REAL PROPERTY TAXATION OF FARM LANDS AND STRUCTURES

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Ad valorem taxation of real property is an old and firmly established component of state-local tax systems including that of the State of Ohio. The so-called general property tax was the characteristic and most significant nineteenth century development of state and local taxation in the United States.[1] In more recent years, the property tax has been of declining relative revenue significance in comparison with other forms of taxation.[2] Despite the increased burden of farm income taxation,[3] property taxation remains a major component of the farm tax bill; taxes levied on farm real estate totaled $906 million in 1954.[4] This reason alone justifies consideration of real property taxation in a Symposium devoted to the tax problems of farmers.

Another more general basis for such consideration merits comment. Since 1900 and more particularly since 1930, property tax development has included: (1) classification of property,[5] (2) substitution of in lieu taxes,[6] (3) supplementation of property tax revenues by other forms of taxation at either the state or local level,[7] (4) new patterns involving either increased state administrative responsibility or additional state supervision of local property tax administration,[8] and (5) increased state aid to local governments. These changes not only affect state-local relations

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[1] See, generally, JENSEN, PROPERTY TAXATION IN THE UNITED STATES (1931).

[2] Newcomer, *The Decline of the General Property Tax,* 6 NAT'L. TAX J. 38 (1953).

[3] STOCKER, THE IMPACT OF FEDERAL INCOME TAXES ON FARM PEOPLE, (U. S. Department of Agriculture, Agricultural Research Service, July, 1955).

[4] TAXES LEVIED ON FARM REAL ESTATE IN 1954, (U. S. Department of Agriculture, Agricultural Research Service, ARS 43-17, July, 1955).

[5] See, generally, LELAND, THE CLASSIFIED PROPERTY TAX IN THE UNITED STATES (1928); for the Ohio Story, Laylin, *Legal and Economic Basis of Taxation of Tangible Personal Property of Industry,* 23 OHIO BAR 277 (June 26, 1950).

[6] The Ohio Grain Handling Tax provides an example. OHIO REV. CODE, §5737.01 *et seq.*

[7] *Variations in State Tax Patterns During Two Decades,* 19 TAX POLICY 3 (Sept. '52); Glander, *New Types of Municipal Non-Property Tax Revenues,* 3 NAT'L. TAX J. 97 (1950); Funk, *Trends in Non-Property Taxes,* 38 PUBLIC MANAGEMENT 126 (1955).

[8] Shannon, *Recent Statewide Programs to Improve Local Assessments,* 1951 PROCEEDINGS OF THE NATIONAL TAX ASSOCIATION 161.

but also tend to cause a varying impact of taxation as between rural and urban areas. The gradual evolution of real property taxation merits periodic reappraisal just as much as do property tax assessment levels. While this topic is by no means new or novel, it continues to pose problems for property owners including farmers, their counsel, tax administrators, and members of the several state Legislatures. The volume of new legislation dealing with the property tax is not inconsiderable and attests to the currency of problems in this area of taxation.[9]. These considerations provide a second reason for the present review of this topic.

HISTORICAL ASPECTS OF PROPERTY TAXATION IN OHIO

At the outset, it is well known that the general pattern of property taxation in Ohio is at present uniform as applied to "land and the improvements thereon."[10] However, review of current tax patterns cannot lightly ignore historical developments which provide the basis for many present arrangements. This is particularly true with respect to property taxation with its long and somewhat checkered history. Realty was not taxed *ad valorem* in Ohio from 1803 to 1825.[11]. During this period, realty was listed for tax purposes in one of three classes by local assessors and a specific rate per acre was applied.[12] It is not particularly surprising to be informed by the fiscal historian of the period that gradually more and more property found its way into the lowest rate class.[13] The system of land classification and specific rates caused much dissatisfaction and numerous suggestions for adoption of the *ad valorem* system were made prior to 1825. In that year, the General Assembly adopted "An act establishing an equitable mode of levying the taxes of this state" which abolished the old system of land classification and provided for the valuation of real property at its true value in money.[14] This legal assessment standard has been a component of Ohio property tax law since that time. The difficulties created by this statement of the assessment objective will be considered later.

The period 1825-1846 in Ohio property tax history may be described as one in which the legal property tax base was extended to include more and more categories of property. This continuing process culminated in the adoption of the Kelley Act in 1846 which applied the uniform rule of taxation according to value to all property not specifically exempted.[15] The first section of the act indicated legislative adoption of

[9] See, *e.g.*, *1955 Property Tax Legislation*, 19 TAX ADMINISTRATORS NEWS 118 (October, 1955).

[10] OHIO CONST. Art. XII, §2.

[11] See BOGART, FINANCIAL HISTORY OF OHIO 181ff. (1912).

[12] This practice followed the precedent established with the first tax on land levied for the purpose of financing the government of the Northwest Territory, See Act of May 1, 1798, I CHASE, STATUTES 208; I LAWS OF THE NORTHWEST TERRITORY, *1788-1800*, 307 (Illinois State Bar Ass'n Reprint, 1925).

[13] BOGART, *op. cit. supra* note 11 at 183.

[14] Act of Feb. 3, 1825, 23 Ohio Laws 58, II CHASE, STATUTES, 1476.

[15] Act of March 2, 1846, 44 Ohio Laws 85, 2 CURWEN 1260.

the general property tax concept as follows: "all property, whether real or personal, within this state and the moneys and credits of persons residing therein, except such as is hereinafter expressly exempted, shall be subject to taxation." Evident desire to remove the uniform rule from the potentiality of legislative caprice led to its inclusion as Section 2, Article XII of the Ohio Constitution of 1851. The uniform rule remained applicable to realty and personalty alike until the adoption of the classification amendment of Article XII in 1929 effective in 1931.[16] Thereafter, both tangible and intangible personalty were classified for *ad valorem* tax purposes leaving the "uniform rule" applicable only to land and the improvements thereon.[17]

CLASSIFICATION OF FARM PROPERTY FOR AD VALOREM TAX PURPOSES

After the adoption of the classification legislation in 1931, the distinction between real property and tangible personal property became significant under the Ohio property tax system. Real property, that is land and the improvements thereon, is assessable for tax purposes at its true value in money.[18] Tangible personal property used in business or in agriculture is assessed at various percentages of true value as specified by statute for various classes of such property.[19] Moreover, for such property, depreciated book value is taken as a *prima facie* indication of true value for assessment purposes.[20] Thus, a legislatively prescribed standard is provided for the assessment of tangible personalty. On the other hand, the assessment of real property is subject to a broader range of administrative discretion since no legislative standard is provided for such assessment other than the general statement that real property shall be assessed at its true value in money. In addition, assessment of realty is a primary responsibility of the county auditor in Ohio.[21] With respect to tangible and intangible personal property, assessment responsibility is lodged in the Tax Commissioner or in the county auditor as his deputy in the case of returns showing taxable property of less than five thousand dollars.[22]

This pattern created the need for a more precise determination of just what is realty or personalty for tax purposes than had formerly been the case. Since the General Assembly did not define what are "improve-

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[16] For a description of Ohio property taxation prior to the 1931 revision see Compton, *Romance and Reality, The Law and Practice of General Property Tax Assessment in Ohio*, 9 TAXES 432 (1931).

[17] 114 Ohio Laws 714 (1931); for a description of the revision by Robert A. Taft see 1932 PROCEEDINGS OF THE NATIONAL TAX ASSOCIATION 48ff.; also see LAYLIN, *op. cit. supra* note 5.

[18] OHIO REV. CODE §§5713.01; 5713.03; OHIO CONST. Art. XII, §2 merely states, "Land and improvements thereon shall be taxed by uniform rule according to value." "True value" is not used there as part of the value standard.

[19] OHIO REV. CODE §5711.22 (G.C. 5388).

[20] OHIO REV. CODE §5711.18 (G.C. 5389).

[21] OHIO REV. CODE §5713.01.

[22] OHIO REV. CODE §§5711.24, 5711.11.

ments" on land, determination became a function of the tax administrative and judicial processes. Judicial interpretation of this problem and determination of the boundary line has come in a series of cases dealing mainly with industrial rather than agricultural property.[23] This significant line of development has been excellently treated elsewhere.[24] Moreover, *ad valorem* taxation of farm personalty is treated elsewhere in this Symposium.[25] Accordingly, the only question of moment here is to what extent, if at all, classification has raised questions or uncertainties about the taxation of farm property by extending or contracting the area that would be considered definitely either realty or personalty under usual rules of law.[26] The answer to this question would appear, in the main, to be that it has not done so. The decision of the Ohio Supreme Court in *Reed* v. *County Board of Revision*[27] indicates, in effect, that special purpose buildings and structures are real property as defined in OHIO REV. CODE SECTION 5701.02, (G.C. 5322) unless otherwise specified. The Court has noted elsewhere that "The statutes do not define 'agriculture' as related to the use of personal property for the conduct of agriculture.[28] OHIO REV. CODE SECTION 5711.22, (G.C. 5388) in setting forth property to be listed for taxation at fifty percent of true value specifically mentions "all engines, machinery, tool, implements, and domestic animals used in agriculture . . . except as any of the kinds of property mentioned in this division may have been legally regarded as improvements on land and considered in arriving at the value of real property assessed for taxation." There appears to be a dearth of reported cases about the dividing line between realty and personalty with respect to farm property in marked contrast to the situation with respect to industrial property. Accordingly, a consideration of the recent rules and bulletins issued by the Tax Commissioner is appropriate.

Rule 19-26 (December 24, 1953) of the Ohio Department of Taxation is pertinent and reads, in part, as follows:

For the purpose of classifying property for taxation, items of

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[23] See Zangerle v. Standard Oil Company, 144 Ohio St. 506, 60 N.E. 2d 52 (1945); Standard Oil Company v. Zangerle, 144 Ohio St. 523, 60 N.E. 2d 59 (1945); Zangerle v. Republic Steel Corporation, 144 Ohio St. 529, 60 N.E. 2d 170 (1945); Roseville Pottery, Inc. v. County Board of Revision, 149 Ohio St. 89, 77 N.E. 2d 608 (1948); Reed v. County Board of Revision, 152 Ohio St. 207, 88 N.E. 2d 701 (1949); *In re* National Tube Company, 60 Ohio L. Abs. 49, B.T.A. 13164 (1950), Diamond Alkali Company v. County Board of Revision, 45 Ohio Op. 123, 60 Ohio L. Abs. 326, 98 N.E. 2d 95, B.T.A. 17747 (1951).

[24] Holden, *Classification of Property as Real or Personal for Ohio Property Taxes: An Appraisal,* 11 OHIO ST. L.J. 153 (1950); Day, *Legal Aspects of the Classification of Property into Realty and Personalty for Tax Purposes,* 23 OHIO BAR 280 (June 26, 1950); Note, 17 U. CIN. L. REV. 297 (1948).

[25] Glander, *Ohio Taxation of the Personal Property of Farmers,* infra. ___.

[26] See Teaff v. Hewitt, 1 Ohio St. 511 (1853).

[27] 152 Ohio St. 207, 88 N.E. 2d 701 (1949).

[28] Miller v. Peck, 158 Ohio St. 17 at 19, 106 N.E. 2d 776 (1952).

> property devoted primarily to the general use of land or buildings thereon are to be considered as real property and all other items of property including their foundations and all things accessory thereto which are devoted primarily to the business conducted on the premises are to be considered as personal property.

The items classified as real property under Rule 19-26 include, *inter alia*, fencing and silos used in farming. More recently, the Tax Commissioner has amplified the status of silos, as follows:

> *Silos.* In paragraph 8 of Rule 19-26 silos used in farming are considered to be real property. It must also be noted that before silos will be considered personal property they must become part of an integrated operation so as to qualify as machinery and equipment. Examples of this situation are steel and concrete silos used in chemical processing. These silos are so situated that they hold chemicals on which processing has already begun and yet has not been completed; therefore, they are not storage facilities. On the other hand, storage silos, elevators, and bins used for storage and warehousing of raw materials and finished goods only are properly classified as buildings under paragraph 2 of Rule 19-26.[29]

Another bulletin, dated September 3, 1954, clarifies the classification of several items of business property and raises implicit questions about similar agricultural property:

> UNDERGROUND TANKS—for the storage of gasoline and other fuels. In analyzing this item, it becomes apparent that an underground storage tank used for storage of fuels primarily serves the business and like the above-ground tank performing the same function, must be classified as personal property.
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> WELLS. Being an improvement to the real estate, the hole in the ground must be considered real property, however, the equipment incident thereto may be considered real or personal property, depending on what function the well serves. If the additional equipment is used to carry water to a processing operation of a business establishment, then, of course, this property would be considered as personal and the hole itself, real property.
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> SMALL PORTABLE GRAIN STORAGE BINS. These circular bins of metal construction with a capacity of 500 or 1500 bushels, 15½ feet in diameter, and twelve feet in height are properly classified as personal property.[30]

Bulletin 85, dated January 28, 1955, lists numerous items that have been held or conceded to be either realty or personalty. For example, item 195 is a concrete silo located on a farm which is classified as realty

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[29] Ohio Department of Taxation, Bull. No. 70 (June 9, 1954).

[30] Ohio Department of Taxation, Bull. No. 74 (September 3, 1954).

on the apparent basis of *Concrete Silo Co. v. Warstler.*[31] Examination of these administrative rulings leads to the conclusion that most of the recent classification questions at the administrative level have arisen with respect to non-agricultural property.

Agriculture is not defined in the Ohio property tax laws and is apparently not a "business" for purposes of such taxation. If it were, a new field of classification difficulty could conceivably arise. *Quaere,* if counsel conceded that the concrete foundations of a silo were realty but contended that the silo itself were personalty on the theory that agriculture is a business under modern economic conditions, that the silo has a predominately business use and that a change in land use to another type of business (e.g. a real estate development) would cause the silo to be a detriment to the next occupant of the land, would the silo be considered as personalty for tax purposes?

To suggest that the silo might be assessed at a lower value under the real property tax than it would be if assessed on the basis of its depreciated book value as personalty begs the logical question involved. It would appear that on the present basis of the law, the silo when used in agriculture would be treated as realty without question. However, the boundary line between realty and personalty under the Ohio property tax pattern would appear to contain as many minor problems as Pandora's box did major ones.

VALUATION OF FARM PROPERTY FOR AD VALOREM TAX PURPOSES.

Assessment for *ad valorem* tax purposes includes: (1) discovery of taxable property, (2) valuation, and (3) properly listing or recording the description and assessed valuation of such property.[32] Determination of assessed value is the central and a most troublesome problem in property tax administration. Less than adequate performance of the assessment function at many times and in many places has resulted in continuing criticism of the property tax over an extended period of years.[33] In more recent years, much effort has been directed toward improvement of property tax administration particularly with respect to assessment.[34] The assessment process will be considered here in terms of assessment organization, standards, and methods. While rural property is our primary subject, it must be recognized that from both a legal and a theoretical viewpoint, the same ground rules apply to both rural and urban realty. Di-

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[31] 50 Ohio App. 334 (1935).

[32] See, *e.g.,* 51 AM. JUR., *Taxation,* §647 (1939).

[33] See SILVERHERZ, THE ASSESSMENT OF REAL PROPERTY IN THE UNITED STATES. (Special Report of the (New York) State Tax Commission, No. 10, 1936). For a summary of more recent studies see KENDRICK, PUBLIC FINANCE, 193-202 (1951).

[34] See *Recent Improvements in Assessing Procedure,* 17 TAX POLICY 3 (May-June 1950); Murray and Bivens, *Clinics, Bench Marks, and Improved Assessments,* 5 NAT'L. TAX J. 370 (Dec., 52); Murray, *State Action for Better Assessments,* STATE GOVERNMENT (April, 1955).

vergence between these two categories of property comes mainly when methods are considered.

ASSESSMENT ORGANIZATION.

In Ohio, the elected county auditor is responsible for the assessment of real property other than the operating property of public utilities.[35] With the widespread propensity for taking settled legal rules and local fiscal patterns for granted, it is easy to ignore the importance of the county assessment unit. It is the unit recommended by many competent assessment authorities.[36] Yet only four states—Kentucky, Iowa, Nebraska, and Ohio—of thirteen midwest states have the county unit.[37] Thus, on a comparative basis, Ohio ranks well in this regard—it has an adequate basic assessment unit.

With respect to assessor selection, argument has waxed and waned over the years about whether assessors should be elected or appointed. While Ohio county auditors are elective, much opinion has suggested that assessors should be appointed. An example is provided by Iowa. There, under a system adopted in 1947, applicants for assessor are given a qualifying examination by the State Tax Commission. A list of certified applicants, who have passed the examination, is transmitted to a county conference board which is composed of representatives of the county, the cities within the county, and the boards of education of school districts within the county. The board selects the county assessor from the list of those qualified by examination.[38] By way of contrast, Kentucky has a somewhat unique system whereby prospective candidates for assessor are given a qualifying examination by the State Tax Commission as a condition precedent to announcement of candidacy.[39] While these experiments can be observed with interest, the merits of assessor appointment can easily be overemphasized. Either an elected or an appointed assessor can do the job if given adequate facilities and effective public support. Without either of these, a good assessment program simply cannot be wholly effectuated.

ASSESSMENT STANDARDS.

While different bases for valuation may be appropriate for other purposes, the so-called market value standard is ordinarily required for property tax assessment purposes. OHIO REVISED CODE SECTIONS 5713.01 and 5713.03 establish "true value in money" as the basis for

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[35] OHIO REV. CODE §§5713.01, 5713.03.

[36] See, *e.g.*, MURRAY, FARM APPRAISAL 301 (1954) and, more generally, ASSESSMENT ORGANIZATION AND PERSONNEL (National Association of Assessing Officers, 1941) c.l., 33-59.

[37] IOWA AGRICULTURAL EXPERIMENT STATION, IMPROVING PROPERTY ASSESSMENT IN THE MIDWEST, A PRELIMINARY REPORT PREPARED BY THE SUBCOMMITTEE ON TAX ASSESSMENT OF THE NORTH CENTRAL LAND TENURE COMMITTEE, 3-29 (Nov. 1954) hereinafter cited as IMPROVING PROPERTY ASSESSMENT.

[38] See Gill, *The New Iowa Assessor Law*, 17 TAX POLICY 10 (May-June 1950).

[39] See IMPROVING PROPERTY ASSESSMENTS, *op. cit. supra* at note 37.

assessing realty in Ohio. Substantially similar terms used in other jurisdictions include market value, actual value, cash value, selling price, real value, cash market value, fair market value, and intrinsic value; these are ordinarily considered synonomous. The value sought to be described by these terms is the price a willing buyer would pay a willing seller where no element of coercion applies to the transaction.[40] This poses an obvious difficulty where there are but few sales of comparable property. Moreover, all relevant factors affecting value must ordinarily be taken into consideration by the assessor or, at least, may be taken into consideration.[41] In addition to rulings requiring consideration of the entire universe of the relevant, it must be recalled that assessment is a question of fact; that it is ministerial and administrative in character; and that courts cannot in the first instance determine taxable values.[42]

The resultant situation of the assessor has been described as follows in another connection:

> This standard—or should we say shibboleth—is of little assistance to the tax administrator where there is no active market in which values are being determined and where the seller has adequate time to seek out the highest bidder, both parties being reasonably well informed regarding the property subject to sale. The touchstone is ephemeral. This fact leaves value determination an objective technical matter limited only by the varying force of administrative and judicial review.[43]

The National Tax Association Committee went on to point out:

> Such being the case, assessment uniformity is an even more important valuation objective than the attainment of full market value, which often apparently is an illusory end. If the uniformity objective is not attained, there is simply no accurate factual basis for apportioning the burden of taxation on the basis of property ownership in a fair and equitable fashion.[44]

It is worth noting that Mr. John Zangerle, former Auditor of Cuyahoga County, Ohio, once pointed out:

> "As true values are mythical, only approximate relative values are possible."[45]

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[40] See, *e.g.*, 51 AM. JUR *Taxation* §701 (1939).

[41] See, *e.g.*, Keith v. Board of Revision, 148 Ohio St. 253, 74 N.E. 2d 359 (1947), noted in 17 U. CIN. L. REV. 165 (1948); more generally see Rice, *Primary Problems in Property-Tax Valuation*, 17 U. CIN. L. REV. 217 (1948).

[42] State *ex rel* Atty. Gen. v. Holliday, 61 Ohio St. 352 at 373, 56 N.E. 118, 49 L.R.A. 427 (1899).

[43] *The Taxation of Tangible Personal Property Used in Business, Interim Report of the Committee on Personal Property Taxation*, 1952 PROCEEDINGS OF THE NATIONAL TAX ASSOCIATION 87.

[44] *Ibid.*; for a similar judicial preference for uniformity rather than full value assessment if a choice must be made see Sioux City Bridge Co. v. Dakota County, 260 U.S. 441 at 446 (1933).

[45] ZANGERLE, THE PRINCIPLES OF LAND AND BUILDING APPRAISAL AS SCIENTIFICALLY APPLIED IN CUYAHOGA COUNTY, *1946-47*, 6.

> Professor James C. Bonbright has stated the situation as follows: In short, the doctrinal law of taxation accepts market value as the standard applicable to most types of property but purports to define it by a form of words that has no definite meaning.[46]

With no more specific assessment standard designated and with judicial authority for consideration of all relevant factors, the tax assessor has an extremely wide range of discretion in valuing property for taxation. It is hardly surprising that this situation has given rise to perennial difficulty. Since valuation is as much art as science, it is difficult to visualize effective legislative prescription of objective assessment standards. However, the tax certainty that could be provided by legislative prescription of required methods and *prima facie* valuation rules might justify both future research and consideration of research already accomplished. This would appear particularly true of the valuation of rural realty.

ASSESSMENT METHODS.

Since existing assessment standards permit such a wide range for the exercise of administrative discretion, the methods used in appraising realty for tax purposes assume considerable significance. This subject is a large one and obviously cannot be treated extensively here.[47] However, noting its broad outlines will serve to highlight existing problems.

Three generally recognized valuation approaches are open to the assessor: (1) the market value or comparative approach, (2) the depreciated reproduction or replacement cost approach, and (3) the income capitalization approach.[48] Rarely can one method be used to the complete exclusion of the others. Since market value is the assessment objective for tax purposes, it is natural for the assessor to seek market sales comparisons in order to determine land value. Where such comparisons cannot be made because of inadequate sales data, the income capitalization method may be used to approximate market value.[49] Appraisal of improvements usually begins with determination of replacement or reproduction cost which has been described as establishing an upper limit to value for assessment purposes.[50] The lower limit to improvement value would presumably be salvage value less cost of removal. Deduction of allowances for depreciation, obsolescence, and other factors would determine the value of improvements between these two general limits. Value would need to be further adjusted, in the case of farm realty,

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[46] BONBRIGHT, 1 VALUATION OF PROPERTY 462 (1937).

[47] On this subject generally see: ASSESSMENT PRINCIPLES AND TERMINOLOGY (National Association of Assessing Officers, 1937) and ASSESSMENT ORGANIZATION AND PERSONNEL (National Association of Assessing Officers, 1941).

[48] See THE APPRAISAL OF REAL ESTATE (American Institute of Real Estate Appraisers, 1952) 76; MURRAY, FARM APPRAISAL, *op. cit. supra* note 34, at 5; see also Weber, *The Concept of Value for Property Tax Purposes*, 5 INTRAMURAL L. REV. (N.Y.U.) 136-45 (Jan. '50).

[49] See, *e.g.*, Daily, *Scientific Reassessment of Rural Property in Colorado*, ASSESSMENT ADMINISTRATION 16 (1948).

[50] FARM BUILDING APPRAISERS MANUAL 1 (1948).

for location, proximity to markets, road type and other similar factors.[51] Thus the broad outlines of assessment method include use of market data or income estimates in determining land value and the use of depreciated reproduction cost for the appraisal of buildings and improvements.

Questions arise about the application of such method to the assessment problem particularly with respect to farm realty. Assessment practice has included two systems in the past: (1) the "standardized method" and (2) the "individual-judgment method".[52] The first has characterized the assessment of urban realty for some years. It includes the familiar process of appraising land and buildings separately and determining value per front foot for land and standardized replacement cost data for buildings. The virtue of the approach is that it produces assessment uniformity.

Professor Bonbright characterized the "individual-judgment method" as follows:

> Concerning realty assessment not based on standardization, little has been written and little can be said. It is in essence based upon judgment—the judgment of the assessor, subject to such limited court review as may be provided.[53]

This second approach has characterized much rural assessment in the past and has given rise to startling assessment inequalities in some instances. While "windshield appraisal" continues to be applied to rural realty to some extent, it would appear that standardized assessment methods are in process of development for rural as well as urban property. Expert opinion advises the use of contour, land utilization, and soil maps and suggests the use of land classification schedules with assigned unit values per acre.[54] While past experience suggests that considerable assessment inequality exists with respect to farm realty in some areas, the development and application of standardized assessment methods can improve the situation if public opinion supports such a program. In the history property taxation, programs designed to reduce assessment inequality have seldom been self-executing.

The remainder of this paper will consider inter-county equalization of property values. However, it should be noted that intra-county equalization is important from an equity standpoint. Some of the same tech-

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51 See *Progress in Equalization of Property Values,* An Address by Ferd F. Becker, 57th Annual Meeting of the Ohio Chamber of Commerce, Columbus, 1950, p. 7.

52 1 BONBRIGHT, VALUATION OF PROPERTY 480 (1937).

53 *Id.* at 487.

54 On this topic see: *Round Table, Assessment of Farm Lands,* ASSESSMENT ADMINISTRATION 52ff. (1951); *Round Table, Assessment of Rural Real Estate,* ASSESSMENT ADMINISTRATION 136ff. (1948); Aandahl, Murray, and Scholtes, *Economic Rating of Soils for Tax Assessment,* 36 JOURN. FARM ECON. 483 (Aug. 1954); Murray, *Farm Appraisal, op. cit. supra* note 36 at 22; See also Rules 106-108, B.T.A. Entry, December 1, 1954.

niques that will be noted below with respect to inter-county equalization can be applied to advantage within any given assessment district.[55]

EQUALIZATION OF REAL PROPERTY VALUATIONS.

Equalization of the assessed values of taxable property is an old and well recognized part of property tax administration. In the days when many states depended upon the property tax for a significant portion of their total state tax revenues, equalization was necessary, if for no other reason, so that the state could protect its revenues from erosion by competitive undervaluation at the local level. As many states shifted to other forms of revenue after the turn of the century, equalization lost this functional justification. Frequently, it either fell into disuse or suffered from lack of administrative emphasis. Often, state governments left the always troublesome problem of comparative assessment levels almost entirely to the variable action of local assessors and review boards who were peculiarly subject to natural pressures for low levels of assessed value.

When the states came to the aid of financially hard pressed local governments with shared taxes and grants in aid, new problems arose. Of these, two merit comment in this context. Distribution of centrally collected revenues to local governments always raises questions about the basis for and method of allocation.[56] One natural basis for such state-local transfer payments is the assessed value of taxable property. Yet if the ratios of assessed to true value vary widely, such assessed values do not provide an equitable and efficient basis for allocating funds to local governments. The need for a basis for such allocation has created renewed interest in equalization in a number of states. Also, the opinion developed in some quarters that substantial aid to local governments should not be made available unless they were making a reasonable attempt to keep their own fiscal house in order. These two reasons explain, in part, the emphasis accorded state equalization programs in the past few years.[57] The additional fact that assessment responsibility has come to be rather generally divided between local assessors and state tax officials for different types of property has created a new need for equalization of property values by type and class of property.[58]

Equalization deals usually with inter-district differences in aggregate

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[55] See Murray, *Local Use of Assessment Sales Ratios,* 1952 PROCEEDINGS OF THE NATIONAL TAX ASSOCIATION 404.

[56] On this subject see, *e.g.,* Smart and Hart, *The Distribution of Revenues from State-Collected Consumer Taxes,* 8 LAW & CONTEMP. PROB. 463 (1941).

[57] See, *e.g.,* Myers & Stout, *Recent Trends in Property Tax Equalization,* 3 NATL. TAX J. 179 (1950); Weil, *Property Tax Equalization in Illinois,* 6 NATL. TAX J. 157 (1953); Lee, *State Equalization of Local Assessments,* 6 NATL. TAX J. 176 (1953); Ecker-Racz, *State Tax Activities,* 1955, 8 NATL. TAX J. 345, 354 (1955).

[58] See Report of the Senate (California) Interim Committee on State and Local Taxation, *Property Assessments and Equalization in California,* pt. 6 (1953) for an extended consideration of this type of problem.

assessment levels.[59] It does little or nothing to correct any existing non-uniformities within a local assessment district. Ideally, intra-district assessment uniformity should be achieved prior to equalization between districts. Practically, of course, this sequence is not always possible.

EQUALIZATION IN OHIO.

While Ohio has carried on equalization programs in the past, consideration here will be limited to the current equalization program which originated with the adoption of the so-called Hoffman Act in 1949.[60] This act gave the State Board of Tax Appeals responsibility for equalizing real property valuations. Acting thereunder, the Board of Tax Appeals made an extensive study of the relationship of assessed to sales values for the tax years 1946, 1947, and 1948.[61] Examiners checked deeds given between April, 1946 and April, 1949 in each of the 2,239 taxing districts of the state and related the indicated sales values to the assessed values of such property.[62] After completion of the sales ratio study, a uniform floor of fifty percent of the 1946-1949 values was placed under the aggregate valuation in each taxing district by the Board of Tax Appeals.[63] The abstracts of real property valuations submitted to the Board by the county auditors were not approved unless they came up to the fifty percent minimum requirement. Equalization orders issued under this policy received judicial approval.[64]. The Board of Tax Appeals left the manner and method of making required increases in assessments to the discretion of the county auditors provided that the total increase made was equal to or above the minimum amount that would comply with the fifty percent requirement.[65] The percentage increase in the assessed value

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[59] See, *e.g.*, Entry of Ohio Board of Tax Appeals, April 10, 1952.

[60] Amended House Bill No. 644, 98th General Assembly, 123 Ohio Laws 779.

[61] See B.T.A. Entry, October 10, 1951.

[62] See B.T.A. Entry, April 10, 1952. There are two principal methods of investigating assessed valuations: (1) the limited field survey method, and (2) the sales ratio data method. The former involves appraisal of selected property to provide a check on assessed valuations. This method is limited by its high cost and the fact that standardized appraisal does not necessarily provide conclusive proof of value. The second or sales ratio data method involves comparison of market value, established by actual sales, with assessed value for selected parcels of property. This method is limited by the difficulties of selecting bona fide sales and of selecting an appropriate time period for making the comparisons. In some cases, only a limited number of sales take place and the basis for comparison is limited by lack of data. For a description of the method of such studies see NATIONAL ASSOCIATION OF TAX ADMINISTRATORS, GUIDE FOR ASSESSMENT-SALES RATIO STUDIES, REPORT OF THE COMMITTEE ON SALES RATIO DATA (Federation of Tax Administrators, 1954). For a description of the Ohio program see THE EQUALIZATION OF REAL PROPERTY TAX VALUATION IN OHIO COUNTIES, (Taxation and Research Department, Ohio Chamber of Commerce, 1952).

[63] B.T.A Entry, April 10, 1952.

[64] See State *ex rel.* Curry v. Monroe, 159 Ohio St. 1, 110 N.E. 2d 769 (1952).

[65] B.T.A. Entry, August 25, 1952.

of real property from the 1951 to the 1952 tax year is indicated in the following tabulation:

Percent	*Number of Counties*
30.00 and over	10
20.00 to 29.00	12
10.00 to 19.00	31
0.00 to 9.00	35
Total	88

Actual increases ranged from zero in five counties to thirty-eight percent in one (Allen) county.

This program has served to equalize aggregate county valuations in Ohio and constitutes a distinct improvement upon pre-existing conditions. However, it must be noted that such aggregate equalization does not necessarily correct any existing assessment inequalities within or among classes of property within the counties. A possible next step in the equalization program would be equalization among classes of property—commercial, industrial, rural, and residential.[66] It is of interest in this connection that the uniform rules for the valuation of real property in the 88 Ohio counties during the six year period, 1955-1960, adopted by the Board of Tax Appeals provide for classifying property and reporting the aggregate valuation of each class of property to the Board annually.[67] Adherence to this rule during the current sexennial reassessment cycle[68] will provide data which may be used for equalization by class of property in the future. Whatever may be the line of future development in this matter, assessment uniformity is largely a result of high quality original assessments and, hence, is primarily up to the county auditors in Ohio.[69] It may also be observed that it is seldom possible for a local assessor to do more than his budget and public opinion will permit. Ultimately, taxpayers get the kind of tax administration they want and deserve.

SUMMARY, AND COMMENTS ON THE FUTURE.

This brief survey of the real property tax in Ohio presents a picture of contrasting qualities. The Ohio system has developed on a trial and error basis over a lengthy period of time. Many of the problems that continue to plague property taxpayers and administrators in other juris-

[66] See comment in The Equalization of Real Property Tax Valuation in Ohio Counties, *op. cit. supra,* note 51.

[67] Rule 106, B.T.A. Entry, December 1, 1954 effective January 1, 1955.

[68] OHIO REV. CODE, §5713.01 provides for assessment of real property at least once in each six year period beginning with 1943.

[69] In other jurisdictions, inadequate local performance of the assessment function has resulted in increased state supervision or, in some cases, actual state performance of the assessment job. See Ecker-Racz, *State Tax Activities, 1955,* 8 NATL. TAX J. 345, 354 (1955). It is of interest to note that currently the National Association of Tax Administrators is making a survey of property tax equalization programs in the several states. 19 TAX ADMINISTRATORS NEWS 140 (Dec. 1955).

dictions have been largely solved by past changes and adjustments in the Ohio property tax pattern. State supervision of local assessment administration is authorized by law; uniform assessment rules have been established at least in broad outline; aggregate county equalization has been effectuated. Yet much remains to be done in order to achieve an effective and equitable property tax system. Equalization can be refined and improved. State assistance to local assessors can be extended. These possibilities have existed for many years. Such suggestions for property tax improvement are by no means new or novel. However, such changes may well become matters of great urgency in the future as increasing expenditure requirements place new pressures on the traditional property tax. This would appear to be particularly true of the tax on rural realty in view of the prospective requirements of educational finance. Adequate budgets for and public support of state and local property tax administration will become even more important in the future of Ohio.