentage of its revenue from the sales tax—47.4 percent in 1937 and 34.2 percent in 1939—while Louisiana

obtained the least—5.1 percent in 1937 and 7.7 percent in 1939. Table 3 indicates that Maryland and Kentucky derive the lowest percentages of income from sales taxes; however, these States do not impose a general sales tax but only special excises on motor vehicles. The large proportion of total State revenues represented by sales taxes in many States indicates that there is probably no immediate prospect of

TABLE 2.—Amount of annual sales tax collections, 1932-39<sup>1</sup>

Year	Amount	Per capita <sup>2</sup>	Number of States imposing sales taxes <sup>3</sup>
1932	\$1,371	\$0.63	2
1933	48,275	2.35	0
1934	167,619	3.26	15
1935	276,094	4.23	24
1936	358,943	6.70	24
1937	401,642	6.68	22
1938	401,937	6.89	22
1939	421,945	6.71	22
Total	2,077,536		

<sup>1</sup> Includes motor-vehicle excises as well as general sales taxes.  
<sup>2</sup> Based on United States Bureau of the Census 1940 population for sales tax States.  
<sup>3</sup> In effect at end of calendar year.

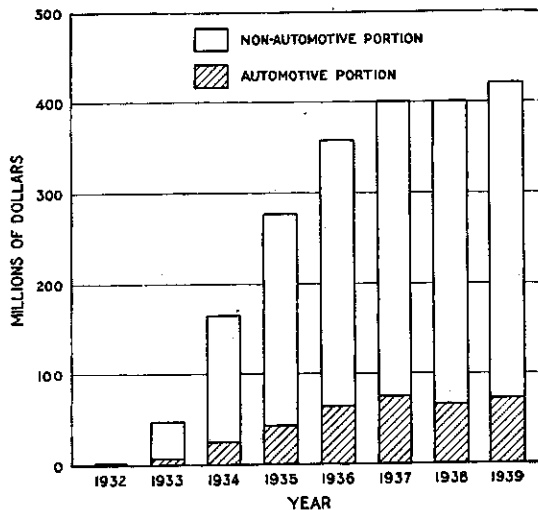


FIGURE 1.—ANNUAL REVENUE FROM SALES TAXATION SHOWING THE AUTOMOTIVE PORTION, 1932-39.

TABLE 3.—Comparison of total State taxes and total sales taxes collected in 1937 and 1939

Geographic division and State	Taxes collected in 1937			Taxes collected in 1939		
	Total State taxes <sup>1</sup>	Sales taxes		Total State taxes <sup>1</sup>	Sales taxes	
		Amount	Percentage of total		Amount	Percentage of total
<b>East North Central:</b>						
Ohio	\$1,000 285,632	\$1,000 52,015	22.1	\$1,000 255,588	\$1,000 47,911	18.7
Illinois	175,520	83,281	47.4	254,663	87,137	34.2
Michigan	148,027	58,309	37.4	169,944	51,503	30.3
Subtotal	559,179	190,605	34.1	680,195	186,551	27.4
<b>West North Central:</b>						
Iowa	65,149	15,041	23.1	69,002	15,810	22.9
Missouri	88,296	17,202	19.5	88,943	22,898	25.7
North Dakota	10,404	2,886	27.7	12,191	2,935	23.9
South Dakota	12,931	3,076	23.8	16,044	4,111	26.2
Kansas	25,515	( <sup>2</sup> )		41,501	9,804	23.6
Subtotal	202,295	38,205	18.9	227,681	55,598	24.4
<b>South Atlantic:</b>						
Maryland	33,942	* 710	2.1	44,721	516	1.2
West Virginia	46,063	9,447	20.5	52,026	8,500	16.3
North Carolina	73,900	11,328	15.3	77,453	10,969	14.2
Subtotal	153,845	21,485	14.0	174,200	20,184	11.5
<b>East South Central:</b>						
Kentucky	48,088	* 1,320	2.9	52,825	955	1.8
Alabama	41,992	2,903	6.9	48,978	5,882	12.0
Mississippi	27,020	6,123	22.7	29,580	6,515	22.0
Subtotal	117,100	10,406	8.9	131,383	13,352	10.2
<b>West South Central:</b>						
Arkansas	22,405	4,300	19.2	31,290	5,032	16.1
Louisiana	69,373	3,589	5.1	80,040	8,219	7.7
Oklahoma	39,712	11,501	29.0	61,210	11,784	19.3
Subtotal	151,490	19,490	12.8	172,540	25,035	14.5
<b>Mountain:</b>						
Wyoming	8,930	1,776	19.9	10,716	1,909	17.7
Colorado	29,994	8,119	27.1	35,589	8,291	23.3
New Mexico	13,120	3,649	27.8	15,492	3,813	24.6
Arizona	17,856	3,708	20.7	18,717	3,569	19.1
Utah	15,385	3,412	22.2	17,740	3,636	20.5
Subtotal	85,265	20,659	24.2	98,254	22,058	22.4
<b>Pacific:</b>						
Washington	67,750	12,278	18.1	65,787	11,772	17.9
California	253,828	83,411	32.9	319,553	89,471	28.0
Subtotal	321,578	95,689	29.8	385,340	101,243	26.3
<b>Total</b>	<b>1,590,742</b>	<b>401,398</b>	<b>25.2</b>	<b>1,871,163</b>	<b>421,941</b>	<b>22.5</b>

<sup>1</sup> From Tax Systems, eighth ed., The Tax Research Foundation.  
<sup>2</sup> Sales tax effective June 1, 1937.

\* Motor-vehicle excise tax only.  
<sup>3</sup> Automobile usage tax only.

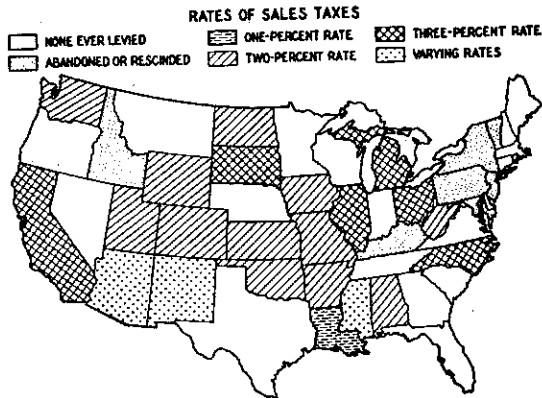


FIGURE 2.—STATUS OF THE STATE GENERAL SALES TAXES IN 1939.

eliminating such taxes from the revenue systems of those States.

The fact that 22 of the 30 States that have had sales taxes still retain them emphasizes the continued reliance by legislators on this tax to augment other sources of State revenue or to replace the decreasing revenues of certain out-moded taxes. Figure 2 shows that no region of the United States has escaped sales taxation entirely. Although eight States have discontinued their sales taxes, several others that do not now impose such levies have been seriously considering the adoption of this form of taxation. In Oregon sales tax proposals have been defeated twice by referendums and the Texas legislature has voted down a similar proposal. In several other States active sales tax blocs are continuing their campaigns for the adoption of such taxes.

It is significant, however, that none of the highly industrialized States in the East now has a sales tax; the only area on the Atlantic seaboard north of North Carolina that has such a tax is New York City. It will be seen in figure 2 that six States in this area which at one time had sales taxes repealed them or allowed them to become ineffective. Only two other States in the rest of the country, Kentucky and Idaho,<sup>5</sup> discarded their sales taxes. The fact that none of the industrialized States on the eastern seaboard now has a sales tax may indicate the ability of those States to satisfy their revenue requirements from other tax sources, in contrast to southern and western States. However, the absence of such taxes may be caused by disapproval on the part of a public largely made up of wage earners, as compared with the larger portion of the population in southern and western States deriving relatively less of its total income from wages. Sales taxes normally would affect the wage earner more than the agricultural worker, since practically everything by which the former carries on the normal functions of living is subject to tax.

General acceptance of the sales tax appears to be based on the following principles:

1. Success and reliability as a revenue producer and ease of administration.
2. The fact that "everyone contributes a little." Although generally referred to as a "poor man's" tax, it is often defended on the grounds that the proceeds are usually earmarked for aid to the needy, aged, blind, dependent children, education, and such purposes.

<sup>5</sup> Louisiana subsequently repealed its sales tax, effective December 31, 1940.

USE AND COMPENSATING TAXES DESIGNED TO SUPPLEMENT SALES TAXES

Many sales tax States impose complementary taxes generally known as use or compensating taxes which are intended primarily to plug the loopholes of the sales tax acts. They are designed as companions to the sales tax to compensate the State for taxes that might be lost as a result of purchases made outside the State. A further purpose of the use tax is to enable local merchants to meet the competition of merchants in adjacent States which do not impose a sales tax.

In 1939, 18 of the 22 general sales tax States imposed special use or compensating taxes. In Arkansas, Colorado, and Louisiana, the use-tax features are incorporated into the sales tax laws. It can be expected that additional use taxes will be enacted in those States retaining or adopting a general sales tax inasmuch as merchants or retailers are likely to insist on the imposition of use taxes to meet competition in adjacent non-sales-tax States.

A more recent development in sales tax administration has been fostered by a United States Supreme Court decision which upheld the right of a State to tax sales made within the State on merchandise which is shipped to the buyer from a point outside the State. The Missouri Sales Tax Department subsequently issued a regulation requiring the payment of the sales tax on out-of-State purchases contracted for in Missouri. Other States are reported to have adopted similar regulations.

Another recent United States Supreme Court decision<sup>6</sup> held taxable under the use tax all sales made in Iowa including mail order sales filled from out-of-State mail order divisions. The Court ruled that companies may be compelled to collect use taxes provided they are registered to do business and maintain retail stores in the State. As a result of this decision, it is believed that sales tax States generally will attempt to collect taxes on sales made by mail order houses. Since a large percentage of these sales involve tires, batteries, parts and accessories, and other automotive equipment, it can be expected that the portion of the sales taxes attributable to the motor vehicle and its operation will show a substantial increase in the future.

Since the imposition of the first use tax by the State of Washington in 1935, the revenue produced by these taxes through 1939 amounted to \$23,053,800. In 1939 the proceeds totaled \$9,666,600 or 2.29 percent of the total sales and use-tax revenue. The use-tax receipts for the years 1936 through 1939 are shown in table 4.

TABLE 4.—Collections from State use or compensating taxes, 1936-39<sup>1</sup>

Tax year ending in—	Collections from use taxes	
	Amount	Percentage of total sales tax collections
1936.....	\$2,169,300	0.06
1937.....	4,133,300	1.03
1938.....	7,094,600	1.76
1939.....	9,666,600	2.29
Total.....	23,053,800	1.45

<sup>1</sup> Includes merchant's commissions and deductions.

<sup>6</sup> *Nelson et al. v. Sears Roebuck and Company*, and *Nelson et al. v. Montgomery Ward and Company*, February 17, 1941.



A large portion of the use taxes is attributable to automotive sales. Of the total of \$23,053,800 in use-tax proceeds in the period from 1936 through 1939, approximately \$8,276,300 or 35.9 percent was assessed against motor-vehicle and allied sales.

Of the 22 States that levied general sales taxes in 1939, 6 had rates of 3 percent, 12 had a 2-percent rate,<sup>1</sup> and 1 State imposed a 1-percent tax. The remaining 3 States imposed taxes at rates varying from one-eighth of 1 percent to 2½ percent (table 5).

Although the various sales tax laws in general provide for taxation of approximately the same sales, many differences exist with regard to taxable sales which come within the scope of the sales tax law either specifically or through administrative interpretation.

For example, the Illinois tax law provides that sales for resale are generally not taxable. Under the law, sales of milk, cream, sugar, etc., to a company to be used in manufacturing ice cream are not taxable, since the sales tax department rules that "sales of goods which, as ingredients or constituents, physically enter into and form part of tangible personal property sold by the buyer" are not sales at retail. "The test of a sale at retail is whether the sale is to a purchaser for use or consumption and not for resale in any form as tangible personal property \* \* \* In general, the tax is intended to be measured by receipts from a sale which constitutes the last actual transaction prior to ultimate use or consumption." It is evident that many difficulties could arise in the interpretation of this provision.

In Mississippi, sales include "barter or exchange of properties as well as the sale thereof for money, every closed transaction constituting a sale."

<sup>1</sup>Alabama's rate on automobiles is ½ of 1 percent on new motor vehicles. All other sales are taxed at 2 percent.

In North Dakota, sales mean "any transfer, exchange, or barter, conditioned or otherwise in any manner or by any means whatsoever, for any consideration."

South Dakota defines sales as "sale of tangible personal property to the consumer or user thereof, or to any person for any purpose other than for resale."

The above examples of what is considered a sale subject to sales taxes are sufficient to indicate that the intent of the law is widely different in the several States. That the administration of the law varies considerably in the States is readily acknowledged by State tax administrators. At the eighth annual conference of the National Association of Tax Administrators held in St. Louis, Missouri, in May 1940, this lack of uniformity was admitted and a committee was appointed to draw up a uniform sales tax law for adoption by all States and a uniform set of regulations governing such a law.

EXEMPTIONS FROM SALES TAXATION DIFFER AMONG STATES

The sales tax laws usually state specifically the businesses or transactions which do not come under the provisions of the law. In all States, sales to the Federal Government and transactions in interstate commerce are not taxable. In some States exemptions are limited to the sales of gasoline and other items already taxed under another law. Other States extend the exemptions to include sales of real property, gas, electricity, and water, sales of food products for human consumption, etc.

Action has been taken by the Federal Government to prevent the imposition of State sales taxes on certain activities connected with the national defense program. The statement of the Government's position was given in a memorandum early in June 1941 from Acting

TABLE 5.—States which have imposed general sales and use taxes, and status as of 1939

State	Year first effective	Status in 1939	General sales tax Tax base	Rate	Use or consumption tax	
					Tax in effect	Effective date
Alabama	1937	In effect	Gross receipts of sales	2	Yes	1937
Arizona	1939	do	Gross proceeds of sales	2	No	
Arkansas	1935	do	do	2	Yes	1937
California	1933	do	Gross receipts of sales	2	Yes	1935
Colorado	1935	do	Gross proceeds of sales	2	Yes	
Idaho	1935	Repealed 1936				
Illinois	1932	In effect	Gross receipts of sales	2	No	
Iowa	1934	do	do	2	Yes	1937
Kansas	1937	do	Gross proceeds of sales	2	Yes	
Kentucky	1934	Repealed 1934				
Kentucky	1936	In effect <sup>2</sup>	Gross proceeds of sales	1	Yes	
Louisiana	1934	do	do	2	Yes	
Maryland	1935	Expired 1939				
Michigan	1932	In effect	Gross proceeds of sales	2	Yes	1937
Mississippi	1932	do	do	2	Yes	1935
Missouri	1934	do	Gross sales receipts	2	No	
New Mexico	1934	do	Gross proceeds of sales	2	Yes	1939
New Jersey	1935	Repealed 1935				
New York	1933	Expired 1934				
North Carolina	1933	In effect	Gross proceeds of sales	2	Yes	1939
North Dakota	1935	do	Gross receipts of sales	2	Yes	1936
Ohio	1935	do	Gross receipts of retail sales	2	Yes	1937
Oklahoma	1935	do	Gross proceeds of sales	2	Yes	
Pennsylvania	1932	Expired 1935				
Rhode Island	1932	Abandoned	Retail sales	2	No	
South Dakota	1935	In effect	Gross receipts of sales	2	Yes	1939
Utah	1935	do	do	2	Yes	1937
Vermont	1934	Repealed 1935				
Washington	1933	In effect	Retail sales (excluding price)	2	Yes	1935
West Virginia	1934	do	Gross proceeds of sales	2	No	
Wyoming	1935	do	Retail sales	2	Yes	1937

<sup>1</sup> Rate on new automobiles ½ of 1 percent.  
<sup>2</sup> Rates from ¼ of 1 percent to 2 percent.

<sup>3</sup> Subsequently repealed, effective Dec. 31, 1940.  
<sup>4</sup> Rates from ½ of 1 percent to 2½ percent.

<sup>5</sup> Rates from ¼ of 1 percent to 2 percent.  
<sup>6</sup> Rates on wholesalers ½ of 1 percent.

Attorney General Francis Biddle to John H. Hendren, Jr., Chairman of the Committee on Uniform Sales Taxation, National Association of Tax Administrators.

The memorandum stated that the Department of Justice would resist in the courts the imposition of State sales taxes or use taxes on cost-plus-fixed-fee contractors on the national defense program with respect to purchases of supplies and materials made by them. These taxes, it was pointed out, were in effect taxes on the Federal Government since the contractors were "instrumentalities of the United States."

The validity of taxes levied solely on vendors and legally absorbed as part of the sales price, and of non-discriminatory State taxes levied on fees paid to contractors by the Federal Government, would not be challenged for the present, the Department stated.

According to the Department the statement was occasioned by the delay that had already occurred as a result of the imposition of sales taxes in certain States. Since there was no authority for the Government's disbursing officers to pay such taxes, payments had been withheld, and stoppage in the flow of critical materials to the construction sites had been threatened.

A number of States, by administrative action or legislative enactment prior to the Department's ruling, had already exempted the Federal Government and cost-plus-fixed-fee contractors from State taxes. The Department suggested that other States follow a similar procedure wherever possible and that the assessment or collection of taxes levied on defense work be withheld until the United States Supreme Court had had an opportunity to consider their validity.

Agricultural States usually exempt farm produce and agricultural products. Southern cotton-raising States generally exempt sales of cotton and cotton products. Some western States exempt sales of water for irrigation, domestic, and industrial use. Although personal services, labor, repair work, etc., are exempt in most States, Colorado and West Virginia levy a service tax which subjects these items to taxation. While there are a number of exemptions common to all States, each State apparently has particular transactions which it exempts for one reason or another.

Special efforts are made in many States to tax motor-vehicle sales. Some States (Oklahoma, Maryland, and Kentucky) resort to special excises. Other States have adopted a use tax or use-tax features to insure tax collections from motor-vehicle sales. Inasmuch as the manufacture of motor vehicles is confined to a small number of States, use or compensating taxes which provide for a tax on "property used or brought into a State" are particularly adapted to the taxation of vehicles. Additional safeguards are utilized in a number of States by provisions of the law which require the payment of the sales tax before a certificate of title or license can be issued. The sales tax law in other States specifically covers the sale of motor vehicles, and in three States the law provides for a special rate to apply to the motor vehicle.

In addition to these special provisions to insure taxation of the vehicle, practices differ widely as to the extent of taxation. A few States tax the vehicle only once, in the form of a single excise on new vehicles. Other States collect the tax upon new vehicles when first licensed in the State, and upon used vehicles only at time of first transfer of title during a calendar year. Still others tax each and every sale regardless of the number of times a vehicle may be involved in

sales during the year, resulting in multiple taxation.

Following is a brief discussion of methods employed by various States to tax the motor vehicle. These methods have been classified as privilege taxes and original license fees, motor-vehicle excises, special use taxes, special sales taxes, and general sales taxes.

South Dakota collects an "original license fee" under legislation which provides that "in addition to any and all other license fees, registration fees, and compensation for the use of the highways, there shall be paid to the county treasurer upon the application for the first or original registration of a motor vehicle, an additional and further license fee of 3 percent of the purchase price of such motor vehicle or the fair market value thereof, whichever is the greater; the payment of such 3-percent license fee shall be in full and in lieu of all occupational, sales, excise, privilege, and franchise taxes levied by this State upon the gross receipts from all sales of motor vehicles." The proceeds go into the State general fund.

North Dakota imposes a "highway privilege" tax enacted primarily to protect dealers against the competition of dealers in non-sales-tax States. The rate is "2 percent of the sales price of any vehicle purchased or acquired for use on the streets and highways of this State requiring registration thereof under the motor-vehicle laws of North Dakota." The tax is collected at time of first registration and no registration plates or certificate may be issued until the tax is paid. The proceeds are credited 50 percent to the State Highway Department and 50 percent to the counties for highway purposes.

In addition to the taxes levied by any other law, North Carolina imposes upon every person for the privilege of using the streets and highways of the State a tax of 3 percent of the sales or purchase price of any new or used motor vehicle purchased or acquired for use on the streets and highways of North Carolina and requiring registration under the motor-vehicle laws of the State. However, no tax payment may exceed \$15 and it must be paid at the time application is made for certificate of title or registration of motor vehicle. No certificate of title or registration plates are to be issued unless and until the tax is paid. The tax is also imposed on trailers. The proceeds are used for school purposes.

West Virginia imposes a tax upon certification of title for a motor vehicle. The tax is imposed for the privilege of effecting the certification of title of each motor vehicle in an amount equal to 2 percent of the value of vehicle at the time of certification. The proceeds go into the State road fund to be expended for construction and maintenance of secondary roads.

Oklahoma imposes an excise of 2 percent upon the value of the vehicle, to be collected upon the first transfer of title of used vehicles during the calendar year, as well as upon every new vehicle when first licensed in the State. Proceeds go to State assistance and general funds.

Kentucky imposes an automobile usage tax which is a special levy on the privilege of using the automobile. This special excise levies a tax of 3 percent on the retail price of the vehicle with standard equipment at the time of its first registration in the State. The proceeds go into the State general fund.

Maryland levies an excise tax for every original motor-vehicle certificate of title at the rate of 2 percent of the fair market value. This tax was imposed

at a rate of 1 percent prior to September 30, 1939; after that date the rate was increased to 2 percent. The tax affects new cars primarily, but also affects used vehicles brought into Maryland from out of the State and registered in Maryland for the first time. The proceeds go into the general fund.

The Arkansas sales tax on motor vehicles is specifically collected under the use-tax law providing for the taxation of property purchased outside the State for use in Arkansas. Motor vehicles are specifically mentioned in the use-tax law. The proceeds are used for free textbooks, schools, homestead exemption, charitable institutions, and public welfare.

Iowa's use-tax law provides for a 2-percent excise on the value of motor vehicles and trailers to be collected by the county treasurer at the time the owner applies for a certificate of registration. No certificate can be issued until the tax is paid. The proceeds of the use tax go to the general fund.

The motor vehicle is taxed specifically in Mississippi under the general sales tax law at a special rate of 1 percent of gross proceeds of sale. Rates under the sales tax law vary from one-eighth of 1 percent to 2½ percent on specified transactions. Proceeds go into the State general fund.

The New Mexico sales tax law taxes the motor vehicle and allied businesses at the following rates:

	Percent
Car dealers (new and used cars).....	½
Trucks and tractors.....	¼
All other businesses.....	2

Proceeds of this tax go into the school fund.

Sales of new motor vehicles are taxed by Alabama at the rate of one-half of 1 percent. All other sales are taxed at the 2-percent rate. The proceeds go into the State general fund.

In the remaining States, no specific provision is made to tax the motor vehicle, although it is subject to taxation under the general provisions of the sales tax laws. The proceeds are used for purposes of State general funds, relief, old age pensions, schools, and for similar purposes.

**COLLECTION OF TAXES INSURED BY SPECIAL ARRANGEMENTS**

A few States have special arrangements in tax collection procedure to insure the taxation of motor-vehicle sales. In Michigan, for example, the Secretary of State is made responsible for the collection of the sales tax on motor vehicles. The dealer is required to register the vehicle and secure title in the purchaser's name when the sale is made, and the application for registration must be accompanied by the sales tax payment. The Secretary of State renders an account of such collections to the proper administrative officials.

Likewise, Arkansas requires the sales tax on new auto mobiles to be paid before a license is issued even though the car may have been purchased outside the State. The law requires the commission to collect the tax before licensing a vehicle. Iowa's use-tax law provides for the collection of the sales tax on motor vehicles by the county treasurers at the time of application for certificate of title. No certificate can be issued until the tax is paid. Similarly, Oklahoma's motor-vehicle excise is collected on new vehicles at the time of first registration, and on used vehicles at the time of first transfer of title.

Other States are reported to have under consideration the adoption of similar provisions to secure the payment of sales taxes on motor vehicles.

Gasoline for highway use is generally exempt from general sales taxation, but in some States where refunds of fuel tax or exemptions of the gas tax are permitted, special effort is made to impose the sales tax on tax-exempt gasoline sales.

In California motor-fuel sales for nonhighway purposes, which are subject to refunds, are liable for taxation under the sales tax act. The sales tax is collected by the State controller, who deducts the tax from the refund and transfers the amounts so collected to the sales tax fund. Iowa employs a similar method to collect the sales tax on refund gas sales. South Dakota also assesses sales taxes against refund-gasoline sales. The tax is collected by the State auditor at the time refunds are paid.

In North Carolina, there exists an unusual provision of the sales tax with regard to a tax on gasoline, whereby under certain conditions a tax can be levied on all gasoline sales. Apparently, it was not the intent of the law to exempt gasoline from the sales tax, nor was it considered expedient to levy a tax on the wholesale distribution of gasoline payable at the source of distribution. Therefore, to satisfy the intent of the law, a portion of the gasoline tax of 6 cents per gallon is to be determined and deemed in satisfaction of the sales tax as follows: The director of the budget, the chairman of the highway commission, and commissioner of revenue in the first 15 days of each quarterly period determine the total amount of gasoline sold in the State in the preceding 3 months, and the average retail price, inclusive of gasoline tax, and on this basis compute the amount of tax liability at the rate of tax levied on retail sales. The sum so computed shall be deducted from the tax of 6 cents a gallon and credited by the State treasurer to the sales tax revenue account.

These sums are made available only after full provision has been made for the expense of collecting highway revenues, for the administration of the highway and public works commission, for the service of the debt, and for reasonable maintenance of State and county highways. Nor is the money available to the general fund unless the director of the budget finds such sums to be reasonably necessary to meet appropriations from the general fund. The amount so allocated to the general fund shall not be transferred from the highway fund nor become a definite charge against it until the surplus in the general fund at the end of the fiscal year, together with current revenues, has been exhausted or until the director of the budget finds that such a transfer is necessary to prevent a deficit in the general fund or until the appropriations from the highway funds have been provided for. However, no gasoline tax receipts have been diverted to the general fund by the director of the budget in recent years.

**EVASION OF SALES TAXATION BELIEVED PREVALENT**

In the other sales-tax States no special effort is made to collect the sales tax on refund or tax-exempt gasoline sales presumably used for nonhighway purposes. Another problem which is part of the question of sales taxes on gasoline is the condition that exists in a few States where the tax on sales of gasoline constitutes a tax on the price of the gasoline plus the State and Federal gasoline taxes. This condition of multiple taxation can be avoided only by careful drafting of the enabling legislation, as it appears that it is not the legislative desire to enact laws that cause such multiple taxation.

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Opinion is rather prevalent among tax officials that there is considerable evasion of sales taxes. The adoption of use or compensating taxes in many States was designed to plug the loopholes in the sales tax acts and to prevent "legal evasion" through interstate sales. The failure of the use taxes to accomplish this purpose is evidenced by the fact that use taxes have not been successful as revenue producers. However, failure of the use tax to produce revenue is not in itself proof of the failure of that tax to function properly. It may perform its function by decreasing the purchase of goods in non-sales-tax States with a resultant increase of purchases in the State of residence and a corresponding increase in the sales-tax collections. The latter increase takes the place of any increase in the receipts from use taxes but results directly from the presence of the use tax on the statute books.

Evidence of failure of the compensating tax is found in the admission of tax administrators. A typical comment on the subject is that of the State Tax Commission of Kansas.<sup>3</sup>

Corporations and others that keep books or accounts have very little chance of avoiding this tax, but individuals purchasing motor vehicles, trailers, farm machinery, mechanical equipment, office furniture and fixtures, household goods and furnishings, radios, jewelry, etc., that do not keep records are not voluntarily declaring and paying the compensating tax. It is extremely difficult, takes a great deal of time, and is very expensive to locate purchases of this kind, assess and collect the compensating tax on them.

Because of the great number of retailers who are required to report the sales tax, there is undoubtedly a considerable number who fail either to collect or to remit the full amount of the tax as required by law. In some States this condition cannot be corrected because of the small administrative force available to enforce the sales tax. Unquestionably the lack of sufficient auditors to audit the records of such a large number of retailers tends to encourage the evasion of taxes.

It is the general opinion of tax officials that the motor vehicle often escapes general sales taxation entirely unless provisions are adopted to insure the payment of taxes such as requiring a sales tax receipt before a vehicle license can be issued. This condition, coupled with the belief that the ownership of a motor vehicle indicates a superior tax-paying ability, has caused the adoption of safeguards to insure the payment of the taxes on motor vehicles and has promoted zealous efforts in the collection of these taxes.

Sales tax officials also believe that the sales of tires, batteries, parts, and similar motor-vehicle accessory items through large mail-order houses largely escape taxation, notwithstanding the fact that the use taxes were designed to tax sales of this kind.

#### COLLECTION AND ADMINISTRATION COSTS UNUSUALLY LOW

Although no attempt was made in this study to determine the actual administrative and collection costs of the sales tax, it has been generally reported that these costs have been unusually low, in some cases less than 1 percent of the total collections. This unusually low cost has contributed much to the ready acceptance of sales taxation, and inasmuch as this item is an important reason for the remarkable showing of sales taxes, the subject warrants some consideration.

In most States, the retail merchants are made in-

voluntary agents of the State in collecting the sales tax. The collection of this tax from the consumer population of each State is practicable only because the retailer or vendor acts as a tax collector. While the tax-paying group almost approximates the total population of the States, the tax is actually collected and paid over to the State by the relatively small number of retailers or vendors operating in each State. The administrative machinery of the State needs to function, therefore, only between the State and the retailers or vendors and not between the State and the hundreds of thousands or millions of tax-paying consumers. Thus, the expense of collection is borne by the merchants, who in the majority of cases are not reimbursed.

Another reason for the low cost of collection is due in part to the lack of effective enforcement. Legislators appear to be more than pleased with the revenue produced by the sales taxes, and as a result they have failed to appropriate sufficient funds for adequate enforcement. A typical official observation on the administrative side of the sales tax is given in the following excerpt from the Biennial Report of the Department of Revenue, 1936-38 for the State of Arkansas, pages 56-57.

Due to the great number of retailers required under the law to collect and remit the tax, there is found a considerable number who either neglect or fail to remit the tax as required by law, and it appears beyond a doubt that in many cases they do not collect the tax. \* the law itself was inducive to evasions in the beginning, and is to some extent at the present time. Act 233 of 1935 allowed so many exemptions that it was hard to administer when everything worked together because of the loopholes wherein retailers could claim exemptions to which they were not entitled. In the passage of Act 154 of 1937, most of the exemptions were removed but still there were insufficient restrictions left around the exemptions allowed, especially exemptions of items sold for resale. Through this avenue the State has lost many thousands of dollars it should have collected. The principal other difficulty is a result of not having had previous experience in collecting a tax of such wide spread in that sufficient administrative force was not provided, especially there were not sufficient auditors allowed to audit a very large percent of the retailers who were collecting the tax.

It should be mentioned that many States compensate in an indirect manner the merchants who collect the sales tax. The retailer or merchant collects the tax on each individual sale but is permitted to pay the State on a gross sales basis. The reimbursement would be small in most cases, especially in those States that collect the tax through the use of mill tokens. In those States in which a bracket system is employed, however, it is conceivable that there would be considerable difference between the tax collected on individual sales and the tax collected on a gross basis.

For example, assume a State imposes a 2-percent tax, or 1 cent for all sales from 15 cents to 65 cents. A business selling low-priced articles collects the tax on 100 individual articles costing an average of 25 cents each. The total tax collected from the individuals is \$1. The tax settlement to the State, however, would be on the basis of gross sales of \$25 at the tax rate of 2 percent which would be 50 cents. The merchant in this particular case would have profited to the extent of 50 cents as the result of the transactions.

It is obviously impossible to estimate the amount of deductions permitted in the above manner but it is evident that the amounts involved conceivably could reach large proportions. These legitimate collection charges are, of course, never included with the costs of administering the tax.

Since the adoption of the first general sales tax and

<sup>3</sup> Sixteenth Biennial Report of the Tax Commission, 1936-38. Pp. 14A and 15A.

until 1939 only five of the 28 sales tax States permitted commissions to merchants and agents for the collection of taxes.<sup>9</sup> Three States, Kentucky, Missouri, and Ohio, allowed a 3-percent deduction, while Louisiana and Colorado<sup>10</sup> both permitted 5 percent commissions on sales and use taxes, although the latter State allowed only 3 percent deductions on service taxes. The States of Oklahoma and Alabama subsequently compensated the merchants at a 3-percent rate effective June 1, 1939, and October 1, 1939, respectively.

The approximate total of merchants' commissions allowed during the period of this study in the five States was \$11,549,800 or 3.1 percent of the total sales tax collections. These deductions are never reported as legitimate costs of collection; consequently, this fact has undoubtedly contributed much toward the popular belief that the collection and administrative costs of sales taxes are unusually low.

Inasmuch as these commissions properly should be included as tax collections in order to show actual collections, they have been added to the proper State totals. The estimated amount of these deductions attributable to the motor vehicle was determined by the relationship of the automotive portion to the total sales taxes contributed in the States permitting commissions to merchants. The amounts for each of the five States are shown in table 6.

TABLE 6.—Approximate amount of merchants' deductions and commissions permitted for period 1935-39<sup>1</sup>

Year	Colorado	Missouri	Louisiana	Ohio	Kentucky	Total
1935	\$219,900			\$1,443,200	\$280,400	\$1,943,500
1936	327,000			1,739,400	216,200	2,282,600
1937	386,200	\$331,100		1,560,400	18,400	2,306,100
1938	382,300	548,200	\$97,800	1,229,100	22,700	2,280,100
1939	412,400	604,200	281,500	1,437,300	19,100	2,737,500
Total	1,730,800	1,483,500	359,300	7,409,400	516,800	11,549,800

<sup>1</sup> For fiscal years reported: Oklahoma and Alabama permitted commissions effective 1939 after close of fiscal period.  
<sup>2</sup> Merchants retained 3 percent of gross receipts tax; clerks retained 2 percent of vehicle usage tax.  
<sup>3</sup> Commission effective June 1937, estimated for 7 months.

COLLECTIONS SEGREGATED BY MAJOR BUSINESS CLASSIFICATIONS

Most of the sales tax laws require the administrative agency to keep records of the collections. As a result it was possible to obtain relatively satisfactory data for tax payments by major business classifications as follows:

- Apparel.
- Automotive.
- Contractors—consumers.<sup>11</sup>
- Farm and garden produce.
- Food.
- Furniture and fixtures.
- General merchandise.<sup>12</sup>
- Hotels, amusements, liquor stores.
- Lumber and building.
- Manufacturing, jobbing, trading.
- Professional and personal service.
- Public utilities.
- Unclassified.<sup>13</sup>
- All other.

<sup>9</sup> Kentucky permitted such commissions while its sales tax was in effect.  
<sup>10</sup> 5 percent on sales and use taxes, 3 percent on service taxes.  
<sup>11</sup> Includes construction, industrial, mercantile, governmental, public utility, private institutions, and miscellaneous individual consumers.  
<sup>12</sup> Includes department and general stores, dry goods, hardware and paint, jewelry, sporting goods, five and ten, drug stores, etc.  
<sup>13</sup> Includes amusements, hotels, newspapers, magazines, farm implements, liquor stores, recreation parlors, coal, fuel, ice, drug stores, hardware, theaters, barber shops, etc.

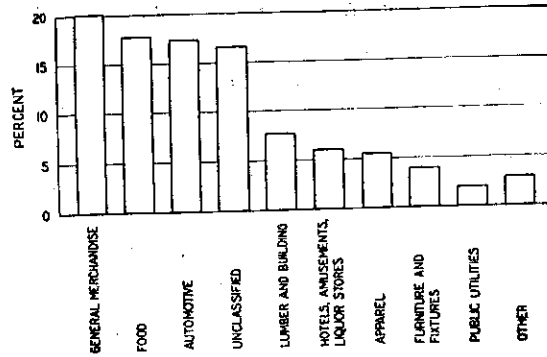


FIGURE 3.—PERCENTAGE DISTRIBUTION OF SALES TAX COLLECTIONS BY MAJOR BUSINESS CLASSIFICATIONS IN 1939.

These classifications were by no means uniform in the States, but they were sufficiently similar in their grouping to permit the arrangement of the data for general comparative purposes. While these classifications were generally maintained in most States, there were many differences in the States within a major business group. Obviously, it is practically impossible to obtain a standard classification of the thousands of businesses. Furthermore, a few States used more or less general classifications and it was impracticable to obtain the data in the desirable detailed form.

In order to establish the relative importance of the major business groups with regard to their contributions in sales taxes, the tax collections were compiled by the groups indicated above. Although data were obtained for a number of years for those States that have repealed as well as those that have retained a sales tax, it was believed little significance could be attached to data for States that no longer levy the tax. Consequently, the contributions by each major business group are presented for the fiscal years ending in 1939 for the present sales tax States. The detailed data by States for the various business classifications are given in table 7 and are summarized in table 8, which shows that in 1939 the largest sales tax contributions were made by the general merchandise group with 20.2 percent of the total. The second largest contribution was by the food group with 17.8 percent of the total. This group was closely followed by the automotive group with 17.4 percent of the total tax payments. The unclassified group represents 16.6 percent of the total. Payments by the remaining business groups range in importance from the lumber and building group with 7.7 percent down to the farm and garden produce group with an insignificant 0.1 percent. The relative importance of the several groups is also shown in figure 3.

The total collections by the 22 sales-tax States and the two States having motor-vehicle excises in 1939 amounted to \$421,941,000 or \$6.71 per capita.<sup>14</sup> The largest per capita payment was by the general merchandise group with \$1.35. Second largest was the food group with \$1.20 per capita, closely followed by the automotive and unclassified group representing \$1.17 and \$1.11, respectively. The remaining groups ranged from lumber and building with \$0.52 to contractors—consumers and farm and garden produce with \$0.01 per capita.

<sup>14</sup> Based on United States Bureau of the Census total for 1940 of 62,875,748.

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TABLE 7.—Sales, use, and motor-vehicle excise tax collections by major business classifications in 1939

Geographic division and State	Apparel	Auto-motive	Contractors-consumers	Farm and garden produce	Food	Furniture and fixtures	General merchandise	Hotels, amusements, liquor stores	Lumber and building	Manufacturing, trading, jobbing	Professional and personal services	Public utilities	Unclassified	All other	Total
<b>East North Central:</b>	<b>\$1,000</b>	<b>\$1,000</b>	<b>\$1,000</b>	<b>\$1,000</b>	<b>\$1,000</b>	<b>\$1,000</b>	<b>\$1,000</b>	<b>\$1,000</b>	<b>\$1,000</b>	<b>\$1,000</b>	<b>\$1,000</b>	<b>\$1,000</b>	<b>\$1,000</b>	<b>\$1,000</b>	<b>\$1,000</b>
Ohio.....	4,100	3,308		188	5,992	2,430	12,400	5,014					6,502	1,302	47,811
Illinois.....	6,094	12,785			18,302	2,836	14,022	5,317					13,017		57,452
Michigan.....	5,606	10,237			15,063	1,092	7,187	3,157					13,028		41,253
Subtotal.....	15,800	26,330		188	29,357	6,358	33,489	11,527					32,547		146,513
<b>West North Central:</b>															
Iowa.....	845	2,273	214		5,429		3,128		1,364	590	84	1,352	2,046	1,302	25,413
Missouri.....	1,385	3,294		404	5,752	694	3,058		1,346		17	2,182	4,173	2,710	39,898
North Dakota.....	247	391		3	898	96	68		182	37	11	179	344	722	2,857
South Dakota.....	178	317			951	72	1,232		272	22	15	814	621		6,614
Kansas.....	423	1,035		23	5,051		2,030		568	394	59	1,034	984		13,551
Subtotal.....	2,922	8,095	214	308	15,215	1,200	10,946		3,127	698	106	4,364	7,908	1,121	65,223
<b>South Atlantic:</b>															
Maryland.....		512			2,104	323	2,953		325		650		100	2,208	11,616
West Virginia.....	700	1,057			2,243	735	4,075		859				942		11,859
North Carolina.....	976	1,494			4,502	952	7,028		1,100				1,118	395	22,511
Subtotal.....	1,415	2,994			6,849	1,000	11,056		2,284				2,160	2,603	46,086
<b>East South Central:</b>															
Kentucky.....		951			1,311	179	1,901		500				514	4	6,206
Alabama.....	253	582			1,288	130	1,698		311	300		390	792	1,112	8,386
Mississippi.....	292	475							771	591		486	1,340	76	5,259
Subtotal.....	450	2,008			2,600	309	3,600		1,582	891		876	2,436	1,182	19,851
<b>West South Central:</b>															
Arkansas.....	127	875	17		1,051	127	1,285		264				382	1,067	6,000
Louisiana.....	305	1,322			1,443	295	3,007		656				1,538	1,538	14,079
Oklahoma.....	521	2,410	81		2,517	322	2,788		737			620	1,176	630	13,728
Subtotal.....	953	4,607	98		4,971	744	7,080		1,657			1,202	2,743	2,235	34,807
<b>Mountain:</b>															
Wyoming.....	67	273			411	50	410		120	78	9	191	262	14	1,630
Colorado.....	214	1,068	133	60	1,063	222	1,041		190	420	591	354	839	7,028	12,282
New Mexico.....	75	320			628	85	1,028		88	109	229	195	3	2,020	5,282
Arizona.....	213	612	93		161	173	673		84	64		173	3,403	4,000	8,989
Utah.....					817	173	673		250			285	822		3,252
Subtotal.....	569	2,847	223	60	4,020	580	3,790		419	1,022	208	620	3,618	907	23,076
<b>Pacific:</b>															
Washington.....	671	1,818			2,888	681	1,962		1,442				2,100	1,200	11,775
California.....		16,892			4,611	5,492	19,745		18,735				13,438	11,810	88,471
Subtotal.....	671	18,710			7,499	6,173	21,707		18,177				14,538	13,010	100,246
<b>Total.....</b>	<b>24,205</b>	<b>79,800</b>	<b>675</b>	<b>340</b>	<b>78,235</b>	<b>10,928</b>	<b>85,140</b>		<b>31,953</b>	<b>32,493</b>	<b>2,294</b>	<b>2,305</b>	<b>8,414</b>	<b>70,154</b>	<b>5,484</b>

- 1 Includes taxed gasoline sales of \$150,312; the balance is use tax.
- 2 Includes admissions, news, advertising, and natural resources.
- 3 Use tax \$1,880 and penalties and interest \$14,904.
- 4 Excise tax on motor vehicles; includes \$4,124 collections of delinquent assessments 1935 sales tax.
- 5 Tax on liquors.
- 6 Motor-vehicle usage tax; includes \$3,732 collections of delinquent assessments 1935 sales tax.
- 7 Tax on natural resources.
- 8 License fees.
- 9 Service tax business, rental, and custom service.
- 10 Includes tax on natural resources of \$547,710.
- 11 Printing and publishing \$36,426; other \$13,858.
- 12 Penalties and interest.
- 13 Includes drugs, tobacco, confectionery, meals, and beverages.
- 14 Includes books, stationery, musical instruments, and perfumes.
- 15 Does not include \$4,000 in delinquent collections in New York, which are included in table 1.

TABLE 8.—Sales, use, and motor-vehicle excise tax collections in 1939 by major business classifications

Business class	Amount	Percent	Per capita <sup>1</sup>
	\$1,000		
Apparel.....	25,205	5.5	\$0.37
Automotive.....	79,800	17.4	1.17
Contractors-consumers.....	675	.2	.01
Farm and garden produce.....	340	.1	.01
Food.....	78,235	17.8	1.20
Furniture and fixtures.....	10,928	3.9	.26
General merchandise.....	85,140	20.2	1.35
Hotels, amusements, liquor stores.....	24,363	3.9	.49
Lumber and building.....	32,493	7.7	.82
Manufacturing, jobbing, trading.....	2,294	.6	.04
Professional and personal services.....	2,305	.6	.04
Public utilities.....	8,414	2.0	.13
Unclassified.....	70,154	16.0	1.11
All other.....	6,484	1.5	.10
<b>Total.....</b>	<b>421,941</b>	<b>100.0</b>	<b>6.71</b>

<sup>1</sup> Based on data of the United States Bureau of the Census for 1940 showing population in the 22 sales tax States and two motor-vehicle excise States of 62,875,746.

TABLE 9.—Comparison of total collections from sales taxes and automotive sales taxes by geographic divisions in 1939<sup>1</sup>

Geographic division	Total sales taxes	Automotive sales taxes	Percentage automotive of total	Amount per capita <sup>2</sup>	
				Total sales	Automotive sales
East North Central.....	\$1,000	\$1,000	17.9	\$0.30	\$1.06
West North Central.....	186,451	33,370	16.4	5.91	.91
South Atlantic.....	55,508	8,560	14.4	2.76	.49
East South Central.....	20,104	2,304	18.8	1.70	.32
West South Central.....	13,352	2,308	12.9	2.46	.69
Mountain.....	23,036	4,611	19.9	2.46	.96
Pacific.....	22,538	2,847	12.5	11.71	2.18
<b>Total.....</b>	<b>421,941</b>	<b>78,890</b>	<b>17.4</b>	<b>6.71</b>	<b>1.17</b>

<sup>1</sup> For only the 22 sales-tax States and the 2 States having motor-vehicle excises.  
<sup>2</sup> Based on 1940 population, United States Bureau of the Census.

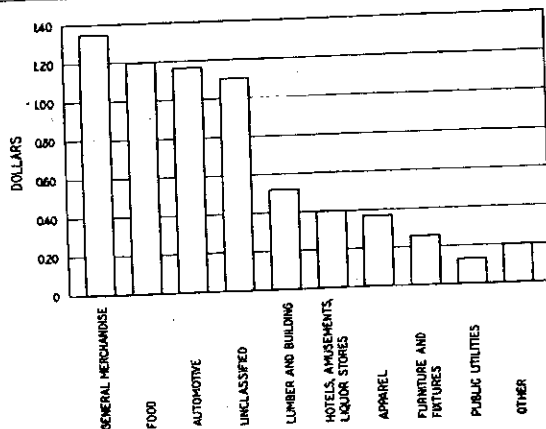


FIGURE 4.—PER CAPITA SALES TAX COLLECTIONS BY MAJOR BUSINESS CLASSIFICATIONS IN 1939.

The per capita total collections by geographic divisions varied from \$1.70 in the East South Central to \$11.71 in the Pacific region. A partial explanation of the low per capita figures for the South Atlantic and East South Central States is that the Maryland data in the former group and the Kentucky data in the latter group represent only motor-vehicle excise taxes and not general sales taxes (table 9).

The per capita payments of the automotive group totaled \$1.17 (fig. 4). The per capita payments varied from \$0.32 in the East South Central division to \$2.16 in the Pacific group.

**TAX COLLECTIONS FROM AUTOMOTIVE GROUP LARGE**

In this study the automotive group was more thoroughly investigated than the other groups in order to determine the exact nature of the taxable transactions. Data were obtained and compiled by the following businesses within the automotive group:

- New and used cars and dealers.
- Garages and repair shops.
- Accessories, tires, batteries, parts, etc.
- Filling and service stations, parking lots, auto hotels.
- Vehicles for hire, truck and bus lines.
- Other automotive.
- Motor-vehicle excise, original license fees, etc.
- Petroleum and automotive industries, refund gas sales.

In order to determine the total contributions resulting from new and used car sales, that group and the motor-vehicle excises should be combined. The separation of these related items was maintained because in all cases the excises were special taxes levied on the motor vehicle, whereas the others were general taxes. "Other automotive" includes collections from automotive stores and miscellaneous sales not included in other classifications.

It should be noted that the taxes paid by the petroleum and automotive industries are not directly paid by the motor-vehicle owner or user; however, they are eventually paid by the owner, inasmuch as these taxes are passed on to the ultimate user.

Refund gas sales represent taxes collected on sales of gasoline on which refunds of the gasoline tax itself are permitted. Presumably the use of such gasoline is for nonhighway purposes in which case the sales taxes

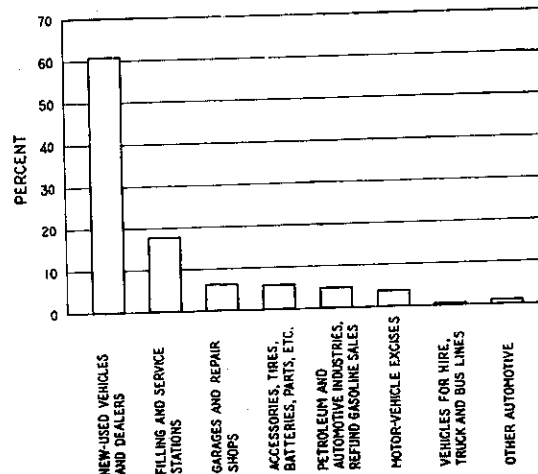


FIGURE 5.—PERCENTAGE DISTRIBUTION OF AUTOMOTIVE GROUP SALES TAXES BY MAJOR CLASSES, 1932-39.

collected should not be credited to the motor user. However, because of the close relationship to the automotive and petroleum industries and because it presents a special problem in some States, these tax payments have been included.

Although the business separation of the motor-vehicle group was generally maintained, some States failed to maintain a satisfactory breakdown and as a result it was necessary to resort to estimates. In such cases these were usually prepared with the assistance of the sales tax officials. In other cases, when only a particular year's or several years' data were not properly separated an estimate was prepared based on the previous or following year's data. As can be expected, the separations were not always maintained in a comparable manner and in a few instances a detailed segregation was not attempted in this study.

From the time of the imposition of the first general sales tax in 1932 through 1939, the total contributions in State sales taxes by the automotive groups were \$357,443,000, or 17.2 percent of the total sales tax collections. The taxes levied on the motor-vehicle and allied businesses have increased from less than \$200,000 in 1932 to an annual total in 1939 of more than \$73,000,000. The highest contribution in a single year was in 1937 when the motor-vehicle group paid \$75,703,000 in sales taxes, or 18.8 percent of the total collections.

The annual collections from taxes levied on motor-vehicle and allied automotive sales in each State since the first tax was initiated in 1932 are shown in table 10. It is anticipated that the total taxes of this kind for 1940 may exceed the previous high figure of 1937, due principally to the large sales of automobiles in 1940, an item which, as can be seen in table 11 and figure 5, accounted for almost two-thirds of the taxes collected on automotive sales.

All sections of the country represented in this study show approximately similar percentages of contributions of the total sales taxes credited to the automotive group. In 1939 the South Atlantic area showed the lowest percentage, with 14.4 percent of the total, and the West South Central area showed the highest, with 20 percent of the total (table 9).

TABLE 10.—Total sales taxes collected from motor vehicles and allied automotive sales, 1932-39

Geographic division and State	Taxes for fiscal year ending in—								
	1932	1933	1934	1935	1936	1937	1938	1939	Total
Middle Atlantic:	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000
New York			4,396	1,707					6,103
New Jersey		1,265							1,265
Pennsylvania									
Subtotal		1,365	4,396	1,707	693				6,861
East North Central:									
Ohio		3,082	3,444	6,638	10,325	11,831	6,430	3,728	47,481
Illinois			7,976	12,952	15,982	12,733	11,746	13,765	67,735
Michigan			2,771	7,208	10,136	12,733	6,302	10,237	50,691
Subtotal		3,082	14,191	26,778	36,343	37,307	24,466	37,730	186,846
West North Central:									
Iowa			4	3,359	2,038	2,414	2,477	2,373	12,665
Missouri			464	797	1,615	2,337	2,504	3,251	10,018
North Dakota					426	460	361	361	1,548
South Dakota					408	511	417	417	1,843
Kansas						1,233	1,303	1,303	3,839
Subtotal			478	4,156	4,087	6,965	8,048	8,654	26,207
South Atlantic:									
Maryland				483	901	984	522	4,312	7,203
West Virginia				509	1,067	1,278	1,077	1,067	5,498
North Carolina			795	905	1,334	1,473	1,473	1,473	6,863
Subtotal			890	1,997	3,269	3,735	3,072	6,852	19,426
East South Central:									
Kentucky				1,006	680	1,266	1,092	681	5,725
Alabama				267	473	473	473	622	2,315
Mississippi	191	346	497	749	754	823	828	975	4,863
Subtotal	191	346	697	1,805	1,907	2,562	2,493	2,678	13,363
West South Central:									
Arkansas					540	584	619	622	2,365
Louisiana					750	1,092	1,041	1,041	3,914
Oklahoma			696	1,304	1,444	2,620	2,620	2,620	10,924
Subtotal			696	1,304	2,944	4,306	4,280	4,280	16,294
Mountain:									
Idaho				290	420				710
Wyoming					242	346	321	254	1,163
Colorado				330	910	1,142	1,068	1,068	4,618
New Mexico			91	171	214	356	356	356	1,454
Arizona			130	156	331	431	431	431	1,870
Utah			203	422	473	518	518	518	2,134
Subtotal			3	824	1,610	2,663	2,600	2,847	12,869
Pacific:									
Washington					1,764	2,317	2,181	1,838	7,000
California			5,862	10,248	17,773	17,725	16,963	16,963	65,534
Subtotal			5,862	10,248	19,537	35,042	18,144	18,796	72,534
Total	191	6,728	26,577	42,476	65,395	75,723	97,661	73,556	327,410

1 Data for three months only—July 1 to September 30, 1935.  
 2 Estimated at 15 percent of total.  
 3 Motor-vehicle excise 2 percent rate effective October 1, 1936; previously 1 percent.  
 4 Includes motor-vehicle usage tax effective May 15, 1936.

Of the automotive sales taxes, the amount levied on the sales of motor vehicles constituted 64.5 percent of the total, or \$230,418,000. This amount was composed of \$216,619,000 in general taxes imposed on new and used car sales and \$13,799,000 of special excises levied on the motor vehicle (table 11 and fig. 5).

UPWARD TREND IN AUTOMOTIVE SALES TAX COLLECTIONS INDICATED

Filling and service stations, parking lots, and auto hotels were assessed \$63,309,000 or 17.7 percent of the total, while garages and repair shops paid \$22,311,000 or 6.2 percent of the total. Accessories, tires, batteries, and parts produced 5.7 percent of the total or \$20,360,000, and the amount attributable to the automotive and petroleum industries, including refund gasoline sales, was \$17,276,000 or 4.8 percent. Vehicles for hire and other automotive contributed \$968,000 or 0.3 percent and \$2,801,000 or 0.8 percent, respectively (table 11).

In the period of study the automotive portion of the

sales taxes averaged 17.2 percent of all sales taxes. The lowest percentage of the total, 13.9 percent, occurred in 1932 and the highest, 18.8 percent, in 1937. Table 12 and figure 6 indicate that there is apparently an upward trend in the motor-vehicle portions, but present conditions incident to national defense, including possible restrictions on the number of vehicles produced as well as increased taxes, make it difficult to forecast the future trend of the motor-vehicle portion of tax collections.

According to preliminary estimates by the Bureau of Foreign and Domestic Commerce, retail sales were 8 percent more in 1940 than in 1939. Certain commodity sales showed a considerable increase over the previous year, the most significant of which were sales in the automotive group, up 25 percent over 1939.

It has been noted earlier that 35.9 percent of the \$23,053,800 collections from use or compensating taxes from 1936 through 1939 was derived from automotive sales. By far the larger portion of the automotive total of \$8,276,300 was directly attributable to the



TABLE 11.—Total collections from sales taxes levied on motor vehicles and allied automotive sales, 1932-39

Geographic division and State	New-used vehicles, dealers	Garages, repair shops	Accessories, tires, batteries, parts	Filing-service stations, parking lots, auto hotels	Vehicles for hire, truck and bus lines	Other automotive	Motor-vehicle excise, original license fees, etc.	Petroleum and automotive industries, refined gas sales	Total
<b>Middle Atlantic:</b>	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000
New York	5,315		1,483			3			6,801
New Jersey	411	44	81	111		342			1,399
Pennsylvania	1,828								1,828
<b>Subtotal</b>	7,554	44	1,564	111		345			9,518
<b>East North Central:</b>						635		9,765	10,400
Ohio	31,239	3,291	2,206	6,469					43,205
Illinois	24,142	5,312	2,367	22,959		1,132			55,812
Michigan	32,808	3,238	5,131	17,274					58,451
<b>Subtotal</b>	88,189	11,841	9,704	46,702		1,767		9,765	156,168
<b>West North Central:</b>						79		687	766
Iowa	8,394	1,400	221	2,514		22			12,551
Missouri	6,041		2,045	1,662		245			10,013
North Dakota	376	471	233	431		8			1,519
South Dakota	661	131	95	664			699		2,150
Kansas	1,591	356	267	691					2,905
<b>Subtotal</b>	14,063	2,808	4,079	6,562		267		741	26,460
<b>South Atlantic:</b>							2,226	428	2,654
Virginia	453	309	144	725			2,226		3,517
West Virginia	4,461	167	235	1,973			2,995		9,631
North Carolina								428	428
<b>Subtotal</b>	4,914	566	1,379	2,798			5,221	428	11,319
<b>East South Central:</b>							3,476		3,476
Kentucky	37	1,215	97	265					1,594
Alabama	872		798						1,670
Mississippi	1,936	788	200	2,488		27			5,439
<b>Subtotal</b>	1,784	2,003	1,095	2,600		75		3,476	7,957
<b>West South Central:</b>								11,328	11,328
Arkansas	1,431	177	269	494					2,371
Louisiana	1,687		764						2,451
Oklahoma	1,902	327	343	1,533		299		4,399	8,811
<b>Subtotal</b>	5,020	504	1,376	2,470		299		8,928	14,268
<b>Mountain:</b>								30	30
Idaho	683	86	28	53					850
Wyoming	828	67	39	177				27	1,041
Colorado	2,171	1,216	385	622		3		25	4,397
New Mexico	253	469	121	310		155		32	1,210
Arizona	1,136		755					93	1,984
Utah	2,263		139	267					2,670
<b>Subtotal</b>	7,303	2,290	1,462	1,114		153		188	11,309
<b>Pacific:</b>								2,111	2,111
Washington	5,125		1,278	1,477					7,880
California	54,053								54,053
<b>Subtotal</b>	59,178		1,278	1,477				2,111	62,044
<b>Total</b>	216,819	22,311	28,993	63,359		968	2,894	13,795	325,729

† Tax on lubricating oil.  
 † Data for 1 month only; July 1 to September 30, 1935.  
 † Tax on island gas sales.  
 † Includes garages and repair shops.  
 † Tax on gasoline, \$402,000; on lubricating oil, \$26,000.  
 † Includes tax on gasoline of \$759,000; on oil, \$40,300; oil-field equipment, \$248,500; and miscellaneous, \$180,000.

TABLE 12.—Taxes collected on automotive group sales, 1932-39

Year	Amount	Per vehicle	Percentage of total taxes
1932	\$191,000	\$1.26	13.9
1933	5,798,000	2.00	14.1
1934	25,817,000	2.53	15.4
1935	42,478,000	3.09	15.4
1936	65,365,000	3.43	18.2
1937	75,703,000	5.15	18.8
1938	97,591,000	4.40	19.8
1939	73,590,000	4.59	17.4
<b>Total</b>	357,443,000		17.2

† Based on private and commercial vehicle registration for the sales tax States including cars, trucks, buses, motorcycles, and trailers. From Public Roads Administration tables MV-1.

sales of motor vehicles. Tax collections on such sales amounted to \$7,026,600 or 84.9 percent of the automotive portion during that period. Table 13 shows the automotive portion of the use taxes by principal busi-

nesses. In the 4-year period during which such taxes have been in effect, the \$8,276,300 automotive portion represents 2.9 percent of the total of \$282,159,000 collected for all sales taxes on the automotive group during that same period.

TABLE 13.—Automotive portion of collections from use or compensating taxes, 1936-39

Type of business	Tax collections	
	Amount	Percent
Vehicles and dealers	\$7,026,600	84.9
Petroleum and automotive industries	968,300	11.7
All other	281,400	3.4
<b>Total</b>	8,276,300	100.0

Although it was possible to segregate the motor-vehicle portions of the sales tax payments in many

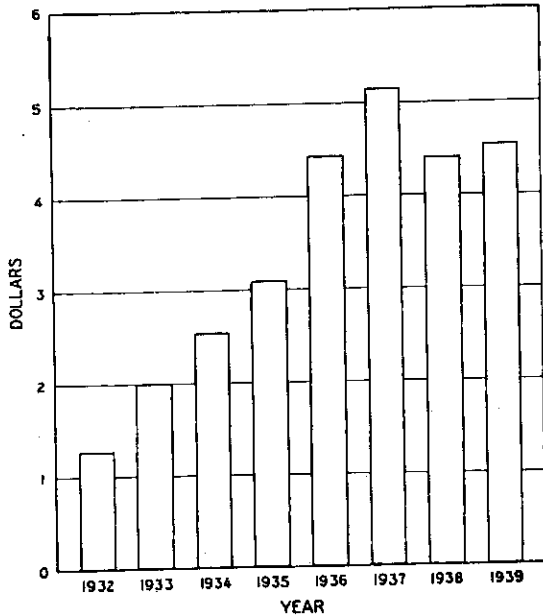


FIGURE 6.—COLLECTIONS PER VEHICLE FROM THE AUTOMOTIVE GROUP SALES TAXES, 1932-39.

States, the records in other States were such as to prevent a clear separation of the items desired. Consequently, the sales tax payments often do not include the contributions by certain related groups, or else include only a part of the payments by these groups.

The sales tax receipts generally excluded from the automotive classification are:

1. Payments for motor-carrier and general trucking operations, usually classed with the public utility or transportation groups and not readily separable.
  2. The portion of department-store sales taxes attributable to the sales of tires and tubes, parts, batteries, accessories, etc. This is particularly true in the case of chain stores and mail order houses. This item undoubtedly is considerable and it has been variously estimated to approximate from 10 to 20 percent of the total sales of such concerns.
  3. Sales taxes collected by tourist camps, auto hotels and courts, outdoor advertising concerns and others that cater primarily to the motor user. In many instances these items are included with other groups and no attempt was made to obtain their contributions.
  4. Sales taxes collected by joint businesses such as combination units of store and filling station, lunch room and service station, etc. These are usually classed according to major business and are in other than the automotive groups. No estimate of the portion attributable to the motor vehicle was possible.
  5. Other related payments such as those by road contractors for materials and supplies used in construction work, and oil well supply and equipment purchases by the oil industry upon which sales taxes were paid. These sales tax items were usually included in the contractor-consumer or in the unclassified group.
- There are undoubtedly other items that might be attributed to the highway users or allied businesses or industries, but those mentioned above are sufficient to indicate that the amounts shown in this study as paid

by the automotive group represent a conservative estimate of the total contributions of the highway-users' group to sales taxes on automotive goods and services.

It was not possible, of course, to select those business classifications that include only automotive goods and services. In some States, the motor-vehicle classification included bicycle and aircraft dealers, wagon manufacturers, and farm tractor sales. However, those States using such classifications estimated a relatively insignificant amount creditable to these businesses. Just as there are joint business enterprises such as filling station and grocery store which were not included, there are undoubtedly similar businesses whose tax payments rightly should be credited to other than the automotive group. Such payments are probably more than offset by those of similar character creditable to the automotive group.

#### AUTOMOTIVE SALES TAXES 12.7 PERCENT AS GREAT AS HIGHWAY-USER TAXES IN 1939

The yield from State highway-user taxes in 1938 for the United States was \$1,174,887,000 or \$38.30 per vehicle. For the same period the sales taxes paid by the automotive group were \$67,591,000 or \$2.20 per vehicle (table 14). In 1939 highway-user taxes increased to \$1,249,356,000 or \$39.13 per vehicle and automotive sales taxes rose to \$73,500,000 or \$2.30 per vehicle.

A more significant comparison is obtained when data are presented for sales tax States only. The collections for highway-user taxes and automotive sales taxes in 1938 were \$541,528,000 or \$35.22 per vehicle, and \$67,591,000 or \$4.40 per vehicle, respectively (table 15). Corresponding figures for 1939 (table 16) show motor-user taxes of \$578,659,000 or \$36.16 per vehicle and automotive sales taxes totaling \$73,500,000 or \$4.59 per vehicle. Thus, the yield from automotive sales taxes was 12.5 percent and 12.7 percent, respectively, as great as the highway-user taxes for 1938 and 1939.

The per-vehicle sales tax payments in 1938 ranged from a low of \$2.30 in the South Atlantic group to \$5.83 in the Pacific States. Illinois reported the highest per-vehicle collection with \$6.49. In 1939 the per-vehicle automotive sales tax payments were again lowest in the South Atlantic division with \$2.16 per vehicle, and the highest were in the East North Central States with \$6.02. The highest per-vehicle collection was in Illinois with \$7.31 (table 14). It should be noted that these per-vehicle figures are averages for all registered vehicles. Actually, a significant number of vehicle owners pay much higher amounts than these, in taxes incurred particularly in the purchase of vehicles. In such cases the tax on this item alone, exclusive of other automotive sales taxes paid, will amount to at least four or five times as much as the per-vehicle figures cited above.

Although this study was particularly designed to include the sales taxes levied by the various States, the Federal excises imposed on motor vehicles, parts and accessories, tires and tubes, oil, and gasoline, are also of interest for comparative purposes because such excises have far exceeded in amount those levied by the States. These excises are, in effect, identical to the sales taxes levied by the States. Even though the Federal excises are generally levied on manufacture or production, it is recognized that these taxes are eventually paid by the motor-vehicle owner.

The total amounts collected by these excises have

TABLE 14.—Comparison of highway-user tax and sales tax revenue in States levying sales taxes in 1932 and 1939

Geographic division and State	Taxes collected in 1932				Taxes collected in 1939			
	Highway-user taxes		Automotive sales taxes		Highway-user taxes		Automotive sales taxes	
	Amount	Per vehicle	Amount	Per vehicle	Amount	Per vehicle	Amount	Per vehicle
<b>East North Central:</b>	\$1,000		\$1,000		\$1,000		\$1,000	
Ohio.....	73,656	\$37.11	6,399	\$2.36	70,813	\$36.22	2,338	\$4.61
Illinois.....	58,479	32.31	11,740	6.40	63,762	33.89	13,756	7.31
Michigan.....	48,906	31.39	9,556	6.34	52,378	32.11	19,257	6.29
<b>Subtotal.....</b>	<b>181,000</b>	<b>33.85</b>	<b>28,281</b>	<b>5.28</b>	<b>195,743</b>	<b>35.32</b>	<b>33,370</b>	<b>6.02</b>
<b>West North Central:</b>								
Iowa.....	25,508	30.80	2,477	2.88	27,215	31.37	2,373	2.74
Missouri.....	21,567	24.72	2,594	2.94	23,254	25.45	2,394	2.74
North Dakota.....	2,834	21.86	461	2.63	4,372	34.56	591	3.52
South Dakota.....	6,242	31.19	967	3.36	20,24	20.24	517	3.86
Kansas.....	15,158	26.05	1,850	3.18	15,855	27.25	1,585	2.58
<b>Subtotal.....</b>	<b>72,370</b>	<b>37.21</b>	<b>8,010</b>	<b>3.02</b>	<b>76,867</b>	<b>27.94</b>	<b>8,550</b>	<b>3.11</b>
<b>South Atlantic:</b>								
Maryland.....	14,668	35.43	367	0.99	13,532	35.01	512	1.19
West Virginia.....	14,448	51.31	1,077	3.35	15,356	54.52	957	3.29
North Carolina.....	31,772	54.95	4,332	2.43	34,684	54.95	1,445	2.31
<b>Subtotal.....</b>	<b>60,829</b>	<b>48.39</b>	<b>2,906</b>	<b>2.30</b>	<b>65,406</b>	<b>48.78</b>	<b>2,904</b>	<b>2.16</b>
<b>East South Central:</b>								
Kentucky.....	16,595	39.96	1,462	3.65	17,990	41.04	951	2.17
Alabama.....	18,091	50.00	472	1.54	19,676	56.43	582	1.76
Mississippi.....	14,311	65.86	325	8.81	15,922	56.27	975	3.92
<b>Subtotal.....</b>	<b>49,000</b>	<b>52.17</b>	<b>2,902</b>	<b>2.55</b>	<b>51,667</b>	<b>50.74</b>	<b>2,508</b>	<b>2.46</b>
<b>West South Central:</b>								
Arkansas.....	19,601	56.26	919	2.68	18,865	54.95	673	2.68
Louisiana.....	21,530	62.99	1,431	3.02	22,656	64.40	1,522	4.29
Oklahoma.....	21,158	39.32	3,653	5.83	25,045	38.53	2,416	4.22
<b>Subtotal.....</b>	<b>45,689</b>	<b>48.69</b>	<b>4,703</b>	<b>4.10</b>	<b>58,798</b>	<b>49.81</b>	<b>4,611</b>	<b>3.91</b>
<b>Mountain:</b>								
Wyoming.....	3,299	36.16	321	3.52	3,450	36.71	273	3.31
Colorado.....	10,603	31.61	1,088	3.24	11,353	32.79	1,358	3.92
New Mexico.....	5,910	49.47	261	2.18	6,422	51.57	320	2.59
Arizona.....	5,485	41.99	418	3.12	5,767	42.37	354	2.69
Utah.....	4,384	55.81	513	4.05	4,864	36.32	542	4.05
<b>Subtotal.....</b>	<b>29,881</b>	<b>36.95</b>	<b>2,600</b>	<b>3.23</b>	<b>31,861</b>	<b>38.19</b>	<b>2,847</b>	<b>3.41</b>
<b>Pacific:</b>								
Washington.....	18,882	34.76	2,101	3.87	20,761	37.13	1,818	3.25
California.....	73,782	27.99	16,493	6.23	77,489	27.92	16,892	6.08
<b>Subtotal.....</b>	<b>92,664</b>	<b>28.53</b>	<b>18,704</b>	<b>5.33</b>	<b>98,250</b>	<b>29.47</b>	<b>18,710</b>	<b>5.61</b>
<b>Total.....</b>	<b>541,328</b>	<b>35.22</b>	<b>67,591</b>	<b>4.40</b>	<b>578,659</b>	<b>36.16</b>	<b>73,500</b>	<b>4.59</b>
<b>United States total.....</b>	<b>1,174,887</b>	<b>38.30</b>	<b>67,591</b>	<b>2.20</b>	<b>1,290,356</b>	<b>39.13</b>	<b>73,500</b>	<b>2.30</b>

<sup>1</sup> Does not include "Special titling taxes" reported in tables MV-2, 1932 and 1939, Public Roads Administration. These taxes are included here with automotive sales taxes.

TABLE 15.—Comparison of total collections from highway-user taxes and automotive sales taxes by geographic divisions in 1932<sup>1</sup>

Geographic division	Highway-user taxes	Automotive sales taxes		Amount per vehicle <sup>2</sup>	
		Amount	Percentage of highway-user taxes	Highway-user taxes	Sales taxes
East North Central.....	\$1,000	\$1,000	15.6	\$33.85	\$5.28
West North Central.....	181,160	28,281	11.1	27.21	3.02
South Atlantic.....	72,370	8,010	4.8	48.19	2.30
East South Central.....	60,829	2,902	4.9	52.17	2.55
West South Central.....	49,000	4,703	8.3	48.69	4.10
Mountain.....	29,881	2,600	8.7	39.98	3.23
Pacific.....	92,664	18,704	20.2	28.53	5.33
<b>Total.....</b>	<b>541,328</b>	<b>67,591</b>	<b>12.5</b>	<b>35.22</b>	<b>4.40</b>

<sup>1</sup> For the 22 sales tax States and the 2 motor-vehicle excise States.  
<sup>2</sup> For private and commercial vehicles only.

TABLE 16.—Comparison of total collections from highway-user taxes and automotive sales taxes by geographic divisions in 1939<sup>1</sup>

Geographic division	Highway-user taxes	Automotive sales taxes		Amount per vehicle <sup>2</sup>	
		Amount	Percentage of highway-user taxes	Highway-user taxes	Sales taxes
East North Central.....	\$1,000	\$1,000	17.0	\$35.32	\$6.02
West North Central.....	195,743	33,370	11.1	27.94	3.11
South Atlantic.....	76,867	8,550	4.9	48.78	2.16
East South Central.....	65,406	2,904	4.9	50.74	2.46
West South Central.....	51,667	2,508	7.8	49.83	3.91
Mountain.....	31,861	2,847	8.9	38.19	3.41
Pacific.....	98,250	18,710	19.0	29.47	5.61
<b>Total.....</b>	<b>578,659</b>	<b>73,500</b>	<b>12.7</b>	<b>36.16</b>	<b>4.59</b>

<sup>1</sup> For the 22 sales tax States and the 2 motor-vehicle excise States.  
<sup>2</sup> For private and commercial vehicles only.

increased steadily from \$84,294,000 in the calendar year 1932, when the portion paid by highway users is estimated to have been \$75,320,000 to the 1937 total of \$359,948,000, when the highway users' portion was estimated to have been \$324,494,000. Business conditions were such that the highway portion of the 1938

revenue decreased to \$266,130,000 but rose again in 1939 to \$322,221,000. Total collections of \$453,872,000 in 1940 exceeded those for any previous year, and were greater than those of the previous 1937 peak by more than 26 percent. It is estimated that the highway-users portion of these 1940 collections amounted to

TABLE 17.—Total collections from Federal excise taxes relating to motor vehicles and estimated highway users' share, 1932-40<sup>1</sup>

Calendar year	Collections from taxes on—								Total collections		
	Gasoline		Lubricating oil		Motor vehicles and parts				Total	Highway users' share <sup>2</sup>	
	Total	Highway users' share <sup>2</sup>	Total	Highway users' share <sup>2</sup>	Tires and tubes	Automobiles and motorcycles	Trucks	Parts and accessories			
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	
1932 <sup>3</sup>	\$1,920	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000
1933	2,240	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200
1934	2,560	1,400	1,400	1,400	1,400	1,400	1,400	1,400	1,400	1,400	1,400
1935	2,880	1,600	1,600	1,600	1,600	1,600	1,600	1,600	1,600	1,600	1,600
1936	3,200	1,800	1,800	1,800	1,800	1,800	1,800	1,800	1,800	1,800	1,800
1937	3,520	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000
1938	3,840	2,200	2,200	2,200	2,200	2,200	2,200	2,200	2,200	2,200	2,200
1939	4,160	2,400	2,400	2,400	2,400	2,400	2,400	2,400	2,400	2,400	2,400
1940	4,480	2,600	2,600	2,600	2,600	2,600	2,600	2,600	2,600	2,600	2,600
Total	1,672,000	836,000	836,000	836,000	836,000	836,000	836,000	836,000	1,672,000	836,000	836,000

<sup>1</sup> Data supplied by U. S. Bureau of Internal Revenue.  
<sup>2</sup> Based on material in Automobile Facts and Figures, 1941, published by the Automobile Manufacturers Association.  
<sup>3</sup> Sum of columns 3, 5, 6, 7, 8, and 9.  
<sup>4</sup> Federal excises effective June 21, 1932.

approximately \$415,353,000 or more than the total collections for any previous year. A summary of the annual collections since 1932 is shown in table 17.

With recent increases in the taxation of these motor-vehicle items to help finance the National Defense program, it is probable that, for the present fiscal year, the proceeds from Federal excises may exceed one-half billion dollars, resulting in part from the increased rates and in part from improved economic conditions. A comparison of the old schedule of rates and the new schedule applying to each commodity is shown in table 18.

TABLE 18.—Comparison of Federal excise rates in effect before and after July 1, 1940

Item	Rates in effect—	
	Before July 1, 1940	After July 1, 1940
Tires	2 1/4 cents per pound	2 1/2 cents per pound
Tubes	4 cents per pound	4 1/2 cents per pound
Trucks	2 percent	2 1/2 percent
Automobiles and motorcycles	3 percent	3 1/2 percent
Parts and accessories	3 percent	3 1/2 percent
Gasoline	1 cent per gallon	1 1/2 cents per gallon
Lubricating oil	4 cents per gallon	4 1/2 cents per gallon

The data obtained from this analysis indicate that the total tax contributions by highway users cannot be measured alone by the direct highway-user taxes such as the gasoline taxes and registration fees. In the 8-year period from 1932 through 1939 the collections from State taxes on automotive sales amounted to more than 357 million dollars or 3.4 percent of the total of all State and Federal highway, motor-vehicle excise, and general sales taxes on automotive goods and services (table 19). In all States levying sales taxes, the revenue obtained from the taxes are generally used for other than highway purposes. Only the proceeds of the West Virginia certificate of title excise and the North Dakota highway privilege tax are used for highway purposes. These revenues constitute considerably less than 1 percent of the total sales tax collections from the automotive group.

In none of the remaining States is any of the sales tax revenue used for highway purposes. Increasing attention has been directed in recent years to the problem of the use of highway-user taxes for other than

highway purposes. Since there has also been an annually increasing levy on the highway user in connection with his purchase of automotive goods, it is evident that he is increasingly contributing to other governmental functions not only by that portion of his highway-user taxes which are not expended for highway purposes but also by those State sales taxes paid in connection with the purchase of automotive goods. A summation of these items is given in table 20 and illustrated in figure 7 which shows that from 1932 through 1939 the total of these taxes used for other than highway purposes amounted to \$1,458,194,000, of which 24.3 percent resulted from sales taxes on automotive goods. In this figure the small amount of State automotive sales taxes used for highway purposes (\$3,037,000) is included with the State highway-user taxes used for highway purposes.

TABLE 19.—Tax contributions by motor-vehicle owners, 1932-39

Year	Annual collections from—			
	Federal excises <sup>1</sup>	State highway-user taxes <sup>2</sup>	State automotive sales taxes	Total
1932	\$1,000	\$1,000	\$1,000	\$1,000
1933	1,200	1,200	1,200	1,200
1934	1,400	1,400	1,400	1,400
1935	1,600	1,600	1,600	1,600
1936	1,800	1,800	1,800	1,800
1937	2,000	2,000	2,000	2,000
1938	2,200	2,200	2,200	2,200
1939	2,400	2,400	2,400	2,400
Total	2,008,000	8,101,419	357,443	10,527,399
Percent	19.1	77.5	3.4	100.0

<sup>1</sup> From table 17.  
<sup>2</sup> Public Roads Administration tables MV-2, G-1, and MC-1.  
<sup>3</sup> Federal excises effective June 21, 1932.

The highway user is evidently contributing annually to the support of governmental functions other than highways to a greater extent than is ordinarily realized. In the past the amount of such contributions has increased rather than decreased. From 1932 through 1939 the diversion of State highway-user taxes to other than highway purposes has increased from 9.2 percent to 14.5 percent of the total State highway-user taxes. Increased collections from State sales taxes in the period studied have also resulted in a larger amount of such

TABLE 20.—Sales taxes collected on automotive goods and highway-user taxes that were used for other than highway purposes, 1932-39

Year	State automotive sales taxes	State highway-user taxes not used for highways <sup>1</sup>	Total
1932	\$1,000	\$1,000	\$1,000
1933	101	76,747	76,848
1934	6,798	91,577	98,375
1935	26,817	122,150	148,967
1936	42,301	147,143	189,444
1937	64,639	169,344	233,983
1938	74,839	181,413	256,252
1939	96,894	155,642	252,536
1932	72,910	176,472	249,382
Total	354,906	1,103,788	1,458,694

<sup>1</sup>The "highway privilege tax" of North Dakota totaling \$42,000, and West Virginia certificate of title excise amounting to \$2,065,000 are not included.  
<sup>2</sup>Tables D, F, Public Roads Administration, adjusted for motor-vehicle excises in South Dakota, Maryland, and Kentucky.

taxes on the highway user being diverted to governmental functions other than highways.

#### SUMMARY

In addition to the millions of dollars paid annually by motor-vehicle owners in the form of direct highway-user taxes, these same motor-vehicle owners paid more than 350 million dollars during the period 1932-39 in general sales and use taxes and motor-vehicle excises occasioned directly by their ownership and operation of motor vehicles.

Collections from sales taxes on automotive goods were exceeded in 1939 only by collections from taxes on food and general merchandise. Since many States have come to rely so greatly on sales tax collections, attention should be given to the extent to which these sales taxes constitute an additional tax burden on a specific group of the population.

The revenue obtained by the State governments from such sales taxes are almost entirely used for non-highway purposes. The highway user, therefore, is contributing to the support of general government not only through the ordinary taxes which he pays such as property and income taxes, but also through taxes which result directly from his operation of a motor vehicle. Such contributions are derived from those portions of the direct highway-user taxes, such as motor-vehicle fees and motor-fuel taxes, which are used for other than highway purposes and from those portions of the sales taxes, substantially all of which go to

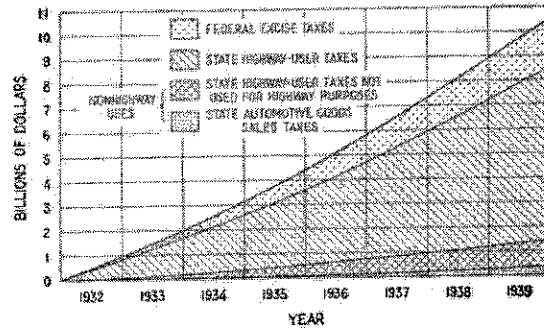


FIGURE 7.—Total Cumulative Taxes on Highway Users, 1932-39.

the support of general government, which result from motor-vehicle operation.

Any taxation program that affects the motor-vehicle operator primarily or solely because of his operation of a motor vehicle must be carefully analyzed with reference to the motor-vehicle operator's ability or willingness to pay. While there is no indication that the present tax schedules have reached a point where increased rates will reduce motor-vehicle use and possibly reduce the total revenues, this possibility must always be considered.

It is evident that an analysis of the effect of any tax schedule or governmental policy on the motor-vehicle owner must give full consideration to all taxes to which the motor-vehicle owner is already subject. Similarly, the effect of any changes in tax rates must be carefully watched in order to determine the motor-vehicle owner's willingness and ability to pay at increased rates and the effect which his reaction may be expected to have on total governmental revenues.

The data obtained in this study indicate the relative importance of sales taxes in the governmental economy of almost half of the States, and the portion of these sales taxes that constitute additional levies on the highway user as an immediate result of his ownership and use of a motor vehicle.

Present trends indicate the possibility of the increased use of and dependence on the sales tax as a source of revenue. Sales tax officials anticipate the possible decrease in the importance of the property tax as a revenue source and the substitution thereof of such taxes as the sales tax. This possibility further emphasizes the need for careful examination of the tax structure as it affects the highway user.

STATUS OF FEDERAL-AID HIGHWAY PROJECTS AS OF AUGUST 31, 1941

Table with columns: STATE, COMPLETED DURING CURRENT FISCAL YEAR, UNPAID CONTRACTS, APPROVED FOR CONSTRUCTION, BALANCE OF FEDERAL AID AVAILABLE FOR FISCAL YEAR. Rows list states from Alabama to Wyoming and a TOTAL row.

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# STATUS OF FEDERAL-AID SECONDARY OR FEEDER ROAD PROJECTS

AS OF AUGUST 31, 1941

STATE	UNAPPORTIONED FEDERAL FISCAL YEAR		FISCAL YEAR		FEDERAL AID		PERCENTAGE OF COMPLETION		APPROVED FOR CONSTRUCTION		TOTAL FEDERAL AID	
	Federal Aid	Mile	Federal Aid	Mile	Federal Aid	Mile	Federal Aid	Mile	Federal Aid	Mile	Federal Aid	Mile
Alabama	\$ 590,370	22.6	\$ 277,768	60.3	\$ 1,042,682	\$ 524,590	\$ 177,280	\$ 166,700	10.7	\$ 311,858		
Arizona	67,771	4.5	149,972	16.8	116,210	60,127	59,230	59,230	8.7	254,132		
Arkansas	192,692	12.5	35,684	16.8	1,134,254	1,011,271	1,300,000	267,260	12.5	1,667,531		
California	284,460	5.6	1,810,298	15.7	1,810,298	935,288	1,919,976	1,919,976	3.6	430,088		
Colorado	65,595	7.7	115,508	18.9	1,155,508	78,151	120,976	50,446	2.2	266,062		
Connecticut	105,164	1.3	158,287	8.1	305,932	289,287	30,446	162,871	3.9	714,156		
Delaware	112,906	6.4	1,056,052	12.5	1,056,052	284,276	1,087,285	533,210	97.4	711,971		
Florida	112,916	11.2	583,623	10.1	1,056,052	284,276	1,087,285	533,210	97.4	711,971		
Georgia	186,084	6.7	189,795	10.1	1,056,052	284,276	1,087,285	533,210	97.4	711,971		
Illinois	328,100	7.5	1,554,510	83.6	1,554,510	777,497	1,554,510	83.6	1,554,510			
Indiana	16,100	1.8	1,554,510	83.6	1,554,510	777,497	1,554,510	83.6	1,554,510			
Iowa	299,158	81.0	375,124	69.8	375,124	259,239	375,124	69.8	375,124			
Kansas	239,335	19.0	275,701	12.8	275,701	275,701	275,701	12.8	275,701			
Kentucky	197,124	7.9	1,056,052	12.5	1,056,052	284,276	1,087,285	533,210	97.4	711,971		
Louisiana	372,100	7.7	69,250	1.8	69,250	69,250	69,250	1.8	69,250			
Maine	34,800	2.8	825,000	10.8	825,000	211,935	111,550	366,552	2.9	300,021		
Maryland	111,628	3.4	667,654	10.8	667,654	397,135	326,800	166,420	10.8	366,552		
Massachusetts	122,500	8.9	1,275,960	78.7	1,275,960	679,480	1,275,960	78.7	1,275,960			
Michigan	221,708	37.7	1,056,052	12.5	1,056,052	284,276	1,087,285	533,210	97.4	711,971		
Minnesota	98,400	16.5	1,400,934	10.5	1,400,934	610,282	1,400,934	10.5	1,400,934			
Mississippi	161,202	13.7	665,201	29.2	665,201	386,253	665,201	29.2	665,201			
Missouri	118,252	23.3	517,523	24.1	517,523	384,311	517,523	24.1	517,523			
Montana	69,577	12.7	613,123	64.1	613,123	252,259	77,770	196,013	14.8	269,055		
Nebraska	85,616	10.7	35,658	8.1	35,658	35,658	35,658	8.1	35,658			
New Hampshire	207,250	14.4	510,792	37.9	510,792	170,638	170,638	37.9	510,792			
New Jersey	65,762	13.7	480,988	26.5	480,988	205,777	182,603	145,428	11.6	112,732		
New Mexico	301,720	1.8	1,056,052	12.5	1,056,052	284,276	1,087,285	533,210	97.4	711,971		
New York	68,698	7.0	682,959	47.9	682,959	341,799	283,729	107,400	21.2	516,592		
North Carolina	27,030	2.4	25,166	15.2	25,166	15,262	988,295	118,560	14.7	1,673,062		
North Dakota	187,110	15.2	1,614,210	11.9	1,614,210	61,212	625,165	162,281	6.5	710,010		
Ohio	216,780	9.7	116,046	9.0	116,046	116,046	116,046	9.0	116,046			
Oklahoma	190,947	15.0	271,576	12.1	271,576	271,576	271,576	12.1	271,576			
Oregon	516,252	12.1	1,926,287	12.1	1,926,287	928,132	905,165	126,530	26.5	1,126,165		
Pennsylvania	84,274	9.9	130,714	1.7	130,714	68,971	196,013	135,181	11.5	63,989		
Rhode Island	18,217	5.6	686,150	36.0	686,150	211,666	383,130	175,181	11.5	164,816		
South Carolina	21,688	9.0	1,056,052	12.5	1,056,052	284,276	1,087,285	533,210	97.4	711,971		
South Dakota	110,504	5.5	1,432,238	36.3	1,432,238	710,519	1,432,238	36.3	1,432,238			
Tennessee	279,919	12.1	1,127,271	100.0	1,127,271	517,567	1,127,271	100.0	1,127,271			
Texas	7,756	5.7	23,428	13.1	23,428	181,567	195,190	95,056	23.5	1,315,928		
Utah	36,087	1.8	2,192	1.0	2,192	1,026	1,026	1,026	1.0	65,317		
Vermont	102,250	15.9	15,900	1.1	15,900	278,201	11,250	12,500	3.8	371,697		
Virginia	2,165	6.1	6,165	21.4	6,165	1,624,571	56,100	56,100	10.2	1,680,671		
Washington	501,668	22.3	300,790	26.2	300,790	284,276	1,087,285	533,210	97.4	711,971		
West Virginia	231,517	11.2	112,525	17.5	112,525	100,946	699,088	257,560	16.9	1,382,668		
Wyoming	26,011	1.6	8,275	1.7	8,275	2,775	26,011	15,350	1.5	50,112		
TOTALS	7,835,942	917.1	34,589,250	17,257.180	34,589,250	17,257.180	17,257.180	17,257.180	1,789.6	7,289,995	1,032.1	16,274,533

## STATUS OF FEDERAL-AID GRADE CROSSING PROJECTS

AS OF AUGUST 31, 1941

STATE	COMPLETED DURING CURRENT FISCAL YEAR				GRAND COMPLETION				APPROVED FOR CONSTRUCTION				AMOUNTS OF FEDERAL AID COMPLETED	
	Completed from Fund	Federal Aid	Cost (Actual or Estimated)	Number of Miles	Estimated Mileage	Number of Miles	Estimated Mileage	Number of Miles	Estimated Mileage	Estimated Mileage	Number of Miles	Estimated Mileage		Number of Miles
Alabama	84,761	84,761	131,139	3	331,139	3	3	3	3	159,415	3	3	3	159,415
Arizona	171,245	171,245	170,011	6	170,011	6	6	6	6	171,245	6	6	6	171,245
California	5,685	5,685	1,315,038	6	1,315,038	6	6	6	6	1,315,038	6	6	6	1,315,038
Colorado	162,272	162,272	59,112	2	59,112	2	2	2	2	23,290	2	2	2	23,290
Delaware	13,313	13,313	86,375	1	86,375	1	1	1	1	23,274	1	1	1	23,274
Florida	184,528	184,528	1,093,594	1	1,093,594	1	1	1	1	508,124	1	1	1	508,124
Georgia	11,304	11,304	102,275	1	102,275	1	1	1	1	501,650	1	1	1	501,650
Illinois	70,841	70,841	2,209,174	26	2,209,174	26	26	26	26	598,516	26	26	26	598,516
Indiana	2,033	2,033	1,232,488	1	1,232,488	1	1	1	1	1,022,959	1	1	1	1,022,959
Iowa	63,859	63,859	1,232,488	1	1,232,488	1	1	1	1	34,821	1	1	1	34,821
Kentucky	96,070	96,070	1,232,488	1	1,232,488	1	1	1	1	409,044	1	1	1	409,044
Louisiana	270,000	270,000	112,972	1	112,972	1	1	1	1	428,684	1	1	1	428,684
Maine	148,900	148,900	1,232,488	1	1,232,488	1	1	1	1	315,232	1	1	1	315,232
Massachusetts	218,186	218,186	1,113,574	1	1,113,574	1	1	1	1	512,974	1	1	1	512,974
Michigan	175,209	175,209	2,038,922	1	2,038,922	1	1	1	1	232,800	1	1	1	232,800
Minnesota	122,502	122,502	1,121,534	1	1,121,534	1	1	1	1	71,448	1	1	1	71,448
Mississippi	84,346	84,346	1,093,594	1	1,093,594	1	1	1	1	3,657	1	1	1	3,657
Missouri	51,982	51,982	1,093,594	1	1,093,594	1	1	1	1	429,729	1	1	1	429,729
Montana	214,360	214,360	1,093,594	1	1,093,594	1	1	1	1	1,247,650	1	1	1	1,247,650
Nebraska	131,658	131,658	1,657,406	1	1,657,406	1	1	1	1	412,875	1	1	1	412,875
New Hampshire	47,800	47,800	697,290	1	697,290	1	1	1	1	142,875	1	1	1	142,875
New Jersey	87,460	87,460	1,657,406	1	1,657,406	1	1	1	1	228,923	1	1	1	228,923
New Mexico	114,214	114,214	1,657,406	1	1,657,406	1	1	1	1	111,837	1	1	1	111,837
New York	100,000	100,000	1,657,406	1	1,657,406	1	1	1	1	228,923	1	1	1	228,923
North Carolina	14,610	14,610	1,657,406	1	1,657,406	1	1	1	1	1,132,117	1	1	1	1,132,117
North Dakota	134,252	134,252	1,657,406	1	1,657,406	1	1	1	1	1,284,752	1	1	1	1,284,752
Ohio	60,046	60,046	371,372	1	371,372	1	1	1	1	303,984	1	1	1	303,984
Oklahoma	301,958	301,958	1,400,242	1	1,400,242	1	1	1	1	297,823	1	1	1	297,823
Oregon	52,670	52,670	2,160,024	1	2,160,024	1	1	1	1	182,927	1	1	1	182,927
Pennsylvania	213,600	213,600	1,168,370	1	1,168,370	1	1	1	1	179,970	1	1	1	179,970
Rhode Island	19,958	19,958	85,104	1	85,104	1	1	1	1	79,261	1	1	1	79,261
South Carolina	55,243	55,243	312,104	1	312,104	1	1	1	1	56,769	1	1	1	56,769
South Dakota	74,568	74,568	667,415	1	667,415	1	1	1	1	4,672	1	1	1	4,672
Tennessee	251,556	251,556	331,114	1	331,114	1	1	1	1	287,240	1	1	1	287,240
Texas	102,574	102,574	617,212	1	617,212	1	1	1	1	108,911	1	1	1	108,911
Utah	149,076	149,076	444,412	1	444,412	1	1	1	1	5,132	1	1	1	5,132
Vermont	149,076	149,076	1,059	1	1,059	1	1	1	1	215,714	1	1	1	215,714
Virginia	149,076	149,076	1,059	1	1,059	1	1	1	1	215,714	1	1	1	215,714
Washington	149,076	149,076	1,059	1	1,059	1	1	1	1	215,714	1	1	1	215,714
West Virginia	149,076	149,076	1,059	1	1,059	1	1	1	1	215,714	1	1	1	215,714
Wisconsin	149,076	149,076	1,059	1	1,059	1	1	1	1	215,714	1	1	1	215,714
Wyoming	149,076	149,076	1,059	1	1,059	1	1	1	1	215,714	1	1	1	215,714
TOTALS	4,746,076	4,746,076	40,510,594	288	40,510,594	288	288	288	288	14,974,659	288	288	288	14,974,659





By HAMLIN

SENIOR CLASS IS TO PRESENT PLAY

"That's One on Bill" to be Given on April 27 in the High School Auditorium.

The Houston Senior Class presents the three act comedy drama, "That's One on Bill," April 27, at the school auditorium. The cast is as follows: Uncle Sammie-A young bearded Samuel Kelly Billy Hilly-His nephew-Leslie Nicholas

SCENE - The Garden TIME - The Present SYNOPSIS Act I--A morning in July Act II--A week later Act III--Three weeks later

OUTLAW AND PALS IN SEDAN

(Concluded from Page One)

Called federal agent W. Charles Barrin, case investigator from Washington and two other men when they appeared at the resort at which two of the gangsters were commanding an automobile.

CALLED MEETING THURSDAY NIGHT

A called meeting of the membership committee of the Piqua Community club will be held Thursday night at 8 o'clock at the Y.M.C.A.

Woods, was captured in flimsy pajamas. The third girl wore a red sweater over blue pajamas. In addition to this trio, several other girls were seen. Former Dillinger sweater, and a woman who said she had a job applied for, said to be a sister of John Hamilton, Dillinger's best man.

Two New Alarms Park Falls, Wis., April 24, 1934.—New alarms sent Wisconsin peace officers out on the streets today in a hunt for members of the John Dillinger gang of outlaws who were reported to have appeared again in the region of yesterday's bloody battles with federal agents.

Paterson warned that these men were believed to be the essential members of the gang of Dillinger desperadoes. The five men appeared shortly after midnight at the lunch and coffee parlor at the Hotel Astor, 200 Park Falls. Four of them walked into the parlor, while the fifth remained in the rear seat of their automobile.

TUGWELL BACKS NEW DEAL WITH ARDOR TUESDAY

(Concluded from Page One)

Roosvelt agreed the theoretically sound, but in his opinion, too radical for children. "Checks will be purchased from members of the class or any of the school officers after Friday, April 20. Tickets will also be sold at the door."

CHURCH HISTORY IS TO BE PRESENTED

(Concluded from Page One)

The local history of the First Presbyterian church will be presented in a panorama review and address before the church on Wednesday evening, April 25.

SALES TAX BILL BOBS UP IN OHIO

(Concluded from Page One)

Ohio's present sales tax is a burden on schools and more than \$1,000,000 for local subdivisions. Observers despaired of either of these programs getting through both House and Senate.

ALLEY OOP



RAW FAKE



HE'S GONNA TAKE IT



HEY READY



AWRIGHT - BUT I HOPE YOU KNOW WHAT YOU'RE DOING!



FREAK OF NATURE BORN LAST NIGHT

A freak of nature was found last night when a litter of pigs was born at the home of Walter O. White, residing on R. R. 1, Fletcher. This pig, one of five, had no more than eight feet and two tails.

CHURCH HISTORY IS TO BE PRESENTED

The local history of the First Presbyterian church will be presented in a panorama review and address before the church on Wednesday evening, April 25.

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LABOR SITUATION IN CLEVELAND IS SERIOUS TUESDAY

(Concluded from Page One)

With failed to show up and only a few attempted to enter the plant. Only the crew of 12 engineers, firemen and others were given permits to enter to take care of pressure in the boilers, which, it was feared, would be repaired.

SPRING DANCE WILL BE GIVEN FRIDAY

Senior Friendship club, 1155 W. 12th street, Junior League and their friends will enjoy a spring dance Friday evening at the Y. M. C. A. Ballroom.

SUPPER MEETING HELD ON MONDAY

The Federation of Adult clubs of the Y. W. C. A. held a supper meeting Monday evening.

NEWS-BITS FROM OUR EXCHANGES

URBANA—Isabel Smith, 24, native of Weaville and resident of Urbana for a number of years, died at his home on 10th Street, Urbana, Monday morning following an illness of a week from influenza infection advanced age.

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SPRING DANCE WILL BE GIVEN FRIDAY

Senior Friendship club, 1155 W. 12th street, Junior League and their friends will enjoy a spring dance Friday evening at the Y. M. C. A. Ballroom.

LABOR SITUATION IN CLEVELAND IS SERIOUS TUESDAY

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SUPPER MEETING HELD ON MONDAY

The Federation of Adult clubs of the Y. W. C. A. held a supper meeting Monday evening.

NEWS-BITS FROM OUR EXCHANGES

URBANA—Isabel Smith, 24, native of Weaville and resident of Urbana for a number of years, died at his home on 10th Street, Urbana, Monday morning following an illness of a week from influenza infection advanced age.

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Advertisement for 'DONNA OF THE BIG TOP' by Beulah Poynter. Includes text: 'STARTS THURSDAY IN THE PIQUA DAILY CALL', 'Through the careers of three star performers—jealous, passionate, temperamental—Beulah Poynter presents one of the most absorbing stories ever written about circus life.'

Large advertisement for 'ELECTROLUX' refrigerators. Includes text: 'YES THERE IS ONLY ONE Automatic Refrigerator', 'OFFERING THESE OUTSTANDING FEATURES: No Moving Parts, Silent Operation, Costs You Less'. Also includes an illustration of a refrigerator.

ARMY OF 5,000 HUNTS DILLINGER

Cleveland Is Facing Shortage In Gasoline

AUTOS STRANDED; STRIKE SPREADS

Mayor Harry L. Davis Takes Hand to End Walkout

TRUCE IS URGED

Traffic Slows Up As Motorists Are Unable To Buy Fuel

CLEVELAND, April 25. (AP)—Greater Cleveland motorists found themselves face to face with a gasoline famine today as various groups of the oil industry began striking.

As one after another of Cuyahoga county's 1200 to 1500 stations stop as one up, motorists began to line up for gas, with some motorists waiting for hours for gas.

Many cars were being stranded in the city, and motorists were beginning to make arrangements to take emergency gasoline when it was available.

Traffic slowing up on downtown Cleveland around noon today. The city will be congested through the streets were presumably getting their gas from the pumps at stations in the five counties surrounding Cleveland, where no strike has affected the supply.

Mayor Harry L. Davis has called upon both sides to meet at 10 o'clock today to discuss the situation. The mayor is to a 30-day leave pending action.

The major companies' representatives were in conference today in the city, trying to determine a basis for ending the strike.

The American Federation of Labor and the American Petroleum Producers Association are in conference today in the city, trying to determine a basis for ending the strike.

Dr. W. M. McLaughlin, chairman of the national petroleum policy board in Washington, was on route to the city for a conference today.

The strike is expected to last for several weeks, and the city is expected to be in a state of emergency.

GROSS RECEIPTS TAX MEASURE IS DRAFTED

COLUMBUS, April 25. (AP)—Specializing its work on a tax program, the Senate Finance committee today placed a gross receipts tax measure before the Senate and prepared to consider amendments to raise a total of \$250,000,000.

The committee decisively eliminated the sales tax from its program by a vote to now vote yesterday on its recommendation of the one-half per cent gross receipts tax and on the basis of margins.

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Liquor Fees To Net City \$5,250

MANHATTAN is to receive \$5,250 as the share of the first distribution in liquor fees to be made by State Auditor Joseph P. Moran.

The city's share of the first distribution in liquor fees to be made by State Auditor Joseph P. Moran is \$5,250.

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JAPAN SILENT ON CHINESE POLICY

No Answer to Assumption of Responsibility in Asia

U. S. and England May Ask Tokyo to Clarify Statement

By The Associated Press

Japan is silent regarding the world to draw its own conclusions regarding her related policy toward China.

The Japanese government has not answered the question of responsibility for the situation in Asia.

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Charges That Mooresville Is Anti-Social Brings "Humiliation" To Home Town Of Hunted Desperado



(1) John W. Dillinger, father of John Dillinger, desperado; (2) The Rev. George Redner, pastor of Ebenezer church at Mooresville, Ind., in whom Dillinger was reared; (3) Mrs. E. L. Linn, Dillinger's mother; (4) Alvin Karpis, Dillinger's brother; (5) Dillinger; (6) W. A. Lyon, president of the town board of Mooresville.

STATE LIQUOR IS CRITICIZED

DOCTOR: "Dillinger's Run" Does Not Compromise Modest Definition

COLUMBUS, April 25. (AP)—The commission of a liquor violation that would have been considered a crime in any other state, is not considered a crime in Ohio.

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Indiana Community Sympathetic Towards Elder Dillinger But Believes That America's No. 1 Public Enemy Should Be Punished

By JACK CENAR

MOORESVILLE, Ind., April 25.—W. A. Lyon, 55-year-old grocer head of town which John Dillinger, America's top man No. 1, claims as his home, shook his fist with all the fury the alternative figure possessed.

"He is not anti-social here," he spat out. "Mooresville is a God-fearing, law-abiding American town."

Thompson Lyon, 45, president of the town board, the governing body of this Hoover country of 1,877 population, summoned the board into special session today and adopted a resolution commending a resolution and apology from State Director Al Freany.

"I was angry when I heard that the town, according to Lyon, by calling it 'anti-social' and 'pro-lawless' for failing to arrest Dillinger and state authorities that the notorious desperado attacked a family reunion at the home of his mother, John W. Dillinger, just north of the complete limits of Mooresville."

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POLICE AUTO IN SMASHUP

FIREMAN: Anthony Kerner and Clarence Swartzberger Escaped Injures In Crash

PARSONAGE, April 25. (AP)—Police Officer Anthony Kerner and Clarence Swartzberger escaped injury but one of the city's new police cars was damaged today morning when it crashed into a car on the corner of Erie and 14th st.

The crash occurred at 10:30 a. m. today when a new police car, owned by the city, was driving on Erie street, heading north, when it struck a car driven by a man whose name was not known.

The new car was driven by Officer Kerner, who was on duty with Swartzberger. The car was damaged and the driver was injured.

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Indians Aid Hunt, England Is Told

LONDON, April 25. (AP)—Indians are helping the hunt for John Dillinger, according to a London morning newspaper.

The newspaper reported that the British government has received information from the Indians that they are helping the hunt for John Dillinger.

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CRACK FEDERAL AGENTS TAKE UP DILLINGER'S TRAIL

Department of Justice Confident Desperado Will Be Caught

NO NEW LEADS

Man Hunters Balked Game Has Split Into Two Sections

BULLEYEN

MEMPHIS, Wis., April 25. (AP)—A crack squad of federal agents of the Bureau of Investigation at the United States department of justice in this area, pending an arrest of the desperado of John Dillinger, took a midnight search here Sunday night when the desperado was believed to be in the area.

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NEW TIETP THREATENS AUTO INDUSTRY AS 5000 STRIKE IN CLEVELAND PLANT

Stiffness of 5000 men at Fisher Body plant at Cleveland threatens the peace of the auto industry...

Comedy and Drama In Kidnaping Case

LOS ANGELES, April 24 (UP)—A report to a court of the kidnaping of a young girl...

Fremont Golf Club In Toledo District

FREMONT, April 24 (Special)—The Fremont Golf Club has been assigned to the Northeast division...

SPONSOR PLAY GROUPS

FREMONT, April 24 (Special)—The Fremont Play Association...

PLAN GRANGE SOCIAL

MIAMI, April 24 (Special)—Granges and refreshments will feature a Grange social...

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Here in Rotation Are Stories Continued From Page One

No 1 Continued from Page One. The wage candidate will force all the same wage...

No 2 Continued from Page One. The meeting was called by the... of the Midland Trust Co...

No 3 Continued from Page One. The representative in Washington... Bureau Minister John H. Brown...

No 4 Continued from Page One. The representative in Washington... Bureau Minister John H. Brown...

No 5 Continued from Page One. The representative in Washington... Bureau Minister John H. Brown...

No 6 Continued from Page One. The representative in Washington... Bureau Minister John H. Brown...

No 7 Continued from Page One. The representative in Washington... Bureau Minister John H. Brown...

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No 11 Continued from Page One. The representative in Washington... Bureau Minister John H. Brown...

No 12 Continued from Page One. The representative in Washington... Bureau Minister John H. Brown...

No 13 Continued from Page One. The representative in Washington... Bureau Minister John H. Brown...

No 14 Continued from Page One. The representative in Washington... Bureau Minister John H. Brown...

PLAN TO INCREASE DUPLICATE BRIDGE

Mixed Pair Championship Will Be Decided In Four Friday Night's Play.

Stauder's first city-wide, mixed-pair tournament at duplicate bridge...

High jury will resolve medal contention...

Shilling capture since he escaped from Indiana state...

George "Baby Face" Nelson, alias Philadelpha...

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ELUDES DILLINGER GANG PURSUERS

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TOLEDOANS HELD AT PORT CLEVELAND

Trio Bound to Grand Jury for Alleged Restaurant Theft.

The Toledoans pleaded not guilty to the theft of a restaurant...

Customers who were held at the restaurant at the time...

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SANDUSKY, OTTAWA-ROSEN MEN GIVEN PAROLES

COLUMBUS, April 24 (UP)—Parole was granted by the Ohio board to 125 inmates of the Ohio State Penitentiary...

A total of 162 cases were heard and 122 cases continued...

Parole by committee included...

Parole by committee included...

Parole by committee included...

Parole by committee included...

Parole by committee included...

Parole by committee included...

Parole by committee included...

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BAZLEY. We sell only the better grade of Meat—No. 1 Beef, Veal and Pigs—All our Finest Sausages, Lunch Meats are 100% pure meat—no cereal.

Cala Hams 9c, Pork Chops 15c, Round Steak 5c, Frankfurts 12c, Pork Roast 9c.

BUY MACHINE GUN FOR SHERIFF DEPT. FREMONT, April 24 (Special)—Ready-to-go completion today...

Fremont Debaters in National Meet. FREMONT, April 24 (Special)—The High school debating team...

GAS RATE AGREEMENT IS SAID TO BE LIKELY. Since agreement, either as to rate or procedure in the case, may be entered into...

CONGRESS TODAY BY UNIFIED FORCES. Confusion at state, education and labor committee debates...

Ohio Briefs. LIMA (UP)—A fourth dividend of the National City Bank...

KAUFMANN & HUTH. Wholesale Apparel—Dry Goods and Home Textiles—Furniture—Notions—Hardware—Columbia-Grocery-Groceries and Florida-Granges...

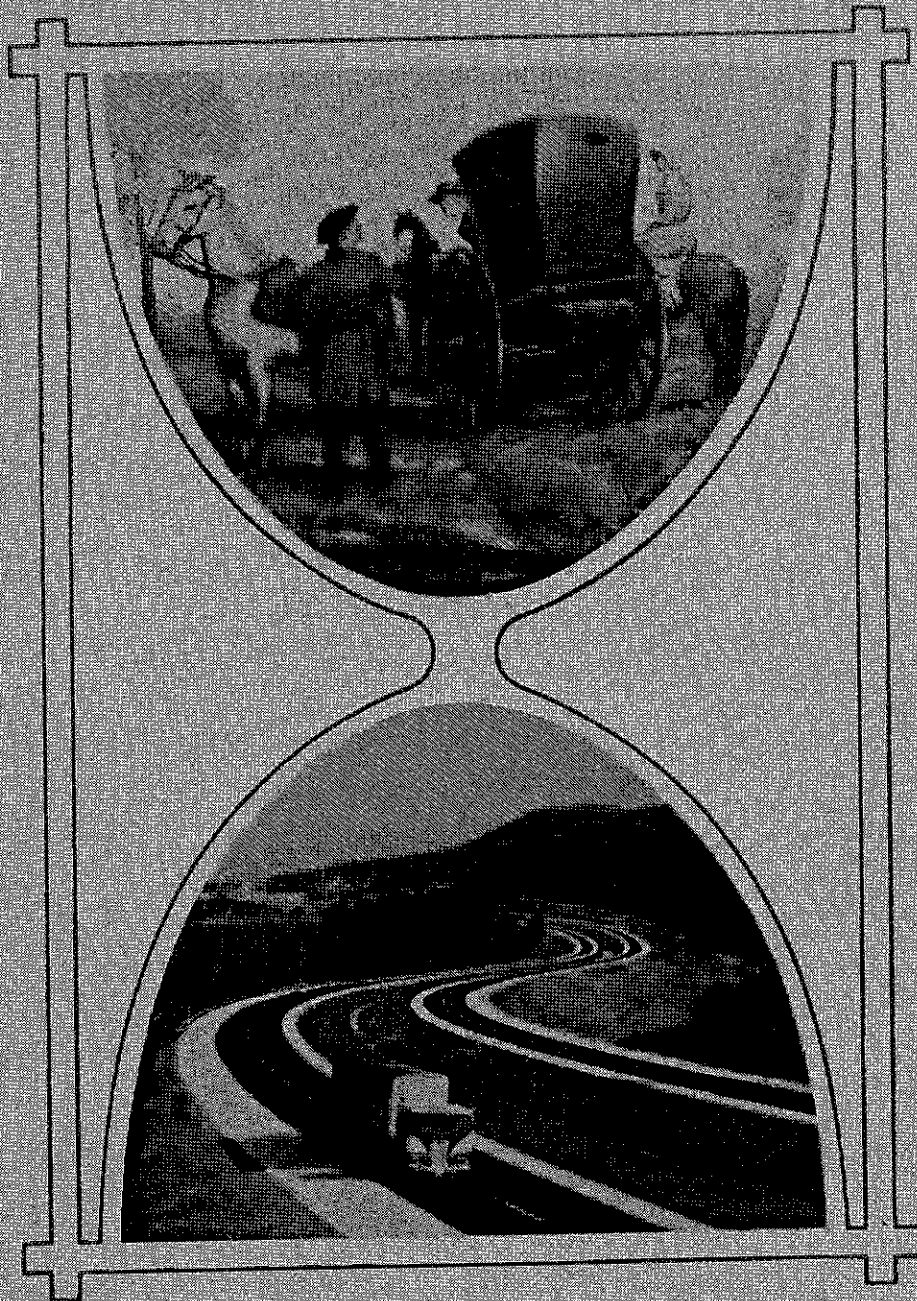
May We Serve YOU? Doing considerable more than is customarily expected and doing it promptly and willingly is The Citizens idea of Service. The Citizens Banking Company United States Depository.

Household Papers for writing, bookkeeping, etc. The C. F. DENZER Co.





# america's highways $\frac{1776}{1976}$



U.S. DEPARTMENT OF TRANSPORTATION  
Federal Highway Administration

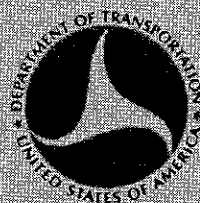


# America's highways $\frac{1776}{1976}$

A HISTORY OF THE FEDERAL-AID PROGRAM

*(Secretary of the Federal Highway Administration)*

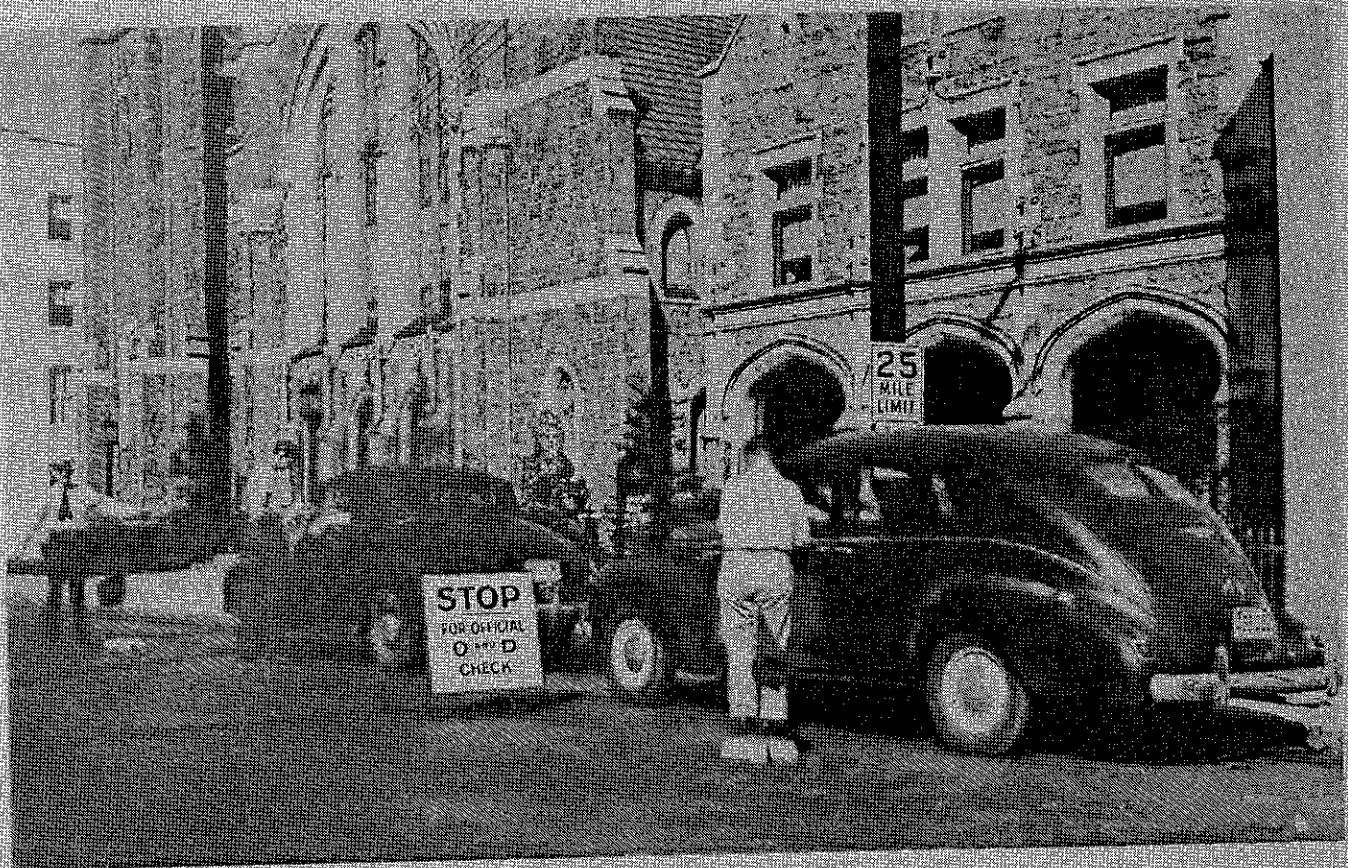
JAN 25 1974



**U.S. DEPARTMENT OF TRANSPORTATION**  
**Federal Highway Administration**

For sale by the Superintendent of Documents, U.S. Government Printing Office  
Washington, D.C. 20402

Stock No. 050-001-00123-3



An "origin-and-destination" survey.

Before the war was over, many of the State highway departments became involved with the large cities and urban counties in the planning of costly schemes for expanding highway capacities. Most of the Federal aid provided by Congress for postwar planning went into urban highways.

#### Federal Aid for Urban Highways

In its early days, the Federal-aid program applied strictly to rural roads, "excluding every street and road in a place having a population, as shown by the latest available Federal census, of two thousand five hundred or more, . . ." This exclusion was suspended in the Emergency Relief and Construction Act of 1932 and the National Industrial Recovery Act of 1933, and abolished altogether in the Hayden-Cartwright Act of 1934. Thereafter, the States enlarged their Federal-aid systems to include extensions of Federal-aid routes into and through municipalities and even new routes wholly within urban areas, but the main interest of the State highway departments was in the rural highway systems outside the cities.

Congress changed all this in 1944 by specifically earmarking \$125 million annually for the first 3 postwar years for roads in urban areas. These funds were to be apportioned to the States in the ratio that their urban populations (cities of 5,000 or more inhabitants) bore to the national urban population. In the same Act, Congress established the National System of Interstate Highways and required that its routes should be selected by the States within the cities as well as between them. Thus, the Federal-Aid Highway Act of 1944 brought the State highway departments, and also the Public Roads Administra-

tion (PRA), actively into the field of city and regional transportation planning beside the city and county officials.\*

#### Urban Traffic Studies

Before they could designate the urban Interstate System arteries with confidence, the planners needed to know a great deal more than they already knew about the movements of traffic within cities and between cities and their suburbs:

Traffic within an urban area is more complex than on rural roads. Traffic volumes are larger, and arteries are much more numerous. Parallel streets offer many alternate routes of travel, and it is not possible to tell from observing traffic volumes alone where the drivers really want to go. Drivers often travel considerable distances out of their way to use exceptionally attractive routes, or to avoid congested or unattractive routes. Examples of this have been noted in numerous cities and origin-and-destination surveys have shown that the facts were sometimes quite different from assumptions made by engineers with long familiarity with the local situation.<sup>4</sup>

The old techniques that had been developed in previous years during the cooperative State-BPR traffic surveys and the statewide highway planning surveys, such as driver interviews and postcard questionnaires, were too costly, too cumbersome or not sufficiently accurate. The planners needed a better

\*The Bureau of Public Roads (BPR) had pioneered in urban traffic studies in the Cook County Transportation Survey of 1924, the first comprehensive study of traffic in an urban region including a large city and in the Cleveland Regional Area Traffic Survey of 1927. The latter was the first concerted study by all levels of government of the traffic problems of a single metropolitan region.<sup>4</sup>

method of estimating future traffic flows, and they found it in the "origin-and-destination survey," a sampling technique developed in 1944 by the PRA with the help of the Bureau of the Census.<sup>17</sup> The origin-destination surveys were made by interviewing a sample of the urban population at their homes and obtaining from each family in the sample detailed information on the travel habits of its members. Samples varied from as small as 1 dwelling unit in 30 to as high as 1 in 3, but averaged about 1 in 10.

During 1944 and 1945 the State highway departments and local officials, with the help of the PRA, analyzed the needs of 30 large metropolitan areas and 135 cities of 50,000 or less population.

By providing the means to estimate the traffic volumes that will use any specific route, these studies serve to evaluate the merits of proposals advanced by different groups within an urban area, and to bring together the various local agencies in the support of a single plan. Availability of the facts often permits harmonizing the views of differing factions, each of whose proposals, in the absence of facts, is of necessity based on opinions.<sup>18</sup>

### A Larger Share of the Highway Dollar for Non-Federal-Aid System Roads

As statewide traffic increased, so did gasoline tax revenues, and inevitably there was political pressure to distribute some of this revenue to the counties as State aid for their roads. In many States a considerable part of the State-collected road-user revenues was redistributed to the counties, and often in greater amounts than was generated within a specific county.<sup>19</sup> As the State contributions increased, most counties reduced their own support for local roads (the revenues being derived mostly from property taxation) so that by 1947 local governments were carrying only about 40 percent of the cost of construction and maintenance where 20 years before they had carried over 80 percent.<sup>20</sup>

The National Industrial Recovery Act of 1933 and the Hayden-Cartwright Act of 1934 had provided emergency funds that could be spent on "secondary or feeder" roads off the Federal-aid system "to be agreed upon by the State highway departments and the Secretary of Agriculture." Although not required by the legislation, the Secretary, through the Bureau of Public Roads, insisted that these funds be spent on connected road systems in each State as a condition for his agreement.<sup>21</sup> The States then, in selecting systems, for the most part, selected the roads carrying the most traffic, but not necessarily those most desired by the local officials. These systems totaled about 138,500 miles, and on them about \$245 million of emergency relief and regular Federal-aid funds were spent by the States in the period from 1934 to 1943.

Nevertheless, there was widespread dissatisfaction with the county roads among rural residents, accompanied by an unwillingness to increase taxes to im-

<sup>17</sup> In 1944 it was estimated that nationally, about 61 percent of road-user revenues was going to the State highway departments, about 20 percent to the counties and cities for their roads and streets, and the rest to nonhighway uses.<sup>20</sup>

<sup>18</sup> In Delaware, North Carolina, West Virginia and Virginia (except for two counties), the highway departments are responsible for all roads outside of municipalities because the local governments succeeded in shifting the entire road burden to the State.

prove them. This feeling led to increased political pressure on the State governments for a larger share of road-user taxes and also pressure on Congress for direct Federal aid to the counties. In 1943 Senator A. T. Stewart of Tennessee introduced a bill to set up a Rural Local Roads Administration with \$1.1 billion in Federal funds to be distributed among the counties without going through the State highway departments.<sup>21</sup> This bill never emerged from committee, but its supporters were able to include a very generous measure of assistance for local rural roads in the Federal-Aid Highway Act of 1944.

### The Federal-Aid Secondary Road System

The 1944 Act authorized the appropriation of \$150 million in each of the first 3 postwar years for projects on the "principal secondary and feeder roads" but required that the funds be spent on "a system of such roads selected by the State highway departments in cooperation with the county supervisors, county commissioners, or other appropriate local road officials, and the Commissioner of Public Roads." The money was to be apportioned to the States one-third according to State area, one-third according to rural population and one-third according to the mileage of rural mail delivery and star routes, and the Federal share of any project was limited to 50 percent.

Congress imposed no mileage or percentage limits on the secondary system, and it soon became apparent to the State highway departments that their previously selected secondary systems were not nearly large enough to satisfy the local authorities. However, the PRA arbitrarily set guidelines for selecting routes which had the effect of limiting the mileage. First, these guidelines required that the State Federal-Aid Primary System and the selected Secondary System be integrated to form continuous networks. Second, the PRA limited the mileage it would approve to a system not larger than could be constructed and maintained with the funds that "might reasonably be expected to be provided" according to past performance in the area.<sup>22</sup>

The system approved by the Commissioner of Public Roads in June 1946 totaled 217,073 miles, but this was just a beginning, as tens of thousands of miles of additional routes were then still under review. According to the PRA, "No route is approved without first assessing its importance by reference to the records made in the planning surveys showing locations of farms, schools, churches, and business establishments, type of existing road improvement, general population distribution, and the amount of traffic."<sup>23</sup> By June 1947 the Secondary System had increased to 350,809 miles and by 1948 to 377,622 miles. It reached 502,676 miles in 1955.

### The States Select Interstate System Routes

By the 1944 Act, Congress had limited the National System of Interstate Highways to 40,000 miles and had also provided that the routes should be selected

<sup>21</sup> Planning for the Federal-Aid Secondary Systems had the beneficial effect of forcing the States to reexamine and update their Primary Systems. Nationwide, about 40 percent of the Federal-aid secondary routes were already under State control or were immediately taken over by the States. The rest remained under local control.

▶ Use Black Ink & Return Original Form.

Tax Registration Number

Name

Business Name

Street Address

City, State, Zip

**Has Your Address Changed?**

If so, check appropriate box(es) below and note changes on address above.

- Business Location Change     Mailing Address Change

**Business Closed?**

Check this box and enter date closed.

\_\_\_/\_\_\_/\_\_\_

**Filing an Amended Return?**

Check this box and attach amended return information and a letter of explanation.

Other Correspondence?

**I. State Business and Occupation (B&O) Tax**

Travel Agent Comm/Tour Operator; Intl Charter Freight Brokers; Stevedoring; Licensed Boarding Homes [28]

<b>Gross Amount</b>	<b>Deductions*</b>	=	<b>Taxable Amount</b>	<b>Rate</b>	<b>Tax Due</b>
<input type="text"/>	<input type="text"/>		<input type="text"/>	X	<input type="text"/>
				.00275	

Insurance Producers; Title Insurance Agents; Surplus Line Broker Commissions [14]

<b>Gross Amount</b>	<b>Deductions*</b>	=	<b>Taxable Amount</b>	<b>Rate</b>	<b>Tax Due</b>
<input type="text"/>	<input type="text"/>		<input type="text"/>	X	<input type="text"/>
				.00484	

Royalties; Child Care [80]

<b>Gross Amount</b>	<b>Deductions*</b>	=	<b>Taxable Amount</b>	<b>Rate</b>	<b>Tax Due</b>
<input type="text"/>	<input type="text"/>		<input type="text"/>	X	<input type="text"/>
				.00484	

Wholesaling [03]

<b>Gross Amount</b>	<b>Deductions*</b>	=	<b>Taxable Amount</b>	<b>Rate</b>	<b>Tax Due</b>
<input type="text"/>	<input type="text"/>		<input type="text"/>	X	<input type="text"/>
				.00484	

For Profit Hospitals; Scientific R&D [135]

<b>Gross Amount</b>	<b>Deductions*</b>	=	<b>Taxable Amount</b>	<b>Rate</b>	<b>Tax Due</b>
<input type="text"/>	<input type="text"/>		<input type="text"/>	X	<input type="text"/>
				.015	

Service & Other Activities [04]

<b>Gross Amount</b>	<b>Deductions*</b>	=	<b>Taxable Amount</b>	<b>Rate</b>	<b>Tax Due</b>
<input type="text"/>	<input type="text"/>		<input type="text"/>	X	<input type="text"/>
				.018	

\* Deductions taken but not itemized on pages 3 & 4 will be disallowed.

State and Local Use Tax/Deferred Sales Tax (See page 2.) ▶

**DUE DATE: July 31, 2011**

- \* 5% Penalty Assessed After August 01, 2011
- 15% Penalty Assessed After August 31, 2011
- 25% Penalty Assessed After September 30, 2011
- If the due date falls on a weekend or legal holiday, the due date is extended to the next business day.

**No Business Activity?**

File by telephone: Call 1-800-647-7706.

At the greeting, enter code 111 to start the process. Enter your 9-digit tax registration number and follow the instructions given. If you file by telephone, do not mail us your return; or

- If you have no business activity and did not file by telephone, check this box, sign and mail us your return.
- ▶ Make check or money order payable to the Washington State Department of Revenue.
- ▶ Please write your tax registration number on your check.
- ▶ Signature \_\_\_\_\_
- ▶ Print Name \_\_\_\_\_
- ▶ Phone Number ( ) \_\_\_\_\_ Date / /

**IV. Totals**

18. Total Tax Due from Section I (Tax due from lines 1-6)

19. Total Tax Due from Section II (Tax due from line 12)

20. Total All Addendums (Example: Local Sales/Use Tax)

21. Subtotal (add lines 18-20)

22. Total Credit from Section III (from page 2, line 17)

23. Subtotal (subtract line 22 from line 21)

24. \* Add Penalty, if Applicable (Minimum \$5.00) \_\_\_\_\_%

25. Total Amount Due

## II. State and Local Use Tax

State Use Tax/Deferred Sales Tax [05] (Also complete Local Use Tax/Deferred Sales Tax below.)

7. **Gross Amount \*\***  **\*\* Value of articles used or consumed on which no Washington sales tax has been paid.** **Rate** X .065 = **Tax Due**

**Local Use Tax/Deferred Sales Tax [46]** (Note: If more than two locations, please report all information on the Local Sales and Use Tax Addendum. If you need an addendum, go to our web site at dor.wa.gov.)

8. **Location Code**  **Value of Articles**  X **Local Rate**  = **Tax Due City or County**   
Enter applicable tax rate

9. **Location Code**  **Value of Articles**  X **Local Rate**  = **Tax Due City or County**   
Enter applicable tax rate

10. **Total Value of Articles** **Value of Articles \*\*\***

\*\*\* This amount must be the same as State Use Tax/Deferred Sales Tax Gross Amount, line 7.

11. **Litter Tax [36]** **Taxable Amount**  X **Rate** .00015 = **Tax Due**

12. **Total Tax Due from Section II** (Transfer total to page 1 line 19.) **Tax Due**

### Additional Information

#### Penalties and Interest

- Any unpaid tax (including partial payments) is subject to delinquent return penalty at the rate on the front of the return. (RCW 82.32.090)
- A 5% assessment penalty may be assessed if the return is substantially underpaid. (RCW 82.32.090)
- Interest will accrue from the first day of the month following the due date, until paid. (RCW 82.32.050)

#### Need help? Unsure how to file?

**For Internet Assistance** - Go to the Department of Revenue's web site at [dor.wa.gov](http://dor.wa.gov).

Get instructions for completing the Business & Occupation Activities Return, Local Sales and Use Tax Addendum, and other tax related forms.

**For Telephone Assistance**, or if this return does not include your reporting classifications, please call the Telephone Information Center at 1-800-647-7706.

## III. Credits

13. **Small Business B&O Tax Credit** [815] **Amount of Credit**

14. **International Services Credit** [855] **Amount of Credit**

15. **B&O Credit for Syrup Tax Paid** [945] **Amount of Credit**

16. **Other Credits (Attach appropriate documents.)** [810] **Amount of Credit**

17. **Total Credit** (Transfer total to page 1, line 22.) **Amount of Credit**

#### Applying for a Penalty Waiver?

- Check this box and attach a waiver request.  
 For penalty waiver criteria information, go to [dor.wa.gov](http://dor.wa.gov), or you may call 1-800-334-8969 and enter code 429.

#### Want an easier way to file?

Go to [dor.wa.gov](http://dor.wa.gov). Register for E-file and you can file your return quickly and easily. For assistance, call 1-877-345-3353.

For tax assistance or to request this document in an alternate format, visit <http://dor.wa.gov> or call 1-800-647-7706. Teletype (TTY) users may call (360) 705-6718.



## 6. Service & Other Activities

	I.D.	Amount
Bad Debts	[0401]	<input type="text"/>
Cash & Trade Discounts	[0402]	<input type="text"/>
Apportionment (Interstate & Foreign Sales)	[0404]	<input type="text"/>
Advances Reimburse- ments; Rtns & Allowances	[0407]	<input type="text"/>
Gambling; Prize; Cash Pay-Outs	[0410]	<input type="text"/>
Qualified Initiation Fees; Dues; Contributions Rec'd	[0411]	<input type="text"/>
Interest on Certain Invest/Loan/Obligations	[0412]	<input type="text"/>
Artistic/Cultural Activities	[0416]	<input type="text"/>
Other (Explain below):	[0499]	<input type="text"/>
		<input type="text"/>
	Total	<input type="text"/>

► If you have deductions, please include this Deduction Detail page with your return.

For tax assistance or to request this document in an alternate format, visit <http://dor.wa.gov> or call 1-800-647-7706. Teletype (TTY) users may call (360) 705-6718.

# e file

Washington State Department of Revenue

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- Fast, secure and customizable—show only the lines you need to report.
- File your return early and schedule your payment for the due date.
- Upload files following the simple, step by step tutorial.

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- Update your business address and phone
- Apply for a reseller permit
- Send a secure e-mail
- Request a tax status letter

# State Sales and Use Taxes

By ROY G.\* and GLADYS C. BLAKEY

**A**T PRESENT twenty-two states impose general sales taxes. Their geographical location is shown on the accompanying map. It will be noted that there is a concentration in the Middle West, South Atlantic, South Central and South Mountain divisions, and a scattering in the West. There seems to be no correlation between sales tax and income tax states. The following states have both taxes: Alabama, Arizona, Arkansas, California, Colorado, Iowa, Kansas, Mississippi, New Mexico, North Carolina, North Dakota, Oklahoma, South Dakota, Utah and West Virginia. A few have neither, namely, Florida, Maine, Nebraska, Nevada and Texas.

A few cities have imposed general sales taxes despite the obvious difficulty of administering them in a restricted area. New York and New Orleans are apparently notable examples of successful attempts. These will be mentioned further, below.

\* Professor of Economics, University of Minnesota, Minneapolis, Minn.

Taxes on sales of selected commodities have been levied for many years by the Federal Government, by every state and by some municipalities. General sales taxes have been contemplated by the Federal Government but so far have not been enacted. In 1932 the Committee on Ways and Means proposed a manufacturers' sales tax but it was rejected by the House of Representatives. There is some talk of such a tax now, not only to raise needed funds but also to conserve strategic materials and to restrict spending in the effort to curb inflation. One of the arguments against it is that complexities would arise in the states now levying general sales taxes.

The present relative fiscal importance of sales and other taxes for state purposes is shown in Figure 1.

## The Recent Sales Tax Movement

The adoption of general sales taxes by more than half of the American commonwealths in the middle 1930's was primarily the result of the great post war

States with Sales Taxes—January 1, 1942

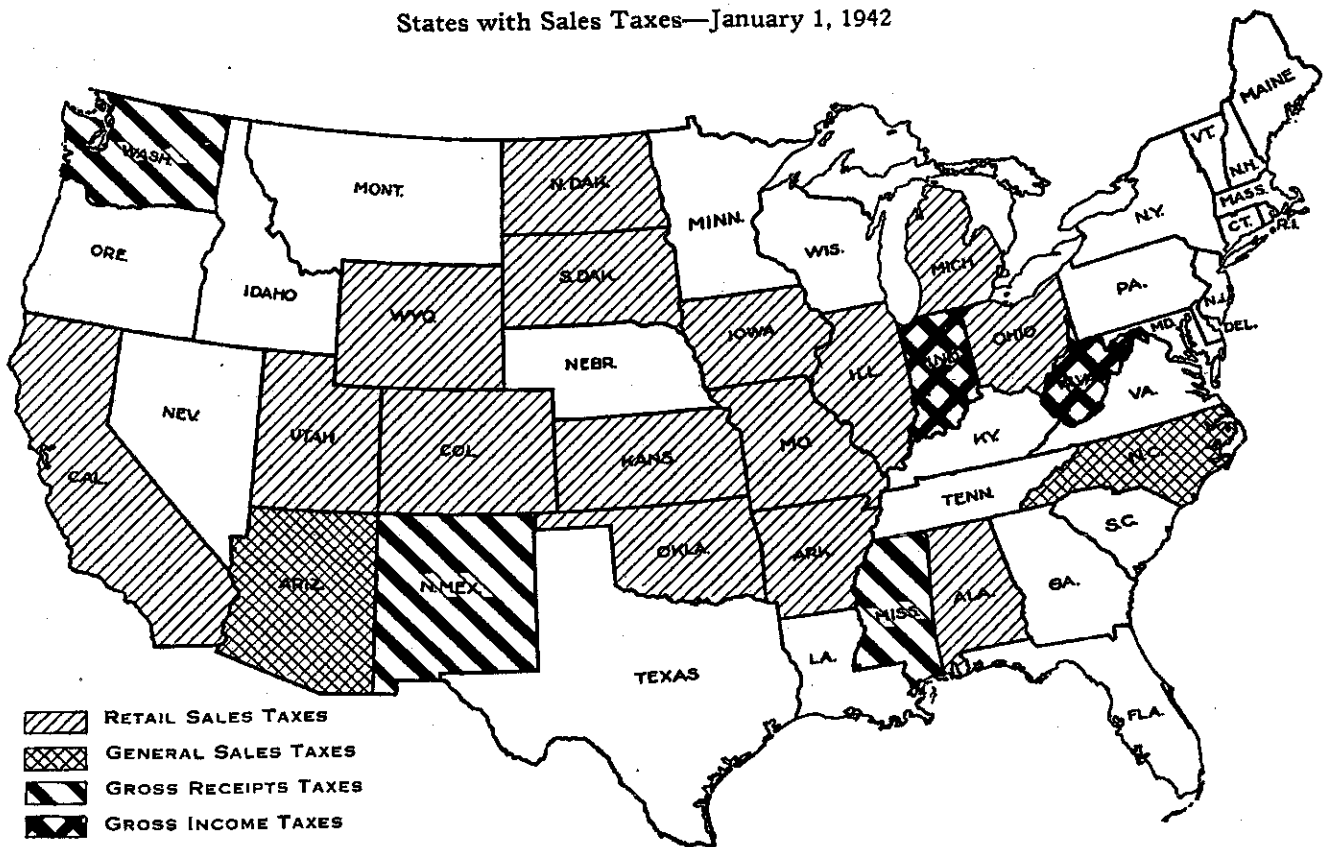
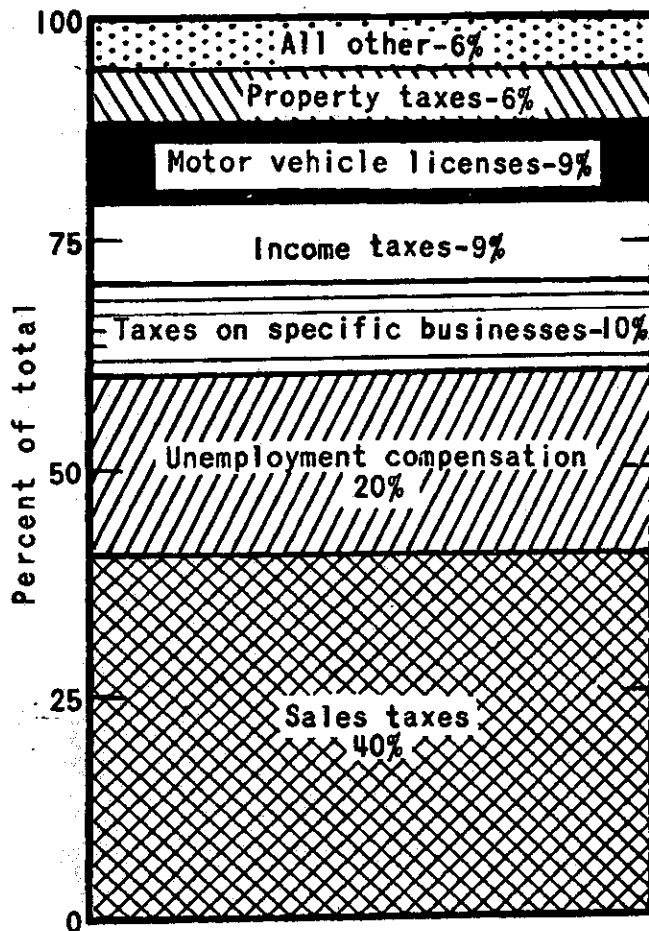




Fig. 1  
Sources of State Tax Collections—1941\*



depression. The foundations of the formerly dependable revenues had been undermined or destroyed while the demands for former governmental services increased and, in addition, there were overwhelming demands for the national, state and local governments to come to the financial relief of great sections of the business and economic groups and to the rescue of millions of unemployed and partly employed individuals and families. Except for West Virginia, which started the movement in 1921, most of these taxes were adopted between 1933 and 1936. It is not a mere coincidence that this period covers the enactment of the Federal Social Security Act. Many administrators were apprehensive of the states' ability to meet federal grants to the aged but knew they must fall in line, especially as the Townsend Old-age Pension Plan was so favorably viewed by many of the voters and its proponents were so well organized in many states. At some time in this period general sales taxes have been imposed by thirty-one states. But no state has joined the movement since 1937.

\* U. S. Census, *State and Local Government Study No. 16*, Oct. 6, 1941.

These sales tax laws have been repealed or have expired in nine states. Why? The Georgia law, a complex gross receipts tax in force only two years, was allowed to expire in 1931 as originally provided and was succeeded by a net income tax. This law is described as follows by a state officer:

"It was designed to relieve a temporary deficiency in the State Treasury. The rate was 2 mills for retail business, one mill for wholesale business and ½ mill for manufacturing business, applicable to gross receipts in excess of \$20,000, thus the rate was so small that it could not be passed on to the consumer. The exemption was so large that all of the small businesses in the state were excluded entirely in the taxation and it proved to be more of a nuisance really than anything else. Therefore, when the date for the expiration of this tax expired the tax was allowed to die a natural death, having served to a certain extent its intended purpose."<sup>1</sup>

The Idaho law was rejected by the electors in March, 1937, after a two years' trial. This law was poorly drafted in that there was no provision for collecting the tax on articles selling for less than 50 cents, on which the tax would have been in fractions of a cent. Therefore the law was inequitable in that it exempted many stores selling low priced articles. The law met objection also from automobile dealers in towns on the borders of states that had no sales tax.

The Kentucky law was repealed in 1936 after the election of Governor Chandler who made the issue one of the leading planks in his campaign platform. As a result the legislature enacted a new fiscal program for the state in which a net income tax was an important part.<sup>2</sup> The Maryland 1 per cent tax that went into effect in April, 1935, was repealed in March, 1936, except for the tax on sales of automobiles which is still imposed. The New Jersey act was in effect only from July 1 to October 25, 1935. It was repealed by a special session of the legislature called for that purpose as the result of a campaign against the tax.<sup>3</sup> The New York state tax was an emergency measure in effect from May 1, 1933, to June 30, 1934. The Vermont law was declared unconstitutional in 1935, hence was repealed.<sup>4</sup> The Pennsylvania emergency relief tax was effective for only six months beginning August 19, 1932. It was unpopular with consumers and retailers, disappointing as a producer of revenue, and difficult to administer.<sup>5</sup> A constitutional amendment to prohibit a general sales tax in Louisiana was defeated at an election April 16, 1940, but the newly elected governor

<sup>1</sup> Letter of Mr. L. S. Radford, Auditor Income Tax Unit, Georgia Department of Revenue, to the authors, December 17, 1941.

<sup>2</sup> Martin, "Recent Kentucky Tax Legislation and the Farmer," *Tax Magazine*, 16:921, September, 1938.

<sup>3</sup> The State Commissioner wrote to the authors Jan. 2, 1942: "The available data indicate that the repeal of the law was entirely due to opposition by the people, which opposition, of course, included consumers and retailers. The data also indicate that during the time the law was in effect it was being successfully administered. After the initial steps were instituted the problems presented as to number and complication were about on a par with those which usually arise in the administration of other forms of taxation."

<sup>4</sup> *Great Atlantic & Pacific Tea Co. v. Harvey*, 177 Atl. 423.

<sup>5</sup> Letter of Ralph B. Umsted, Senior Counsel, Pennsylvania Department of Revenue, to the authors, January 7, 1942.

of that state promised to have the sales tax repealed. This was done and the law expired December 31, 1940.

Several of the sales tax laws were introduced as temporary measures. This was the case with the Georgia law mentioned above. In 1937, Alabama provided for the expiration of its law in 1939, but in the 1939 revision no limit was set. Similarly Arkansas' 1939 expiration provision was repealed. Missouri set December 31, 1939, as the expiration date, but in July, 1939, it was continued until December 31, 1941, and in 1941 again continued for two years. In 1939 North Carolina repealed the provision that the tax expire June 30, 1939. The law now reads that the tax shall continue "until otherwise provided by law." North Dakota and Oklahoma provided for the expiration of the tax in 1941 but their legislatures continued them. The new law in North Dakota sets June 30, 1943, as the expiration date. The Oklahoma law has no limitation. Illinois provided for reduction of the rate from 3 per cent to 2 per cent in 1941. This reduction was effected though the previous law made 1939 the date for this change.

An interesting trend in 1941 was shown by the reduction of rates in several states. Illinois has been mentioned above. South Dakota, Indiana, and New York City also lowered their rates. On the other hand Washington increased its rate from 2% to 3%.

The following seventeen states and the District of Columbia<sup>6</sup> have never imposed general retail sales taxes: Connecticut, Delaware, Florida, Maine, Massachusetts, Minnesota, Montana, Nebraska, New Hampshire, Nevada, Oregon, Rhode Island, South Carolina, Tennessee, Texas, Virginia and Wisconsin. In three of these states measures passed by the legislature were defeated when referred to the people. Oregon voters refused to ratify such taxes in 1934, 1935 and 1938.<sup>7</sup> The campaigns, especially the first two, were vigorously conducted by both sides. Despite emphasis on needs of greater school aid for rural districts and well organized pleas for pensions for the aged, the voters protested that they already had as many different kinds of taxes as they cared to pay. In 1937, Maine defeated by a 2 to 1 vote a proposal to finance old-age assistance and a more extended educational program by a 1% sales tax. It was fought by merchants, labor and the Grange. The Republican governor and other administration leaders, joined by certain educational interests, worked for the tax.<sup>8</sup> The New Hampshire electors rejected a measure submitted in 1938 by the Constitutional Convention to impose sales, inheritance and a more general income tax.

<sup>6</sup> Between 1937 and 1939 the District of Columbia imposed a privilege tax on business measured by gross receipts; but the officials did not consider it a true sales tax. It was superseded by a net income tax.

<sup>7</sup> *New York Times*, May 27, 1934, October 13, 1935.

<sup>8</sup> *New York Times*, August 16, 17, 22, 1937.

As stated above, sales taxes are imposed by two important cities, New York and New Orleans. Several smaller cities especially in West Virginia<sup>9</sup> have also imposed sales taxes for some time. Philadelphia and St. Louis tried such taxes and discontinued them. The New York tax, 1% of retail sales, is one of several taxes imposed in the depression to raise funds for emergency relief. Fiscal results have been so great that state legislators fear the proceeds may be diverted to other purposes and the tax become permanent.<sup>10</sup> The New Orleans rate has recently been raised from 2% to 3%. This tax yielded about \$1,470,000 in 1940, about 17.2% of total revenue.

### Types of Sales Taxes

Fifteen of the twenty-two states impose the tax on retail sales only. The other seven provide for more extensive coverage. The Arizona law applies not only to retail sales but also to sales of manufacturers and that of North Carolina to sales of wholesalers as well as retailers. These taxes are sometimes classified as "general sales taxes" and are so indicated on the map.<sup>11</sup> They are, however, not so general or inclusive as taxes levied by five other states. Three states, Mississippi, New Mexico and Washington, extend the base to sales of all tangible property including oil, mineral products and gas to sales of services of utilities and transportation companies. Their levies are called gross receipts taxes. The laws of West Virginia and Indiana are the most inclusive and tax, in addition to sales of all tangible property, income from personal services, rent and other sources. Their levies are called gross income taxes. There are, however, many differences in the rates, exemptions and other provisions of sales tax statutes; therefore, the various laws will be analyzed briefly.

### Retail Sales Taxes

(a) *Rates*.—The rate most commonly imposed, 2 per cent on retail sales, is that of Alabama, Arizona, Arkansas, Colorado, Illinois, Iowa, Kansas, Mississippi, Missouri, New Mexico, North Dakota, Oklahoma, South Dakota, Utah, West Virginia and Wyoming. Alabama and Mississippi, however, have a lower rate for automobiles (.5 per cent) and Mississippi also

<sup>9</sup> Charleston, Huntington, Dunbar, Wheeling, Bluefield, Morgantown, Fairmont and Welch. These taxes are based on gross proceeds of business rather than sales hence avoid the problem of evasion from goods purchased outside the city.

<sup>10</sup> *New York Times*, March 24, 1940; August 7, 1941.

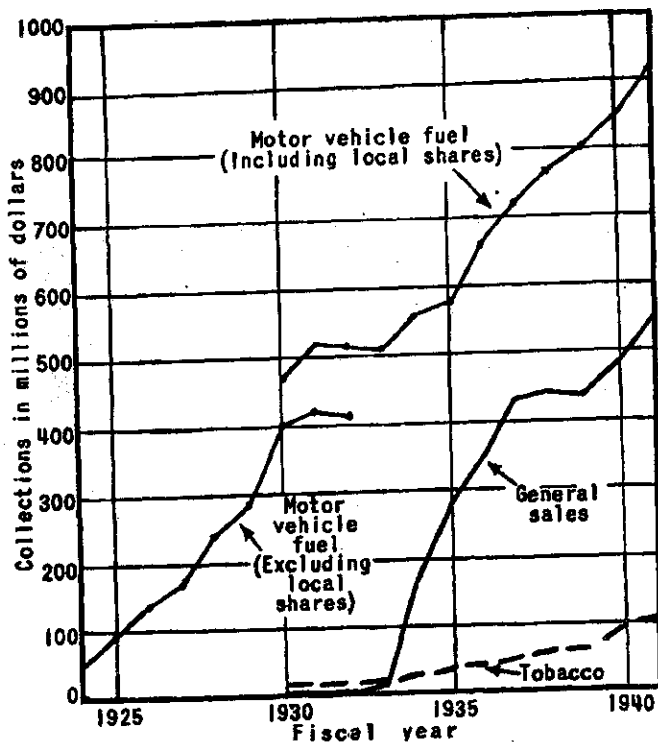
The New York law exempts food except in restaurants. Sales of gas, electricity, steam, telephone service, wines, liquors and alcoholic beverages were formerly taxed at 3%. All were reduced to 1% in October, 1941.

<sup>11</sup> For further details of these classes see the discussion of general sales and turnover taxes below. The term "general sales taxes" is used in several ways. It is often applied to the whole category of retail sales taxes, gross receipts taxes and gross income taxes in contrast to excises on particular commodities such as liquors, tobacco, gasoline, etc. It is in this more inclusive sense that it is used in Figure 2 below.

has a low rate (1 per cent) for milk, while New York City has a rate of 1 per cent on all taxables. Five states impose a 3 per cent rate, namely California, Michigan, North Carolina, Ohio and Washington.<sup>12</sup> In 1941 the only state with a 1 per cent rate was Indiana but it became  $\frac{1}{2}$  of 1 per cent on January 1, 1942. The burden of the sales tax in Indiana is heavier, however, than some might infer from the low rate because that state has a very comprehensive gross income tax on income from almost every source; in fact, it comes nearer to a general turnover tax than that of any state. The Louisiana rate was also 1 per cent, but as New Orleans also imposed a 1 per cent tax on sales, the effective rate for many citizens of the state was 2 per cent.<sup>13</sup>

Fig. 2

Collections of State Motor Vehicle Fuel Sales, General Sales, and Tobacco Sales Taxes—1924-1941\*



(b) *What Is Taxed.*—California taxes sales of tangible property only. Most of the other states extend the base to include other sources, especially amusements and utilities. Those that tax amusements are Alabama, Arkansas, Iowa, Kansas, Missouri, North Dakota, Oklahoma, South Dakota, Utah, Washington, West Virginia and Wyoming. The states vary in their policies, however Alabama taxes even the athletic contests of schools and of all other organizations

\* U. S. Census, *State and Local Government Study No. 16*, Oct. 6, 1941.

<sup>12</sup> This rate was raised from 2% in 1941. The law stated that the 3% rate "may be reduced to 2% upon enactment and judicial approval of a net income tax law."

<sup>13</sup> When the Louisiana law was repealed, December 31, 1940, New Orleans increased the rate to 2%, and in 1941 to 3%.

whether religious, municipal, or county while South Dakota exempts fairs, races, and contests by schools and charitable organizations. Iowa and Kansas exempt county fairs. Amusements are not mentioned in the laws of Colorado, Louisiana, Michigan and Ohio.

Sales of gas, electricity, and water by utilities for domestic use are taxed in Arkansas, Iowa, Kansas, Missouri, North Dakota, Oklahoma, South Dakota, Utah and Washington. Water is exempt, but gas and electricity are taxed in Michigan and Wyoming. The Illinois tax applies to gross receipts from transmitting telephone and telegraph messages or from distributing gas and electricity not for resale.<sup>14</sup> No mention is made of water in the Colorado law but other utilities are taxed. Michigan requires even municipal utility plants to secure a license and to pay the sales tax. Wyoming also taxes municipal plants.

Communications services—telephone, telegraph, and radio—are taxed in Colorado, Iowa, Kansas, North Dakota, Oklahoma, South Dakota and Washington. Radio is not mentioned, but telephone and telegraph services are taxed in Arkansas, Missouri, Utah and Wyoming. Colorado is unique among the retail sales tax states in applying a special sales tax to personal services.

Transportation of freight is taxed in Colorado, Michigan and Washington; Wyoming taxes it when intrastate, although even then farm products going to processing plants are exempt. When the purchaser pays delivery charges separately, certain states exempt freight. This is the case in California, Iowa, Kansas, Louisiana, Missouri, North Dakota and, when title to property passes f.o.b. factory, under the laws of Illinois, Louisiana, and Missouri. The laws of Arkansas and Oklahoma do not mention taxation of freight. Transportation of passengers is exempt in Alabama, California, Colorado, Iowa, Louisiana, North Dakota, Ohio, South Dakota, and West Virginia. Bus fares are exempt in Missouri and were in Louisiana. For school children, Oklahoma exempts fares of 15 cents or less.

Although states cannot, under the present law, levy a sales tax on national banks, the United States Supreme Court has upheld the Colorado tax on safety deposit boxes, as a tax on the user of the box.<sup>15</sup>

(c) *Exemptions from Retail Sales Taxes.*—Practically all states expressly exempt: (1) casual sales, (2) sales to the Federal Government and (3) sales in interstate commerce. The first exemption is primarily to facilitate administration. The second is because of Supreme Court decisions holding that such taxation infringes the sovereign power of the Federal Govern-

<sup>14</sup> Taxation of utilities was included in the original Illinois sales tax law but, as the State Supreme Court held that electricity could not be taxed under a law taxing tangible personal property, a separate law was enacted.

<sup>15</sup> *Colorado National Bank v. Bedford*, 310 U. S. 41. (1940).

ment.<sup>16</sup> The third is because of Supreme Court decisions holding that such taxes infringe the authority of the Federal Government to regulate interstate commerce.<sup>17</sup> In order to obviate the difficulties arising from this latter doctrine sales tax states developed use taxes. These taxes are discussed below.

Food, except that sold in restaurants, is exempt in California, New York City and Ohio. Ohio also exempts food sold to students in dormitories, cafeterias and fraternity houses. Alabama, Arkansas, Oklahoma and Utah exempt school lunches, while Utah extends the exemption to meals served by churches and charitable institutions. A few states exempt a limited list of foods. North Carolina, for example, does not tax flour, meal, lard, milk, molasses, salt, sugar, coffee, bread and rolls. Alabama exempts a more extensive list—sweet milk, buttermilk, corn meal, flour, sugar, coffee, white meat (dry salt sides, salt fat backs, plates, bellies). Ice is exempt in Ohio and North Carolina. Washington exempts milk, fruit, vegetables, butter, eggs, cheese and bread. By a recent amendment West Virginia exempted from the retail sales tax bread, butter, eggs, flour and milk. Most states exempt sales to charitable organizations.

The relative importance of taxes on food is shown by reports of several sales tax states. Illinois estimates that, in 1940, \$27,000,000 of the \$90,000,000 revenue came from taxes on food. Michigan estimates that almost 28 per cent of the tax collected in the period 1933-1939 was on food; in 1940, \$16,973,164 or 28.6 per cent, was collected from this source and in 1941, 27.48 per cent.<sup>18</sup> Such exemptions help the poor but are in disfavor in some quarters, not only because of considerations of revenue but, also, because of administrative complications. It should be noted, too, that no state exempts food sold in restaurants.

Several states exempt farm products sold by the farmer to the consumer. In Alabama, Arizona, Arkansas, Louisiana, Mississippi, New Mexico and North Carolina the exemption is by express provisions of the law; in Utah, by regulation. Arkansas exempts such products only if the products are sold on the farm by

<sup>16</sup> Prior to 1939 California taxed all sales to the Federal Government. This policy met such opposition that various agencies threatened to purchase all supplies outside the state. The state eventually made a few concessions and finally the legislature exempted all sales to the Federal Government. Meanwhile by the Hayden-Cartwright Act states were permitted to impose the gasoline tax on motor fuel sold on federal reservations. Sales tax states having large areas of federal parks, Indian reservations and military posts finally convinced Congress of the need for extending the privilege in order to impose their taxes equitably.

The so-called Buck Resolution, an Act passed Oct. 9, 1940, which became effective Jan. 1, 1941, gave the states power to collect selective or general sales taxes made on government property, except in quartermasters' stores, naval stores and post canteens, or on sales to the Federal Government.

<sup>17</sup> But see *McGoldrick v. Berwind-White Coal Mining Co.*, 309 U. S. 33 (1940), discussed below.

<sup>18</sup> Robert S. Ford and E. Fenton Shepard, *Michigan Retail Sales and Use Taxes*, Table V; *Annual Reports of the Michigan State Board of Tax Administration*. These Reports are particularly valuable because they analyze sources of tax by industry.

producer or grower; South Dakota and West Virginia, only if the sales are casual. Arkansas limits exemption of dairy products to farmers owning not more than five cows. Four states make no mention of such products—California, Iowa, Washington and Wyoming. Many other concessions are made to farmers. All or some of the following are exempt in most states: livestock, fertilizer, feed and seeds sold to farmers. Professor Ford has pointed out that the Michigan complexities and distinctions in classes of goods have really resulted in exempting the farmer. Poultry and livestock for sale and goods used by farmers in raising crops are exempt but those used in producing for their own consumption are taxable. Furthermore, the law requires the farmer to keep complicated accounts of goods sold, whether sold to the processors or to consumers. Frequently several rules apply to the farmer and "as a result it is very difficult to collect the tax legally due the state government on sales to the farmers and on sales by farmers direct to consumers".<sup>19</sup>

Resale of farm machinery taken in exchange for new machinery otherwise taxed is exempt in South Dakota. Cotton seed is exempt in Alabama, Arkansas and Mississippi.

Several states grant special exemptions for local industries. Ohio exempts "ships, gas-filled dirigibles, or vessels used in interstate commerce and repairs, fuel and lubricants therefor". California exempts gold and silver bullion, aircraft and aircraft parts sold to the United States. Louisiana exempted ship chandlers' supplies for use in coastwise and foreign commerce. North Carolina exempts sea food sold by fishermen. Kansas exempts sales of electricity, coal, gas, fuel oil for use in farming, processing, mining, drilling and refining.

### General Sales or Turnover Taxes

The preceding discussion has been limited to retail sales taxes. States imposing more extensive sales taxes vary the rates according to the kind of business. Of the states imposing "general" sales taxes, North Carolina taxes sales at wholesale 1/20 of one per cent; Arizona taxes sales of manufacturers, poultry producers and meat packers 1/4 of one per cent.

States imposing gross receipts taxes have long schedules of rates. Mississippi for example has almost thirty categories, with rates varying from 1/8 of one per cent for jobbers and feed manufacturers to 2 per cent for transportation, certain utilities and pipe lines. New Mexico's schedule ranges from 1/4 of one per cent for gas and electricity, if used for irrigation and manufacturing purposes, to 2 per cent for produc-

<sup>19</sup> Robert S. Ford and E. Fenton Shepard, *op. cit.*, p. 24.

The writers' experiences during summers in Michigan would lead one to think that the farmer makes little pretense of collecting the tax on products sold to consumers.

ing oil and natural gas, and for amusements, income from professions, brokers and real estate commissions, and public utilities.

Washington has a simpler schedule and lower rates. The minimum is 1/100 of one per cent of gross receipts of purchasers of wheat, oats and barley; the maximum is 1/2 of one per cent for "miscellaneous business and professions."

West Virginia follows the pattern of a long schedule. Rates are generally higher than those of the other states. The minimum .39 per cent applies to manufacturers, the maximum 7.8 per cent to producers of natural gas (over \$5,000). In order to increase revenue in 1939 without disturbing the basic rates, the state imposed a surtax of 30 per cent of the normal tax on most businesses. Indiana has only three rates: 1/2 of one per cent for retailers, 1/4 of one per cent for wholesalers and one per cent for all other business. Prior to 1942, Indiana retailers paid one per cent.

Three states grant some exemption. Washington exempts those whose gross sales are less than \$600 for a bi-monthly period. Indiana grants an annual exemption of \$3,000 for retailers and \$1,000 for others. West Virginia permits a deduction of \$25 in tax per year.

South Dakota imposed a gross income tax from 1933 to 1935 but changed to a retail sales tax. The gross income tax was a failure from the revenue point of view, partly because it was in effect during the period of drouth, grasshoppers, epidemics among the cattle and very low agricultural prices. It was a failure also because it required a voluntary tax from the agricultural population. On this point a state official wrote:

"This is extremely impractical insofar as South Dakota agriculturalists are concerned as the great percentage of farmers do not and will not keep adequate sets of records on which a voluntary tax payment of this nature could be made. They much prefer to let the tax payment be automatic and the records and returns be made by another person. The 1940 census revealed that 306,670 persons, slightly less than one-half the total population, lived on farms in South Dakota. It naturally follows that the enforcement of a gross income tax under these circumstances was extremely impractical as most farmers who have a small amount of tax to pay would be hard to contact and somewhat difficult to deal with on a business-like basis after they were contacted. The small tax which they would owe in each individual case would not seem to warrant the administrative costs in making the contact. In other words, from the standpoint of this type of administration, the cost of administration would be prohibitive."<sup>20</sup>

Finally, much of the impact of this gross income tax fell on the retailers, many of whom were operating at a loss. The law required payment of tax on gross income whether the business showed profit or loss.

<sup>20</sup> Letter of Gordon Feldhaus, Deputy Director of Taxation, to the authors, December 19, 1941.

## Administration

In most states the retail sales tax is considered an excise on the privilege of engaging in business or selling; in six states the basis is the transaction, that is, the retail sale of tangible personal property, hence the merchant must collect the exact amount of tax from each purchaser. In either case the merchant is responsible for the collection of the tax.<sup>21</sup> In either case also the measure of the tax is gross proceeds of the business.

Several states require the merchant to add the tax to the sale price, and forbid him to absorb the tax. Such mandatory provisions have been held invalid in California by the state Supreme Court and in Arizona and New Mexico by rulings of their attorneys general. If a merchant in Illinois or Indiana includes the tax in the sale price, he is responsible for paying the tax on the entire amount. At least four states permit the sales tax to be passed on to the consumer.

Most states require all merchants to secure licenses; in fact, Indiana and Missouri seem to be the only ones that do not.<sup>22</sup> Six states require registration but exact no fee.<sup>23</sup> License charges range from a minimum of \$.50 annually (Iowa, North Dakota, South Dakota) to a maximum of \$2.50 (Colorado). The most common amount is \$1.00.<sup>24</sup>

Michigan requires not only registration and a fee but, in certain cases, even a bond to insure sales tax payments. An amendment in 1939 permitted the sales tax administrators to require surety bonds of not less than \$1,000 nor more than \$25,000 to be filed by a taxpayer who had previously failed to pay the tax due.

In some states the auditing is a vast undertaking. In California there were 177,351 licensed taxpayers in 1939 and 881,088 returns were audited in the year. In Illinois the number of returns received in 1938 was 1,636,204; in Indiana, 433,148 (1939); in Michigan, 1,033,927 (1939); in Ohio, 415,268 (1938).<sup>25</sup>

The procedures of the states vary with respect to requirements for merchants' reporting. Nine states<sup>26</sup> require the tax to be computed on total amount of charge and cash sales and reported on the return sub-

<sup>21</sup> On this point the Deputy Director of Taxation of South Dakota wrote December 19, 1941: "With the gross income tax as a background, the retail sales tax has been on a more practical basis from the start and the fact that the retailer may pass the tax on to the consumer on all transactions has made it much more popular than the old gross income tax. In addition, the agricultural group pays the tax to the retailer when making a purchase and the retailer is bound by the law to handle all the book-work relieving the farmer from what he considers an unbearable nuisance."

<sup>22</sup> Indiana requires licenses from only those who pay the gross income tax.

<sup>23</sup> Alabama, Arkansas, Illinois, Kansas, Oklahoma, West Virginia, Arizona, California, Michigan, Mississippi, New Mexico, North Carolina, Ohio, Washington.

<sup>24</sup> The amount of tax paid per return in 1938 was \$99.40 in California; \$49.40 in Illinois; \$46.10 in Indiana; \$49.80 in Michigan; and \$99 in Ohio (Ford, *op. cit.*, p. 60).

<sup>25</sup> California, Iowa, North Carolina, North Dakota, Ohio, Oklahoma, South Dakota, Utah, West Virginia.

mitted immediately after the date of sale. Six require the tax to be computed on the amount of collections from such sales during the preceding taxing period.<sup>27</sup>

As to installment and conditional sales, six require the tax to be computed on the selling price<sup>28</sup> and nine on the collections in the period.<sup>29</sup> Three<sup>30</sup> allow the seller to report either according to selling price or collections.

Only a few states allow the merchant any compensation for collecting the tax. The 1941 law of Illinois favors the sellers to a slight extent by specifying that the tax shall be 2 per cent of 98 per cent of gross receipts. In Michigan there is a flat exemption of \$600 a year from gross sales, applicable at the rate of \$50 a month.<sup>31</sup> Arkansas permits the taxpayer to retain 2 per cent of the tax for prompt payment; Missouri, 3 per cent.

Ohio allows the merchant to keep a percentage. Prepaid tax receipts in denominations of 1¢, 2¢ and 3¢ are sold to the merchant at a discount of 3 per cent; half of each receipt is to be given to the consumer. This state has also a novel method of inducing the consumer to request his receipt. If presented in amounts of \$100 or more by charitable, fraternal or similar organizations, the state will redeem them. The state administration justifies this contribution to such organizations on the theory that it encourages enforcement of the law.<sup>32</sup>

Neither the Ohio nor the Michigan method of reimbursing the merchant is satisfactory, according to Professor Ford. Costs to the merchant depend on the volume and type of business and are difficult to determine. Furthermore, "in the long run these expenses are included in the costs of doing business and will be shifted to the consumer".

Many complexities serve to make the sales tax a difficult one to administer. The definition of a retail sale is not simple. Each exemption adds to the problems. Personal services, exempt in most states, may complicate administration by being closely related to selling such is true, for example, of services rendered by beauty shops, automobile repair shops, optometrists, funeral directors, contractors and builders.

An example of one difficulty is cited in the 1941 amendment to the Colorado sales tax law. In the exchanges of used goods for new ones, especially farm

<sup>27</sup> Alabama, Colorado, Illinois, Indiana, Missouri, Wyoming.

<sup>28</sup> California, Ohio, Oklahoma, Utah, Washington, West Virginia.

<sup>29</sup> Alabama, Illinois, Indiana, Iowa, Missouri, North Carolina, North Dakota, South Dakota, Wyoming.

<sup>30</sup> Colorado, Kansas, New Mexico.

<sup>31</sup> Professor Ford advocates the elimination of this exemption because it does not reduce costs or otherwise simplify administration. On the contrary, it reduces yield and probably results in evasion. *Op. cit.*, pp. 39, 126.

<sup>32</sup> This plan has at least two advantages: (1) it lessens evasion because the only way the tax could be avoided would be by collusion between seller and buyer; (2) it permits the consumer to deduct the sales tax in computing federal income tax. (Ford, *op. cit.*, p. 125.)

machinery, tractors, trucks and automobiles, the sales tax might have been applied several times during the successive transactions. Therefore it was made to appear that the sale was from the owner of the used article to the next purchaser, thus eliminating the retailer. To prevent this evasion, the law was amended in 1941 to define the purchase price of the new article as exclusive of the value of the used article, provided the used article is to be sold later by the retailer.

Several states include among their exemptions a category of "goods for resale" or for further processing. Some articles are easily classified. Others, however, make administration complicated. Among such are goods purchased for use in offices and factories. Since 1935, Michigan has exempted goods used in industrial processing or in agricultural production. By regulation this state now exempts sales of tools, dies, patterns, and machinery used in manufacturing, but taxes sales of tangible personal property which becomes a part of a building, such as pipes and fixtures, and equipment and supplies used in the sales, purchasing and general administrative departments.

Illinois, Iowa, Oklahoma, North Dakota restrict exemptions for industrial processing to raw materials used in producing finished articles for resale. Ohio, which is not so strict, exempts equipment used by the retailer including cash registers and show cases.

Another type of goods difficult to classify is the container. Examples are bags, cans, barrels, or paper and twine. In some cases these containers are used by the purchaser; in others, discarded; in others, returned to the seller. State laws vary in their policies of taxing such articles.

#### Cost of Administration

Six states designate the maximum percentage of the proceeds that shall be expended for administering the sales tax. The amounts and percentages vary somewhat, but the most common percentage, 3, is that of Arkansas, California, Kansas and Oklahoma. New Mexico specifies 4 per cent; Colorado, 5 per cent. This limitation is not so common as formerly. In 1933 the California and North Carolina laws specified that 2 per cent of the proceeds be used for administration; South Dakota, 2.2 per cent; Iowa, Oklahoma and New Mexico, 3 per cent; and Arizona, 4 per cent. Until 1939 Wyoming permitted 5 per cent of the proceeds to be used for administration; then the law specified that the amount used should be what was necessary. In 1941 the legislature appropriated \$140,000 for the biennium 1941-1943. North Dakota specified 3 per cent for administration until 1939. The Washington law at one time allocated \$450,000 for the biennium. In 1940 Louisiana was the only state that specified a definite amount—not to exceed \$400,000 per annum.

The present laws of Ohio, Kansas, Alabama, Arizona, and California state that administrative costs or "the necessary amount" shall be deducted from the receipts.

As with state income and other taxes, costs of collection cannot always be ascertained because often several taxes are administered by the same officers and separate accounting is not made. From the evidence available, costs of collection seem to vary greatly. (See Table 1.) West Virginia may be cited as one with very low costs. In 1937 the cost of collecting the gross sales tax was .796 per cent of the yield; in 1938, .58 per cent, in 1940 and 1941, "less than one per cent."<sup>33</sup> In other states costs range from 2 per cent to 5 per cent. Besides having an inclusive base and some high rates which make for large yields and low percentage costs, the state of West Virginia has an advantage also in that the law has been in effect many years, hence the auditors know within a small percentage what each class of business within the state should pay. If the returns show that amount of tax due is less than the normal for that kind of business, an investigation is ordered. This includes an audit of the taxpayer's books as well as a periodical check on daily sales and a comparison with the federal income tax return. The staff includes 26 field deputies and 12 auditors.

Table 1  
Sales and Use Taxes  
Costs of Collection, 1940<sup>1</sup>

State	Administrative Costs (In thousands)	Per Cent of Receipts
Arizona	\$ 161.3	4
Arkansas	170.3	3
California	2,558.0	2.52
Colorado		5 <sup>2</sup>
Illinois	1,788.1	1.9
Indiana	439.8	2.5
Iowa	200.1	2
Kansas		3 <sup>2</sup>
Louisiana	400.0 <sup>2</sup>	
Michigan	1,052.54	1.74
Mississippi	27.01	4.01
Missouri	480.0	1.98
New Mexico		4 <sup>2</sup>
North Dakota	54.37	1.7
Ohio		3 <sup>2</sup>
Oklahoma	192.5 <sup>4</sup>	1.9
South Dakota		2.6
Utah	92.06	2.18
Washington	445.06 <sup>5</sup>	1.54 <sup>6</sup>
West Virginia		3.3 <sup>7</sup>
Wyoming	63.5 <sup>7</sup>	

<sup>1</sup> Data from state laws and reports and letters of officials.

<sup>2</sup> Maximum set by law.

<sup>3</sup> Approximate.

<sup>4</sup> Estimate based on cost of Sales Tax Division plus share of General Enforcement Division.

<sup>5</sup> Includes sales, public utility, liquor, admissions and use taxes.

<sup>6</sup> Less than 1%.

<sup>7</sup> Includes income tax.

<sup>33</sup> Letter of H. G. Williamson, Research Assistant of the State Tax Commissioner, to the authors, Dec. 31, 1941.

California also has had low administration costs: in 1937 about 1.5 per cent of collections; in 1940, about 2.52 per cent. The counties of the state are grouped into 13 districts each in charge of an administrator, a certified public accountant, who has definite responsibility for locating retailers and checking their licenses. The state of Washington administered taxes on retail sales, business, public utilities, cigarettes, liquor, and admissions at a cost of 1.54 per cent of collections for the fiscal year ending April 30, 1940.

The costs for the gross income tax and store license in Indiana for 1934-1940 are shown in Table 2.

Table 2<sup>1</sup>  
Indiana Gross Income Tax  
Cost of Collection

Fiscal year	Amount	Per cent of receipts
1934	\$377,275	3.63
1935	488,173	3.58
1936	534,685	3.23
1937	602,472	2.93
1938	769,241	3.44
1939	737,409	3.69
1940	673,239	2.86

<sup>1</sup> Indiana Department of Treasury, *Tax Facts Review*, October, 1940, pp. 46-47.

Effectiveness of administration is difficult to analyze. One of the most complete studies of this problem is that by Robert S. Ford and E. Fenton Shepard of the retail sales taxes of Michigan and four other comparable states, California, Illinois, Indiana and Ohio. They conclude:

"Relative efficiency in sales tax administration is very difficult to determine because of the complexity of the economic factors affecting sales tax productivity and the differences in the rate of the tax, the scope of the tax base, and the exemptions allowed. Furthermore, it would be difficult to agree as to what constitutes administrative efficiency. That the percentage costs of administration are small is not conclusive as to efficiency. Certain it is that a tax is not efficiently administered unless the state collects, with a fair degree of equity among taxpayers, approximately the full amount of tax legally due the state. In view of the complex problems involved in sales tax administration, it might be reasonable to think that higher costs will, within limits, reflect more efficient administration. This seems especially true with respect to the number employed in auditing taxpayers' accounts. The large revenues from the California sales tax are probably caused, in no small measure, by the fact that California employs a larger number of persons in sales tax administration, particularly in the field, than do the other states."<sup>2</sup>

Professor Ford shows conclusively that the sales tax is not so simple to administer as some have contended. An adequate staff of auditors and field men is necessary to check compliance with the law. The necessary regulations and rules are complex and numerous. Each exemption from the law serves to complicate administration. Even though the Michigan law has been in effect for seven years it is not yet considered in satisfactory form.

<sup>2</sup> Ford, *op. cit.*, p. 62.

### Complications Caused by Federal Excises

The Revenue Act of 1941 imposed many excises on consumers' goods, some of which are collected from the manufacturer, some from the retailer. These retail taxes have added complications to the administration of state sales taxes.

Except in New York City, federal taxes paid by the manufacturer on goods sold to retailers are not allowed as deductions for retail sales tax base in any jurisdiction. In this city such taxes must be separated from other charges to the retailer.

If the manufacturer sells directly to the consumer, "the situation is not so clear," according to the *State Tax Review*.<sup>35</sup> The following eleven states and two cities have announced that in such cases the federal excise may be excluded, if the tax is separately invoiced: Arkansas, Illinois, Kansas, Michigan, Missouri, West Virginia, New Mexico, North Carolina, North Dakota, Oklahoma, South Dakota, Wyoming, New Orleans and New York City. On the other hand, the following states require that the federal tax be included in the tax base in such situations: Alabama, Arizona, California, Colorado, Indiana, Mississippi, Utah and Washington.

Twenty-two jurisdictions have issued rulings on the treatment of the 10 per cent federal tax on retail sales of jewelry, furs and toilet preparations. Three (California, Indiana and Utah) have held that these excises must be included in the basis for state taxes. In the others the federal tax need not be included in the base upon which state sales taxes are computed.

In connection with the New York City decision to exclude the federal excise tax in computing city sales taxes, one tax service comments:

"The new regulation may be a blessing to the consumer, but to the retailer it promises to be just another headache. The latter is already doing a lot of bookkeeping as a gratuitous collection agent for the city, and he will do a lot more if he attempts to compute sales taxes on net prices under the new rule. In the case of the federal taxes based upon the retail price the problem is simple, involving only a separate item on the sales slip or bill. But, where the tax was paid by a manufacturer with whom the retailer may have had no direct dealings, the latter may be wholly unable to ascertain the manufacturer's price and the amount of federal tax based thereon, even assuming that he is willing to go to the trouble of finding out."<sup>36</sup>

### Use Taxes

Among the most important recent developments affecting the administration of sales taxes are: (1) the introduction and judicial validation of supplementary use and storage taxes, and (2) the new series of Supreme Court decisions making feasible the taxation of many sales whose taxation was formerly held to

be an infringement of the commerce clause of the Constitution or of the clause prohibiting or limiting the state imposition of import duties.

Exemption from the sales tax of goods that had been bought in another state not only lessened state revenues but increased opposition of local merchants to the sales tax. Merchants without connections in non-sales tax states were at a disadvantage compared with those who had connections. The states were faced with several difficulties in meeting this situation. Most important was the provision of the United States Constitution that Congress shall have power to regulate commerce among the states. This had long been construed as meaning that the states could not tax interstate transactions.

In 1934 a group of states appealed to Congress for legislative remedy. Senator Harrison, Chairman of the Finance Committee, introduced a measure to permit a state to levy a sales tax on certain interstate sales. The bill was passed by the Senate but was not voted on in the House.<sup>37</sup>

Despite this failure to secure legislation, four states in 1935 and one in 1936 tried the device of imposing the levy on the use, storage or consumption of the property. This procedure had been followed in regard to imports of gasoline in certain states since about 1930. In 1937 the use tax of the State of Washington was validated by the United States Supreme Court.<sup>38</sup> Other states followed the precedents established and at present all but six sales tax states impose a use tax.<sup>39</sup>

Use taxes are somewhat similar in form in all states. They are imposed on the use, storage, or consumption of tangible personal property that would be subject to the sales tax if bought in the state. In Michigan it was imposed also on sales of electricity by municipally-owned electric plants which were formerly exempt from the sales tax.<sup>40</sup> Colorado applied the tax to radio stations which make contracts with out-of-state authors for continuous possession or use of radio scripts. Almost all states, either by law or regulation, exempt personal property brought into the state by non-residents for personal, non-business purposes.

Obviously such a tax can be easily evaded in many cases; hence most states realize that it can be enforced effectively only with respect to goods that cannot be easily concealed when brought into the state, for example, automobiles and gasoline. Recognizing this situation certain states exempt purchases of small amounts. Oklahoma allows a monthly exemption of \$100; Washington, \$50 bi-monthly; Kansas, \$20 a

<sup>35</sup> 73d Congress, Second Session, S. 2397.

<sup>36</sup> *Henneford v. Silas Mason*, 300 U. S. 577.

<sup>37</sup> Arizona, Arkansas, Illinois, Indiana, Missouri and West Virginia. Illinois, however, imposes a special fee of \$15 for investigating the title to an automobile purchased outside the state.

<sup>38</sup> In February, 1940, the Michigan Supreme Court upheld the application of the sales tax to all municipal utilities.

<sup>39</sup> October 13, 1941 (Commerce Clearing House, *State Tax Services*).  
<sup>40</sup> Prentice Hall, *State and Local Tax, Report Bul. No. 16*, October 14, 1941.



month; North Dakota, \$50 a quarter; Mississippi, \$50 a month or \$300 a year. In support of this large exemption the Director of Research of Oklahoma stated:

"The conscientious tax administrator must indeed shudder to contemplate the enforcement of a use tax without a reasonable exemption. The tax collector already has two strikes on him, and if he were required to enforce a tax with as high a nuisance value as the use tax, without an exemption, he would soon be in the position of the man who caught the bear by the tail and couldn't turn loose. One advantage a substantial use tax exemption gives tax administrators is that it takes us out of bear country.

"We find that, under the liberal \$100 exemption allowed by law, most of the smaller articles of commerce can squeeze through, the principal objects remaining subject to tax in the hands of individuals for their personal use or enjoyment being hardware goods, machinery (farm and otherwise), musical instruments such as radios and pianos, and furniture. Farm machinery, if motorized, is subject to our 2% motor vehicle tax in the same manner as automobiles and other motor vehicles. These have to be registered and licensed, so the collection of the tax is considerably simplified."<sup>41</sup>

The State of Iowa, however, has adopted a policy that is very dissimilar. It endeavors to collect the

<sup>41</sup> L. D. Melton, "Administration of the Use Tax in Oklahoma," *Proceedings, National Tax Association, 1939*, p. 259. Referring to the exemption of Oklahoma, Professor L. L. Waters wrote: "This had the effect of limiting the tax to the large taxpayers. At the same time it had the effect of eliminating much of the protection offered to local business interests. With the exception of unusually large purchases by individuals for consumptive purposes the source of the tax became chiefly business houses. *Use Taxes and Their Legal and Economic Background*, p. 50.

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tax on all purchases made through mail order houses and seems to be doing it successfully.

The use tax has been criticized as a serious hindrance to interstate commerce, one of the numerous methods adopted in recent years to set up tariff walls between the states. It has been characterized as offering "tremendous possibilities to create trade barriers that will be just as destructive to business in the United States as those which exist between the various countries of the world have proved to be."<sup>42</sup>

On the other hand this tax has been validated by the court and justified by numerous administrators and economists. Professor Traynor wrote:

"The commerce clause of the federal constitution has served the development of interstate commerce long and well. The security of commerce is now as firmly established as the unity of the nation. . . . The tables are now turned, with domestic commerce in the less secure position. The solution is not to grant special privileges to local business but to remove special privileges from interstate business."<sup>43</sup>

Professor Waters of the University of Kansas pointed out that

"use taxes followed the inequality that attended sales taxes and were designed to restore equality. . . . Use taxes do not represent a discriminatory obstruction and they bear upon interstate commerce only as a sales tax rests upon interstate commerce."<sup>44</sup>

The validation of these taxes by the United States Supreme Court resulted in a series of decisions that merit more than passing reference. But studies of use taxes have been made by others and can be only briefly noted here.<sup>45</sup>

Other contemporaneous and parallel decisions and developments with respect to sales and related taxes now make it appear, however, that it may no longer be necessary for states to employ use taxes to reach goods brought in from other states. Two cases will be cited, one involving the New York City tax on tangible personal property from outside the city, the other the Iowa tax on goods purchased through mail order houses. [To be concluded]

\* \* \*

"I cannot agree with the superficially logical view that state and local taxes should be reduced in order to make it easier for taxpayers to bear the burden of increased federal taxes. It is natural for taxpayers to attempt to avoid a reduction in their standard of living, but taxes will not serve the essential purpose of helping to divert resources to defense production unless consumer expenditures are sharply reduced."  
—*Marriner Eccles, St. Paul, Oct. 14, 1941.*

<sup>42</sup> Fred I. Kent, "Effect of Trade Wars upon Our Economic Life," *Proceedings, National Conference on Interstate Trade Barriers, 1939*, p. 53.

<sup>43</sup> Roger J. Traynor, "The California Use Tax," *California Law Review*, 24:175 (1936).

<sup>44</sup> L. L. Waters, *Use Taxes and Their Legal and Economic Background, Kansas Studies in Business*, No. 19, 1940, pp. 86-87.

<sup>45</sup> Maurice Criz, *The Use Tax, Public Administration Service, 1941*; L. L. Waters, *op. cit.*; R. J. Traynor, *op. cit.* and "Tax Decisions of the Supreme Court," *Proceedings National Tax Association, 1939*.