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Sunset Provisions in the Local Tax Code: Best Practices

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EXECUTIVE SUMMARY

The primary objective of this research project is to identify the main uses of the sunset provision as it relates to the local tax code. This research project utilizes a case study approach to collect and analyze sunset tax legislation from five municipalities. Capital project funding is found to be the primary use of taxes with a sunset provision. Other uses associated with sunset taxation include transportation infrastructure, capital funding, bond financing, and public safety. Through the analysis process for this research project, five best practices were developed to guide municipalities who engage in sunset taxation with respect to their local taxing authority: 1) sunsetting taxes are not short-term solutions to long-term needs, 2) expressly identify and define the purpose of the sunset tax revenues, 3) align the source of sunsetting tax revenue with those who benefit, 4) establish a citizen committee to hold the government accountable for its use of sunset tax(es); and 5) ensure transparency is maintained throughout the life of the sunset tax(es).

INTRODUCTION

Not all law is meant to be permanent. This is the theory behind the *sunset provision*, as its use signifies the intent of the legislation to be temporary. The sunset provision effectively identifies an end (sunset) date on which the associated policy will expire. Sunset provisions as they relate to tax policy are generally attached to two issues: tax cuts and tax increases (Viswanathan, 2018). First are changes in the tax code to provide a temporary tax incentive. A recent example of this issue is the rising fuel prices due to supply chain disruptions. In response to high fuel prices being charged to citizens, multiple states have declared a temporary suspension of their gasoline tax to provide fiscal relief to motorists (Avery, 2022). Additional forms of tax cuts come in the form of economic development incentives offered to businesses locating and/or expanding operations, i.e., payments in lieu of taxes programs. The second primary means a sunset provision is structured is in the form of a temporary tax increase (or extension of an existing tax) to address new needs or in response to a problem. This research project focuses on the latter. Because governments rely heavily on tax revenue to fund government operations, I chose to narrow my research project on temporary tax increases (National League of Cities). While tax incentives impact tax revenue available to governments, ample literature currently exists discussing tax cuts and their implications. Conversely, limited literature exists regarding temporary tax increases at the local level of government. Therefore, I determined focusing on temporary tax increases will lead to a more significant finding. I will present a history of the sunset provision, identify its primary uses by local governments, and recommend best practices for municipalities who choose to utilize the sunset provision in their local tax code.

LITERATURE REVIEW

Most literature discussing the sunset provision relates to its use by the federal government, specifically temporary tax cuts. This research paper focuses on analyzing the uses of sunset provisions by municipalities with respect to their local taxing authority. Due to limited research regarding practical effects, this section of the research paper is limited to providing the origin and primary arguments of the sunset provision. The final element of this section defines a common practice used in conjunction with the sunset provision referred to as "earmarking". Following a description of this common practice, I will identify and define the primary uses for earmarked tax revenue the local level.

Origin and Development

Sunset legislation, as it is used today, dates to the 1700s with Thomas Jefferson's notion of a living Constitution. In his letter to James Madison, Jefferson argues that laws should remain relevant to the living population rather than be rolled into future generations. That is, the people being governed by the laws should have "some regular way for the people to affirm or withdraw their consent" (Brennan, 2017). Jefferson recognized the need for constantly evolving legislation. However, his theory would not be formalized for almost 200 years later.

In his 1969 book, *The End of Liberalism*, Theodore Lowi introduces the term "tenure of statutes" to recommend a five-to-ten-year life of every law. Unlike Jefferson's generalized approach to the law, Lowi's recommendation was confined to federal agencies (Mooney, 2004). Lowi's tenure of statutes was a response to the growing number of regulatory agencies created by the executive branch. According to Lowi, these agencies had created a government directed by interest groups and politically favored by certain industries (Taylor, 2012). To protect against political clout and encourage a democratic government, Lowi proposed his idea of juridical democracy. The intent for juridical democracy was to ensure the creation of sound laws (Lowi, 2009). Lowi's goal for sound law was to ensure its purpose was clearly defined and continued to adhere to its intended purpose. Lowi asserted legislation failing to achieve these two elements should be foregone (or repealed) (Ginsberg & Sanders, 1990).

Lowi's theory of juridical democracy was further advanced by the watchdog group known as Common Cause. The mission of Common Cause is to fight for government accountability, transparency, and equal opportunities (Common Cause). The Colorado Chapter chartered the term "Sunset" in 1976 to refer to "an action-forcing mechanism to ensure executive oversight responsibilities were being fulfilled (Adams & Sherman, 1978). Like Lowi, Common Cause believed a law failing to achieve its intended purpose should be abandoned. However, Common Cause promoted Sunset to downsize the government rather than adopt sound legislation.

The strategic intent of the sunset provision, as it is referred to today, is to ensure legislatures execute their oversight responsibility and to maintain relevant, sound legislation. Lowi's tenure of statutes and Common Cause's accountability metric create a built-in review mechanism to accomplish this. The purpose of legislative review is to hold the government accountable for its actions and adherence to the law. This was to be accomplished by requiring sufficient documentation to be compiled to evaluate the effectiveness of the policy. The analysis would then be used to determine if the policy should continue or be allowed to sunset. However, literature indicates, "despite the good intention behind them, sunset clauses have often failed in practice…to initiate a meaningful scrutiny process" (Molloy et al., 2022). One explanation for the lack of adequate review can be attributed to insufficient time and/or the sunsetting policy taking a backseat to more significant matters to be discussed (Fahrenthold, 2012).

Primary Argument For and Against the Sunset Provisions

The sunset provision stemmed from the good government theory, which suggests government officials have the responsibility to meet the needs of their citizenry (Baugus et al., 2021). Furthermore, this theory asserts governments should be run according to the principles of accountability, responsiveness, transparency, public participation, and economy (Ekundayo, 2017). Proponents of the sunset provision claim its structure satisfies each of these principles. This argument is predominately based on the alleged "built-in" review mechanism of the sunset provision. This review mechanism is triggered by the automatic termination of the policy *unless* legislative action is passed to renew and/or extend the policy (Gale & Orszag, 2003). Placing the burden of proof on proponents of extending the policy forces formal discussion to occur regarding the effectiveness of the policy and if it is still relevant and/or necessary. Having the policy advocate on the defensive side of the policy is a unique characteristic of the sunset provision.

Despite the arguments in support of the sunset provision, there are still critics of its use. The primary argument made to denounce the sunset provision is that such provisions are used to mask permanent policies as being temporary (Sutherland, 2019). Temporary tax reform via a tax increase to address an immediate need, i.e., construction of a major arterial street, is considered sound policy. However, critics argue the true motivation behind proposing a temporary tax is to make it an easier sell to citizens to continue paying the tax. Thus, the strategic intent behind sunset provisions is considered a form of political maneuvering to raise taxes.

Earmarking

This research project focuses on the use of sunset provisions for temporary tax increases to address new needs or in response to a problem. Because these taxes result from specific needs or purposes, revenues are typically "earmarked" for the specific issue the tax seeks to address. "Earmarking is the budgeting practice of dedicating tax or other revenues to a specific program or purpose" (Michael, 2015). Identifying and defining the specific purpose is a common practice in establishing a sound financial policy (Kavanagh, 2017). Earmarking allows a dedicated revenue stream for a specific purpose; there is no competing demand for resources. Furthermore, governments can engage in better long-term financial planning and reduce political interference with government operations (American Society of Civil Engineers, 2021).

Earmarked taxes are predominately used by local governments for three primary purposes: 1) transportation infrastructure, 2) capital project fund; and 3) redemption of bond issues (Zappia, 2016). Taxes dedicated to public safety are also becoming popular across municipalities. Most municipalities are required to gain approval from their citizens regarding the restricted use of revenues. An overview of each of the primary purposes is provided below:

Transportation Infrastructure– Streets, roads, and bridges are critical to government operations, as they enable cities and states to provide access to and from places, serve as a base for transportation of goods, and channel stormwater drainage. Stormwater drainage is also critical to ensure water remains off the roads, residencies, and businesses to prevent frequent flooding and ensure water flows to the proper outlets. The 2021 Report Card issued by the American Society of Civil Engineers (ASCE) graded our nation's roads at a D. Given how vital transportation infrastructure is to the economy, governments must ensure adequate funding is and remains available. One approach local government use is to dedicate a specific revenue stream to address their transportation infrastructure.

Capital Project Fund – The Government Finance Officers Association (GFOA) recommends governments continuously engage in capital project planning. The GFOA further recommends individual governments develop their own definitions for what constitutes a capital improvement project based on their unique characteristics. This analysis is used to develop a capital improvement plan (CIP) for the entity. Because capital needs can outgrow a government's capital reserve funds, municipalities can identify existing or new revenue sources to provide dedicated capital funding. One way to do this is to pass an earmarked local tax dedicated to funding capital projects.

Redemption of Bond Issues – Municipalities issue bonds to fund debt obligations and capital projects (Security and Exchange Commission). There are two primary types of bonds issued by municipalities: general obligation bonds and revenue bonds. General obligation bonds are backed by the full faith and credit of the government. Revenue bonds are backed by a dedicated revenue stream. Revenue can come from a specific project or source.

Public Safety – Municipalities define public safety as protecting the general public through police, fire, health services, and court systems. Public safety represents the largest share of General Fund revenues amongst most municipalities. Based on a 2020 analysis, police services alone accounted for the largest share of the budget in 35 of the 50 largest cities within the United States (Sullivan & Baranauckas, 2020).

RESEARCH DESIGN

Municipalities across the nation incorporate sunset (or temporary) legislation into their tax policy. This research paper seeks to answer the following questions: (1) *How do municipalities use sunsetting legislation in their tax code?* and (2) *What best practices should municipalities implement when attaching a sunset provision to tax policies?*

A qualitative, multiple-case study approach is utilized for this research paper. The case study approach allows for an issue to be analyzed through a variety of scenarios that seek to answer “how” and “why” questions (Baxter & Jack, 2008). However, because a descriptive research approach is used, this research project only addresses “how” municipalities use the sunset provision. The case studies are presented via a standardized analysis model, which are included as appendices. First, the taxing authority authorized by each municipality’s state is identified. Background information regarding the history of the sunset tax(es) is then provided to demonstrate any common themes and/or unique uses of the temporary tax. Next, the primary purpose and uses of the tax in terms of what needs of the city were addressed through the tax revenues collected. Some cases do not identify specific projects in their tax proposal at its inception. In such cases, the most recent year(s) with adequate data are used to identify how tax dollars were spent. Finally, the status of each sunset tax is provided. A graphic summary of the progression and uses of each municipality’s sunset tax legislation is also included within the individual case studies.

The case studies for this research paper were selected using the Peer City Identification Tool developed by the Federal Reserve Bank of Chicago. Fort Smith, Arkansas was selected as the base city, as this is where I currently reside. Peer cities were identified with respect to the equity benchmark, which considers a city’s racial and socioeconomic composition in identifying comparable cities. I chose the equity theme as my benchmark because of the need for cities to engage in inclusive economic development, meaning all demographics are considered when developing growth strategies (Federal Reserve Bank of Chicago, 2022). The resulting case studies are listed below:

- Tulsa, Oklahoma
- Fort Smith, Arkansas
- Oklahoma City, Oklahoma
- Garland County, Arkansas
- Yakima County, Washington

The intent of this research paper is to identify the primary uses of sunset tax legislation by municipalities and to develop best practices for the use of sunset provisions in the local tax code with respect to the identified municipalities. The uses identified and the best practices developed through my analysis are limited to these municipalities. It is recognized there is significant variation in demographics, public services, local taxing authority, and overall revenue portfolios across municipalities nationwide. These variations result in the application of this research paper being limited to the five cases analyzed.

Public records serve as the primary source of data for my analysis. State statutes are reviewed to determine the taxing power authorized to municipalities. Municipal budgets, Annual Comprehensive Financial Reports (ACFRs), and meeting agendas/minutes are used to discuss alternative funding sources should the temporary taxes be allowed to sunset. Capital Improvement Plans (CIPs) for these revenue streams are used to determine if the projects align with the language used in the authorizing ordinance/ballot question. News articles and publications pertaining to the tax programs are used to gather the views of city leaders and citizens in favor of or in opposition to the tax. News articles also serve to better understand the need for these taxes and why their passage/continuation is important.

The significance of this study is twofold. First, there is a nationwide infrastructure crisis facing all levels of government. Taxes are the primary source of funding for local governments, accounting for roughly 42% of all revenues (Urban Institute). Sufficient revenue to continue providing government services and address infrastructure needs is critical. Therefore, the best practices developed in this research paper will seek to increase transparency, accountability, and gain the public trust in being good fiduciaries of taxpayer dollars. Without taxes, governments will not be able to sustain operations and meet future demands.

Second, municipalities frequently attach sunset provisions to their local taxes, even when state legislation allows for a permanent tax. Temporary taxes are predominately used to fund capital projects with some being dedicated to operational costs. Capital funding, especially for infrastructure, is essential to government operations. Effective application of the sunset provision in the local tax code will help ensure voter confidence in the proper use of taxpayer dollars to address citizen priorities. This is critical, as local taxes must typically be approved by citizens. Without the financial support of the public, government operations will be significantly impacted.

DATA

As stated previously, a total of five (5) cases were selected for this research project. A brief description of each entity is provided below:

Oklahoma City, Oklahoma: Oklahoma City first began using the sunset provision in its local tax code in 1994. Each sunset tax has been allowed to sunset with no extension. However, once the existing tax sunsets, voters have already approved for a new temporary tax to immediately be collected. Revenues from the sunset taxes have been used to support capital projects. However, a portion of revenues from the current sunset sales tax are being transferred to an operating trust and investment for perpetual operating costs.

Tulsa, Oklahoma: Tulsa first began levying a temporary tax in 1981 for capital purposes. Voters approved a series of five-year sunset date extensions through June 30, 2025, upon which the tax will sunset. Sunset tax revenue has been used as both bond financing and pay-as-you-go (PAYGO) capital funding. Voters also approved a 15-year sunset tax dedicated to economic development capital projects, which will sunset December 31, 2031.

Fort Smith, Arkansas: Fort Smith first began levying temporary taxes in 1998 to finance bond issues. Since then, sunset taxes have been used as PAYGO capital financing, bond financing, recurring operating costs, and for public safety. Two separate sunset taxes were approved by voters in May 2022 for police, fire, parks, and water/wastewater purposes. Both taxes have a sunset date in calendar year 2030.

Garland County, Arkansas: Transportation infrastructure remains the sole purpose for temporary taxes in Garland County. After two five-year sunset taxes were collected to finance two bond issues, voters passed a five-year sales and use tax for PAYGO capital funding for transportation infrastructure through fiscal year 2027.

Yakima County, Washington: Insufficient resources to fund the criminal justice system led to Yakima County asking residents to approve a five-year tax earmarked sales and use tax for criminal justice purposes. Voters were asked to extend the sunset date through 2011 and again through 2017 before approving a permanent law and justice tax to begin collection in 2023.

The table below provides a summary of the data collected for each entity.

SUMMARY OF CASE STUDY DATA					
Entity	**Oklahoma City**	**Tulsa**	**Fort Smith**	**Garland County**	**Yakima County**
Local Taxing Authority	• Property Tax • Sales Tax	• Property Tax • Sales Tax	• Property Tax • Sales Tax • Income Tax	• Property Tax • Sales Tax • Income Tax	• Property Tax • Sales Tax
Sunset Tax(es) Levied	Sales Tax	Sales Tax	Sales Tax	Sales Tax	Sales Tax
Approval Required	Voter Referendum	Voter Referendum	Voter Referendum	Voter Referendum	Voter Referendum*
Use(s)	*Government-wide Activities* • Capital Projects • Operating Investment	*Government-wide Activities* • Capital Projects • Bond Financing	*Departmental Purposes* • Capital Projects • Bond Financing • Personnel • Operating • Sinking Fund	*Transportation Infrastructure* • Bond Financing • Capital Projects	*Criminal Justice Purposes* • Personnel • Operating • Capital
Current Status of Sunset Tax	Seven (7) year sunset tax approved by voters earmarked for capital projects and operating trust and investment fund.	Fifteen (15) year sunset tax approved by voters earmarked for economic development purposes.	Eight (8) year sunset tax approved by voters to be earmarked for parks capital, water/wastewater, police, and fire purposes.	Five (5) year sunset tax approved by voters to be earmarked for transportation infrastructure.	A **permanent** Law and Justice Tax was approved by voters in November 2021.
Oversight	Citizen Advisory Committee and Subcommittees	Sales Tax Oversight Committee	Sales Tax Advisory Committee**	None Specified	None Specified

***** The governing body of Yakima County is granted authority by the State of Washington to levy local taxes for certain purposes with or without voter approval. The sunset tax identified in this case study required voter approval.
** Fort Smith established a Sales Tax Review Committee in March 2022. Authority/responsibilities have yet to be determined.

The detailed data collected for each respective case is included in the Appendix section of this paper. Each case can be viewed by clicking on the corresponding link below:

Appendix A: Oklahoma City, Oklahoma
Appendix B: Tulsa, Oklahoma
Appendix C: Fort Smith, Arkansas
Appendix D: Garland County, Arkansas
Appendix E: Yakima County, Washington

ANALYSIS

The five case studies included in this research project demonstrate varying degrees of similarities and differences with respect to the uses and application of sunset provisions in the local tax code. In reviewing the scope and administration of each municipality's sunset tax(es), I identified four (4) primary themes for comparison: 1) uses of tax, 2) what tax sunsets, 3) transparency; and 4) accountability.

Uses of Tax

Pay-As-You-Go Capital: Capital is the predominant use of temporary taxes by each of the case studies. For this research project, capital expenditures are inclusive of professional services (ex., engineering design), land acquisition, construction payments, and all materials consumed as one-time expenditures to complete the capital project. The capital funded via temporary taxes include both replacement and/or additions to the fleet, improvements to existing facilities, and construction of new infrastructure. The revenue generated from the temporary taxes allows municipalities to address capital needs sooner rather than wait on their capital reserve funds to grow large enough to fund capital needs. For example, Garland County officials noted at current funding levels, it would take approximately 70 years to address the deteriorating county roads (Hot Springs Chamber of Commerce). However, extending the sunset provision for their existing temporary tax an additional five years will generate approximately $70 million, allowing repairs to be made as revenues are received. Thus, residents had the choice to maintain the current sales tax rate and benefit from better roads or allow roads to deteriorate faster than they can be properly repaired.

Bond Financing: Another use of sunset taxes is to finance bond issues. Both Garland County and Fort Smith presented sales and use tax bonds to voters to address infrastructure needs. With approval of the issuance of these bonds, voters simultaneously approved a dedicated sales and use tax (SUT) to finance the bonds. The SUT would sunset once the bonds were paid or a provision amending such was approved. In contrast to issuing debt to address capital needs, Oklahoma City sold their sunsetting sales tax as a debt-free solution to addressing capital needs, as funds began to accumulate while the specific projects were being planned (MAPS 4, 2022). This financing structure results in projects being fully funded once construction is ready to begin. Furthermore, this "allowed Oklahoma City to build world-class facilities without the burden of debt for future generations and city leaders" (MAPS 4, 2022). The City of Tulsa combines both approaches to address capital needs. Tulsa has issued a series of multi-million-dollar general obligation (GO) bonds that are financed primarily via property taxes (EMMA). However, revenues from the 15-year economic development tax can be used for both project expenses and debt service payments for indebtedness for the specified projects (City of Tulsa Municipal Code, 2022). Therefore, the advance funding offered by bond proceeds allows Tulsa to continue making progress whereas construction may have been interrupted until enough revenue was generated to begin capital projects specified in the 15-year economic development sales tax (Improve Our Tulsa, 2022).

Recurring Expenses: Unlike the one-time expenses discussed above, sunset taxes are also used to fund day-to-day operations. Such ongoing expenses include both personnel and operating costs. Yakima County and Fort Smith identified public safety needs for their respective temporary taxes. Yakima County's Law and Justice Tax is dedicated to criminal justice purposes, i.e., police, jails, prosecution, and county court. Voters approved three extensions to the sunset provision before approving a permanent tax levy for criminal justice purposes. Had the tax not been approved by voters, several full-time positions would have been eliminated due to inadequate funding through existing permanent taxes (Rayford, 2021). The City of Fort Smith's Fire Department (FSFD) faced a similar dilemma during the May 2022 election to extend the sunset provision. The FSFD receives one-half of a one-quarter percent SUT that funds all costs associated with the new fire station completed in 2014 in addition to funding capital needs, i.e., fire apparatuses. Personnel and operating expenses absorb almost 70% of revenue received from their share of the SUT. Had voters not approved an extension of the sunset provision, Fort Smith's General Fund would have needed to absorb the $2.1 million in annual expenditures to continue operating the new fire station.

Capital Infrastructure Maintenance: In addition to funding public safety operations, sunset taxes are used for capital infrastructure maintenance. The case studies reflect two methods for continued maintenance of projects. Fort Smith maintains personnel and operating expenses within their respective SUT program budgets. This is evidenced through the temporary tax for streets, drainage, and bridges; and the 0.25% SUT (split between the Fire and Parks Departments). However, following the May 2022 election, all previous operating costs budgeted in the Parks Department's SUT program will be transferred to the city's General Fund beginning October 1, 2022. The operating expenses for the Fire Department will remain part of the SUT program.

Reserve/Investments: Like Fort Smith's elimination of ongoing operations costs for parks purposes being transferred from temporary revenues, Oklahoma City leaders came to realize capital growth requires adequate funding for sustainable operations. Borrowing from a common practice among universities, Oklahoma City will set aside a total of $110.5 million into the MAPS Investment and Operating Trust for the sole purpose of establishing sustainable funding for MAPS 4 projects (Hayes, 2022). Officials cited the need to make the initial transfer almost immediately to allow the principal to start earning interest. Oklahoma City is the only municipality to take proactive action to ensure sustainability of its capital assets funded by temporary taxes.

The figure below provides a comparison among municipalities regarding their use of sunset taxation as approved by voters.

Use of Tax	Yakima County	Tulsa	Oklahoma City	Garland County	Fort Smith
Bond Financing					
PAYGO Capital					
Personnel					
Operating					
Reserve/Investment					

What Tax Sunsets

Each municipality is authorized by their respective state to levy both a property tax and sales tax. However, the State of Oklahoma prohibits municipalities from levying a property tax to fund day-to-day operations. Conversely, local property taxes account for one of the largest sources of operating revenue for governmental activities in the Washington and Arkansas municipalities. There are arguments in favor and in opposition to both taxes as they relate to basic tax policy principles. Despite having both options, Yakima County, Garland County, and Fort Smith elected to levy a temporary sales tax. It is important to note no matter which tax was used, the issue still would have required voter approval. All five cases chose to levy a temporary sales tax to satisfy their respective needs.

As noted previously, capital needs accounted for the overwhelming use of temporary taxes. Based on the uses of the sunset tax identified for each case, it is evident each of the purposes, including public safety, represent government services utilized by both residents and nonresidents. Because both groups benefit from these expenditures, the *benefits principle* of taxation tells us both residents and nonresidents should pay (ITEP, 2011). The sales tax satisfies this argument, as only residents within the taxing jurisdiction would pay the property tax.

Transparency

For the purpose of this discussion, transparency is limited to the intended purpose of the use(s) of the sunset tax. Two approaches to transparency were identified. The first approach is through the adoption of a **comprehensive plan** for the use of tax revenues. Both municipalities in Oklahoma and Garland County utilize this approach. In developing a comprehensive plan of all projects (to the extent possible), citizens were able to readily identify the exact uses of their future tax dollars with approval of the sunset taxation.

Conversely, Fort Smith and Yakima County opted for a **general purposes** proposal to their citizens. This approach provides voters with categorical uses of the tax revenue to be collected. Rather than have an individualized project list, both governments cited only a limited number of uses (e.g., public safety and transportation infrastructure) in the ballot issue. However, in the case of Fort Smith, annual CIPs are prepared and adopted by the governing body. The CIPs identify the specific expenditures within the respective fiscal year being reviewed.

Furthermore, all five municipalities require annual reports to be submitted to the governing body outlining the specific uses within the prior fiscal year. Each municipality also reports expenditures and revenues in a special revenue fund in their ACFRS and Budget documents.

Accountability

Most municipalities share in their approach to accountability to the citizenry. Both Oklahoma municipalities and Fort Smith have dedicated committees to oversee their sales tax programs, which include the sunset taxes. All members of these committees are citizens appointed by the governing body. The municipalities ensure proper representation amongst their taxing jurisdiction by requiring at least one member from each ward to serve on the committee. While Fort Smith and Tulsa have a solitary sales tax oversight committee, Oklahoma City uses an umbrella approach. Oklahoma City has a designated committee for its MAPS projects, but also has multiple branches of subcommittees to represent the general categories for projects (e.g., transportation).

The accountability aspect seems to be absent from both Garland County and Yakima County. As noted previously, Yakima County is required to submit an annual report regarding the uses of its Law and Justice Tax. However, the most current report available for public viewing dates back to 2015. Furthermore, apart from the information presented in the annual budget and ACFRs, Yakima County does not provide any information on its website. This absence could change now that the temporary tax is used for PAYGO capital in lieu of bond financing.

RECOMMENDED BEST PRACTICES

Through the research and analysis conducted for this research project, I identified five (5) best practices for municipalities when implementing sunsetting taxes.

1. **Sunsetting taxes are not short-term solutions to long-term needs.**

   The case studies identified recurring expenses as one of the uses of sunsetting tax revenue. Because the sunset provision is meant to indicate the *temporary* existence of the policy, it is recommended for municipalities not to rely on the continued support of voters to maintain this revenue stream. The Law and Justice Tax in Yakima County demonstrates this realization. County officials chose to present a temporary tax for criminal justice purposes to address immediate funding needs to both maintain operations and meet new service demands. Each time the tax was up for renewal, significant layoffs and decreased services were at the forefront of the officials' plea for the continuation of the tax. The county eliminated the sunset provision from the tax policy, via an overwhelming majority vote in favor of such, and now has an established, permanent funding source that provides adequate funding for their criminal justice system.

   In contrast, Fort Smith continues to rely on temporary taxes to fund a portion of recurring operational costs in its Engineering and Fire Departments. Should voters deny the extension of the sunset provision, the city's General Fund will need to absorb over $3.5 million annually or terminate programs (City of Fort Smith). Therefore, because recurring expenses require sustainable funding, it is not recommended municipalities rely on temporary taxes as supplemental funding for General Fund operations.

2. **Expressly define and identify the purpose of the revenues derived from the sunset tax.** Identifying and defining the specific purpose is a common practice in establishing a sound financial policy (Kavanagh, 2017). All municipalities in this research project are required by state statutes to expressly define the use of local taxation for their citizens. While all case studies met this requirement and were successful in passing/extending their sunset provision, I believe specific projects should be identified when levying a tax for capital purposes. Both Oklahoma cities adopt a comprehensive plan that extends throughout the approved lifespan of the sunset provision. This plan effectively communicates to citizens exactly what their tax dollars will be used for. Furthermore, borrowing from Thomas Jefferson's notion of *living legislation*, the tax policy allows for projects to be amended through legislative action when necessary. Allowing citizens to readily see where their tax dollars will be used, promotes public trust in the government.

3. **Align the source of sunsetting tax revenue with those who benefit.** Each of the case studies were granted authority to levy both a property tax and sales tax. The sales tax is paid by both residents and nonresidents whereas the property tax is only paid by residents. Despite having both options, all municipalities chose to levy a sunsetting sales tax to address their needs. The uses of the sunset tax by each municipality reflect services and/or projects that benefit both residents and nonresidents. Therefore, because both residents and nonresidents are users of the identified services and/or projects funded through temporary taxation, it follows municipalities should levy a sales tax to fund such purposes.

4. **Establish a citizen committee to hold the government accountable for its use of the sunset tax(es).**
   Efficient oversight is essential for the successful lifespan and future use of sunset taxes. To hold the government accountable, municipalities should establish a sunset tax committee. However, without clearly defined roles and responsibilities, this committee will not be effective and/or ultimately be deemed unnecessary due to inaction. Although not part of this research project, recommended oversight responsibilities for the committee would include periodic review of financial reports, receiving updates regarding the progress of projects, conducting an annual review of the comprehensive plan to ensure it remains current, and recommending amendments to the plan should circumstances warrant such.

5. **Ensure transparency is maintained throughout the life of the sunset tax.**
   Citizen trust is critical to government operations. The GFOA cites transparency as one means by which governments can build trust (Kavanagh, 2018). Transparency can be accomplished primarily through reports, such as monthly revenue and expenditure reports for each respective temporary tax. Another form of transparency corresponds directly to the uses of the tax via projects and services citizens can “see” being completed. Combining both financial data and graphic representations can produce a quarterly, or even annual, progress report made available to citizens. This document would essentially be an executive summary of how tax revenues have been used and will be used as revenue is collected.

CONCLUSION

The use of the sunset provision in the local tax code is a common practice among municipalities. This research project sought to identify the primary uses of temporary taxation and recommend best practices going forward. The cases selected for this research project point to four primary uses of sunset taxes: 1) PAYGO capital funding, 2) bond financing, 3) recurring expenses, 4) capital infrastructure maintenance; and 5) reserves/investments. While most of these uses are recommended for sunsetting taxes, recurring expenses (e.g., salaries) and continued maintenance for capital projects are not recommended uses of non-sustainable (unless approved by voters) revenue. Thus, the sunset provision should only be included in tax policies in which the authorized purposes are limited to one-time expenditures.

Furthermore, because these are citizen tax dollars being spent, municipalities must implement certain practices to help ensure the success, both in production and citizen approval, of sunsetting taxes. These best practices include: 1) ensuring temporary revenues are restricted to temporary purposes; 2) identifying the specific purpose(s) for which the revenue will be used; 3) aligning the source of revenue with those who benefit; 4) establishing a citizen oversight committee; and 5) maintaining transparency throughout the lifespan of the sunset provision. Through the adoption and implementation of these best practices, it is determined municipalities will have a successful application of the sunset provision with respect to their local tax code.

FUTURE RESEARCH

While this research paper has contributed to the literature regarding how local governments implement the sunset provision in their local tax code, there are still several areas for future research. I identify three areas for future research on this topic.

First, the case studies evidenced a long history of extending the sunset provision and/or allowing the tax to sunset and passing a new temporary tax. This leads to the *why* question that was not addressed in this research project. All municipalities in this case study are granted authority to levy permanent taxes for the uses earmarked by their sunset tax(es). However, most of the municipalities in this research project continue to utilize extensions and/or new sunsetting taxes for the same general purpose. Future research should seek to understand why municipalities continue to rely on temporary legislation to address continuing capital needs.

Second, my research project concentrated on one of two primary uses of sunset provisions. My analysis is limited to sunset provisions as they relate to tax increases. However, tax cuts are another primary use. Economic incentives are an example of tax cuts authorized at the local level of government. Therefore, future research should seek to identify if there is a causal relationship between offering economic incentives and the need for governments to continue or create sunsetting taxes to address the rising cost of government services.

Finally, in my best practices, I recommend for municipalities to establish a citizen oversight committee for their sunset tax(es). Designing roles and responsibilities for this committee was outside the scope of my study. Ensuring a meaningful review process occurs is vital to achieving the goal of keeping legislation relevant. Therefore, future research should be conducted to develop best practices and/or an implementation matrix for a sunset tax review committee.

REFERENCES

Adams, B., & Sherman, B. (1978). Sunset implementation: a positive partnership to make government work. *Public Administration Review*, *38*(1), 78–81. https://doi.org/10.2307/975415

American Society of Civil Engineers. (2021). Infrastructure report card: roads. https://infrastructurereportcard.org/wp-content/uploads/2017/01/Roads-2021.pdf

Ark. Stat. § Title 26

Avery, Dan. (2022). Gas tax holiday: has your state suspended its gas tax? *CNET.* https://www.cnet.com/personal-finance/federal-gas-tax-holiday-which-states-pausing-gas-tax/

Baugus, B., Bose, F., & Jacob, J. (2021). Get in line: Do part-time legislatures use sunset laws to keep executive agencies in check. *Regulation and Governance.* 15(1), 185-199. https://doi.org/10.1111/rego.12283

Baxter, P., & Jack, S. (2008). Qualitative Case Study Methodology: Study Design and Implementation for Novice Researchers. *The Qualitative Report*. 13(4), 544-559. https://nsuworks.nova.edu/cgi/viewcontent.cgi?article=1573&context=tqr

Brennan, T. (2017). Thomas Jefferson and the living constitution. *The Journal of Politics*, *79*(3), 936–948. https://doi.org/10.1086/690947

Chamber Staff. (2020). Voters overwhelmingly approve MAPS 4. *VeloCity OKC.* https://www.velocityokc.com/blog/inside-okc/voters-overwhelmingly-approve-maps-4/

Chen, C & Bartle, J. R. (2017). Infrastructure financing: a guide for local government managers. *Public Administration Faculty Publications.* 77. https://digitalcommons.unomaha.edu/cgi/viewcontent.cgi?article=1076&context=pubadfacpub

City of Fort Smith, Arkansas. (2021). 2021 Budget Supplement. https://www.fortsmithar.gov/index.php?option=com_jdownloads&task=download.send&id=3842&catid=56&m=0&Itemid=566

City of Fort Smith, Arkansas. (2022). Budget Documents. Retrieved June 11, 2022, from https://www.fortsmithar.gov/index.php?option=com_jdownloads&view=category&catid=56&Itemid=566

City of Fort Smith, Arkansas. (2022). *Fiscal Year 2020 Annual Comprehensive Financial Report.* https://www.fortsmithar.gov/index.php?option=com_jdownloads&task=download.send&id=4225&catid=57&m=0&Itemid=566

City of Fort Smith, Arkansas. (2022). *Five-Year Capital Improvement Program (2022-2026).* https://www.fortsmithar.gov/index.php?option=com_jdownloads&task=download.send&id=4308&catid=10&m=0&Itemid=566

City of Oklahoma City, Oklahoma. (2022). *Better Street, Safer City.* Retrieved June 4, 2022, form https://www.okc.gov/residents/better-streets-safer-city-projects

City of Oklahoma City, Oklahoma. (2022). *Fiscal Year 2023 Budget Overview.* https://www.okc.gov/home/showpublisheddocument/27973/637873333383100000

City of Oklahoma City, Oklahoma. (2022). MAPS 4. Retrieved June 2, 2022, from https://www.okc.gov/government/maps-4

City of Oklahoma City, Oklahoma. (2022). *Municipal Code - § 52.* Retrieved June 4, 2022, from https://library.municode.com/ok/oklahoma_city/codes/code_of_ordinances?nodeId=OKMUCO2020_CH52TA
City of Oklahoma, City. (2022). Taxes. *City of Oklahoma City, OK*. Retrieved June 4, 2022, from https://www.okc.gov/departments/finance/taxes
City of Tulsa, Oklahoma. (2022). *Capital Programs.* Retrieved June 4, 2022, from https://www.cityoftulsa.org/government/capital-programs/
City of Tulsa, Oklahoma. (2022). Improve our Tulsa. Retrieved June 10, 2022, from https://www.cityoftulsa.org/improve-our-tulsa/about-improve-our-tulsa/
City of Tulsa, Oklahoma. (2022). *Municipal Code - § 43*. Retrieved June 2, 2022, from https://library.municode.com/ok/tulsa/codes/code_of_ordinances?nodeId=CD_ORD_TIT43CITUSATACO
Common Cause. (2022). *Our Mission.* Retrieved June 4, 2022, from https://www.commoncause.org
Ekundayo, W. J. (2017). Good governance theory and the quest for good governance in Nigeria. *International Journal of Humanities and Social Science.* 7(5), 154-161. https://www.ijhssnet.com/journals/Vol_7_No_5_May_2017/21.pdf
Electronic Municipal Market Access. (2022). Garland County, Arkansas. Retrieved June 11, 2022, from https://emma.msrb.org/IssuerHomePage/Issuer?id=BBAF93B81941C234DC0E71EF2F72908F
Electronic Municipal Market Access. (2022). Tulsa, OK. Retrieved June 2, 2022, from https://emma.msrb.org/IssuerHomePage/Issuer?id=C1A631936B30B8364D3E2CF57B88F918
Farenthold, D. (2012). In Congress, sunset clauses are commonly passed but rarely followed through. *The Washington Post.* https://www.washingtonpost.com/politics/in-congress-sunset-clauses-are-commonly-passed-but-rarely-followed-through/2012/12/15/9d8e3ee0-43b5-11e2-8e70-e1993528222d_story.html
Federal Reserve Bank of Chicago. (2022). *Peer City Identification Tool*. Retrieved June 5, 2022, from https://www.chicagofed.org/region/community-development/community-economic-development/about-the-peer-cities-identification-tool
Ferolito, P. (2021). Voters overwhelmingly approve law and justice tax in Yakima County. *Yakima-Herald Republic.* https://www.yakimaherald.com/news/local/voters-overwhelmingly-approve-law-and-justice-tax-in-yakima-county/article_2d633fdf-2234-5678-afc0-3d247973453f.html
Gale, W. G. & Orszag, P. R. (2003). Sunsets in the tax code. *Tax Policy Center: Urban Institute & Brookings Institution.* Tax Notes, 1553-1561. https://www.urban.org/sites/default/files/publication/58601/1000499-Sunsets-in-the-Tax-Code.PDF
Garland County Election Commission. (2022). *Certified Election Results – February 8, 2022.* https://www.garlandcountyvote.org/uploads/6/3/0/4/63045401/certified_results_2_8_22_special.pdf

Garland County Elections. (2022). *Official Ballot: Special Election Capital Improvement Bond – June 28, 2016.* https://www.garlandcountyvote.org/uploads/6/3/0/4/63045401/special_election_ballot_2_sample.pdf
Garland County of Arkansas. (2021). *Fiscal Year 2021 Annual Comprehensive Financial Report*. https://www.garlandcounty.org/DocumentCenter/View/4241/2021-Annual-Financial-Report
Garland County of Arkansas. (2021). *Ordinance No. O-21-36.* https://www.garlandcounty.org/DocumentCenter/View/5297/Ord-O-21-36-Providing-for-the-Levy-of-a-0625-percent-Sales-and-Use-tax-11-22-2021PDF
Ginsberg, B., & Sanders, E. (1990). Theodore J. Lowi and juridical democracy. *PS: Political Science and Politics*, *23*(4), 563–566. https://doi.org/10.2307/419891
Government Finance Officers Association. (2022). Capital planning policies. Retrieved on June 3, 2022, from https://www.gfoa.org/materials/capital-planning-policies
Hayes, J. (2022). Some OKC MAPS 4 programs will receive annual operating funds. Here's how that will work. *The Oklahoman.* https://www.oklahoman.com/story/news/2022/03/03/okc-maps-4-investment-program-first-80-million-operating-funds/9331680002/
Hicks, L. (2022). Group 2 Social/Behavioral Investigators and Key Personnel. *CITI Program.*
Hot Springs Chamber of Commerce. (2021). Residents support continued funding for better roads. https://web.hotspringschamber.com/news/newsarticledisplay.aspx?ArticleID=1087
Institute on Taxation and Economic Policy. (2011). The ITEP guide to fair state and local taxes. https://itep.sfo2.digitaloceanspaces.com/guide.pdf
Kavanagh, S. (2017). *Financial Policies.* Government Finance Officers Association.
Kavanagh, S. (2018). Transparency: a means to improving citizen trust in governments. *Government Finance Officers Association.* https://www.gfoa.org/materials/transparency-a-means-to-improving-citizen-trust
Lowi, Theodore. 2009. Lowi's intent and the origin of sunset. *Ripon Forum.* 43(2), 27, http://ezproxy.uky.edu/login?url=https://www.proquest.com/scholarly-journals/lowis-intent-origin-sunset/docview/229561896/se-2?accountid=11836
Michael, J. (2015). Earmarking state tax revenues. *Minnesota House of Representatives*. https://www.house.leg.state.mn.us/hrd/pubs/earmarking.pdf
Molloy, S., Mousmouti, M, & DeVrieze, F. (2022). Sunset clauses and post-legislative scrutiny: bridging the gap between potential and reality. *Westminster Foundation for Democracy.* https://www.wfd.org/what-we-do/resources/sunset-clauses-and-post-legislative-scrutiny-bridging-gap-between-potential
Mooney, C. (2004). A short history of sunsets. *Legal Affairs: The Magazine at the Intersection of Law and Life.* https://www.legalaffairs.org/issues/January-February-2004/story_mooney_janfeb04.msp
Muresianu, A., McBride, W. & York, E. (2021). A holiday tradition: tax extenders slated to expire at end of 2021. *Tax Foundation.* https://taxfoundation.org/tax-extenders-expiring-tax-provisions-2021/

National League of Cities. (2015). Cities and state fiscal structure. Retrieved from https://www.nlc.org/wp-content/uploads/2015/01/NLC_CSFS_Report_WEB.pdf

Okla. Stat. § Title 68

Rayford. A. (2021). Voting against a local sales tax could mean less sheriff's deputies. *KIMA.* https://kimatv.com/news/local/voting-against-a-local-sales-tax-could-mean-less-sheriffs-deputies

Seattle Times Staff. (2008). Oklahoma City passes arena tax to lure Sonics. *The Seattle Times.* https://www.seattletimes.com/sports/nba/oklahoma-city-passes-arena-tax-to-lure-sonics/

Seawright J, & Gerring J. Case Selection Techniques in Case Study Research: A Menu of Qualitative and Quantitative Options. *Political Research Quarterly*. 2008;61(2), 294-308. https://doi.org/10.1177%2F1065912907313077

Security and Exchange Commission. (2012). *Municipal bonds: understanding credit risk*. https://www.sec.gov/files/municipalbondsbulletin.pdf

State of Washington Ways & Means Committee. (2021). *A legislative guide to Washington's tax structure*. https://www.wastatepta.org/wp-content/uploads/2021/07/2021-Guide-to-Washington-State-Tax-Structure.pdf

Sullivan, C. & Baranauckas, C. (2020). Here's how much money goes to police departments in largest cities across the U.S. *USA Today.* https://www.usatoday.com/story/money/2020/06/26/how-much-money-goes-to-police-departments-in-americas-largest-cities/112004904/

Sutherland, A. (2019). Ghosting in tax law: Sunset provisions and their unfaithfulness. *Hastings Constitutional Law Quarterly.* 46(2), 479-508. https://repository.uchastings.edu/cgi/viewcontent.cgi?article=2085&context=hastings_constitutional_law_quaterly

Taylor, A. (2012). Is juridical democracy gaining adherents? *Carolina Journal.* https://www.carolinajournal.com/opinion-article/is-juridical-democracy-gaining-adherents/

The City Wire Staff. (2015). Fort Smith voters ok street tax, reject trail plan; Crawford County tax renewed. *Talk Business & Politics.* https://talkbusiness.net/2015/05/fort-smith-voters-ok-street-tax-reject-trail-plan-crawford-county-tax-renewed/

University of Kentucky. (2022). Office of Research and Integrity. Retrieved June 20, 2022, from https://www.research.uky.edu/office-research-integrity/irb-faqs#General_FAQs

Urban Institute. (2019). *State and backgrounders*. https://www.urban.org/policy-centers/cross-center-initiatives/state-and-local-finance-initiative/state-and-local-backgrounders/state-and-local-revenues#local

Viswanathan, M. (2018). Sunset provision in the tax code: a critical evaluation and prescriptions for the future. *New York University Law Review.* 82(2), 656-688. https://www.nyulawreview.org/wp-content/uploads/2018/08/NYULawReview-82-2-Viswanathan.pdf

Yakima County of Washington. (2015). *3/10 Criminal Justice Sales Tax Dispersal.* https://www.yakimacounty.us/DocumentCenter/View/8352/3-10-Sales-Tax-Dispersal-Outline

Yakima County of Washington. (2019). *Fiscal Year 2019 Annual Comprehensive Financial Report*. https://yakimacounty.us/ArchiveCenter/ViewFile/Item/1120

Zappia, N. J. (2016). The cost of earmarks. *Electronic Theses, Projects, and Dissertations.* *https://scholarworks.lib.csusb.edu/cgi/viewcontent.cgi?article=1385&context=etd*

APPENDIX A

Case Study No. 1
City of Oklahoma City, Oklahoma

Taxing Authority
The City of Oklahoma City is authorized by the State of Oklahoma to levy both a property tax and a sales and use tax (Oklahoma State Statute). Oklahoma City exercises their authority to impose both taxes. The State of Oklahoma prohibits municipalities from levying a property tax to fund day-to-day-operations. Oklahoma is the only state with this restriction (Oklahoma City, 2022). Sales and use taxes account for 70% of General Fund revenues for Fiscal Year 2023 (Oklahoma City FY23 Budget Overview).

Sunset Taxes
A series of temporary taxes for Metropolitan Area Projects (MAPS), approved by voters, have been collected during 1994 through 2017 for capital purposes. The use of these temporary taxes have allowed the city to implement a pay-as-you-go (PAYGO) strategy versus issuing debt for capital projects (MAPS 4). The initial MAPS sunset tax began on January 1, 1994 and sunset on June 30, 1999. No use tax was levied.

Oklahoma City also levied a 0.75% sunsetting SUT for public schools and public-school facilities for a period of seven (7) years. This limited-term SUT was known as “MAPS for Kids”. The SUT was collected from January 1, 2002 until December 31, 2008. Because this SUT was not dedicated to the City’s General Fund operations, it is not discussed further in this research project.

The MAPS 3 projects were funded by a one-percent (1%) sales and use tax levied from April 2010 through December 2017.

During a period from July 1, 2000 through February 28, 2003, a three-quarters of one-percent (3/4%) sales tax was levied and restricted for police and fire capital needs.

A limited-term two-percent (2%) SUT for the purposes of funding city sports facilities was levied from January 1, 2009 through March 31, 2010. This SUT was presented to voters with two potential sunset dates. The termination date of the SUT was contingent on a National Basketball League (NBA) team executing an official document proclaiming their intent to locate within or relocate to Oklahoma City. Revenues to provide improvements to existing facilities would be collected through December 31, 2009. However, if an NBA committed to locating/relocating to Oklahoma City, the SUT would continue through March 31, 2010.

The final sunset tax was levied to fund the Better Streets, Safer City initiative to improve existing streets with respect to drivability and safe networking. The sales tax began January 1, 2018, and sunset on March 31, 2020.

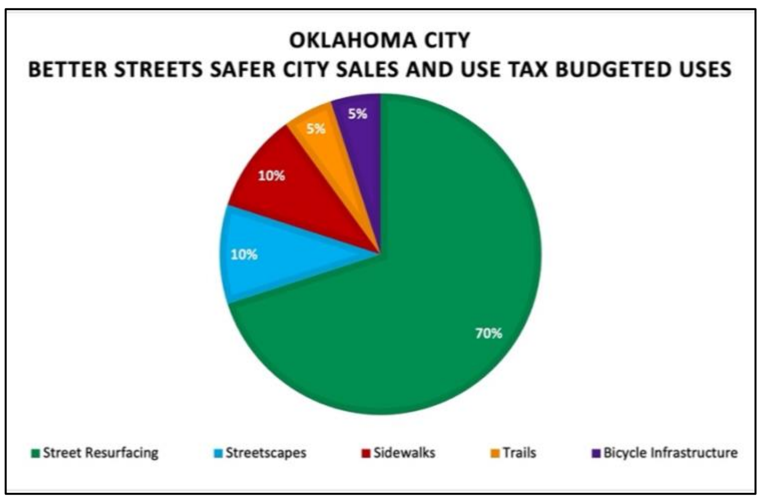
Primary Purpose and Uses of Sunset Taxes

The revenues generated by each of the MAPS sales taxes are dedicated for capital purposes. The revenue generated by the MAPS 3 use tax is committed to the continued operation, maintenance, and capital replacement costs of MAPS 3 projects and enhancement of public safety. The original MAPS initiative "was created to revitalize Downtown…improve Oklahoma City's national image and provide new and upgraded cultural, sports, recreation, entertainment, and convention facilities" (MAPS).

The voter-approved sports facility SUT was used as a *fishing expedition* to help lure the Sonics team to Oklahoma City (*VeloCity*, 2020). Revenues collected from January 1, 2009 through December 31, 2009 were restricted to make renovations to the city's existing Ford Center arena. Because the Sonics relocated to Oklahoma City, and now play as the Oklahoma City Thunder, the SUT continued through March 31, 2010. Revenues collected during this three-month period were restricted for the purpose of constructing a new basketball training facility. All revenues from the sports facility SUT were used for capital purposes.

The temporary ¾% sales tax levied for police and fire capital was used to purchase vehicles, information systems, mobile data systems, helicopters, radio communications system, computer-aided dispatch systems, and an emergency warning system. No funds were used for operating purposes.

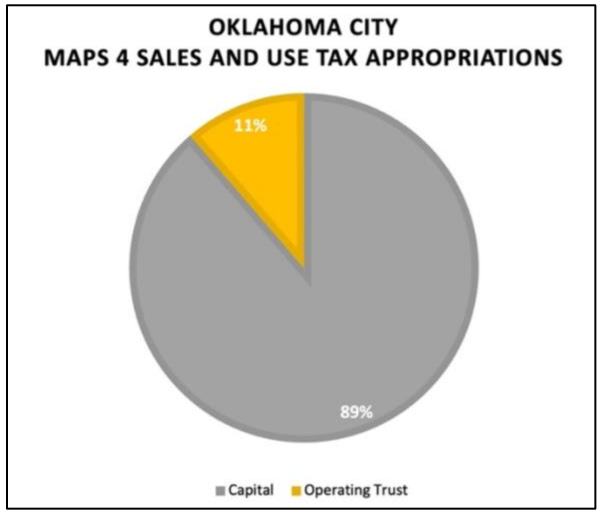
The temporary one-percent (1%) Better Streets, Safer City sales tax is devoted solely to capital expenditures and provides a debt-free solution to significant capital needs. The figure to the right provides a breakdown of the intended uses of tax revenues to accomplish the goals of the Better Streets, Safer City capital program.



Current Status of Sunset Tax

With the Better Streets, Safer City sales tax set to sunset on March 31, 2020, Oklahoma City voters were asked to approve a one-percent (1%) SUT for the MAPS 4 initiative during a December 10, 2019 special election (MAPS 4). The measure passed with almost 72% of voters in favor of the MAPS 4 SUT (*VeloCity*, 2020). The tax began collection on April 1, 2020 and is scheduled to sunset March 31, 2028. The eight-year tax is projected to generate $978 million, with over 70% of funds dedicated to neighborhoods and human needs. In accordance with Oklahoma City's municipal code, the use tax collected will be used for the continued operation, maintenance, and capital replacement costs related to MAPS 4 projects.

Recognizing the need to identify a long-term funding source for maintenance costs of MAPS 4 projects once the tax sunsets, the City Council approved a transfer of $110.5 million from the MAPS 4 sales tax to be set aside into a MAPS Investment and Operating Trust fund (Hayes, 2022). The need for a sustainable revenue source for operations stemmed from past MAPS projects that resulted in new funding needs above what the city's General Fund had available (Hayes, 2022). Earmarked projects to receive funding from this fund will receive four percent (4%) of its total operating fund annually. The fund's principal ($110.5 million) will not be used in this appropriation for the first 40 years; only the interest earned will be appropriated during this time.



The figure below provides a history of Oklahoma City's continuing series of sunsetting taxes.

Oklahoma City, Oklahoma
Sunset Sales Tax History

1/1994 - 12/2017
- Voter-approved SUT to fund multiple *MAPS* initiatives.
- Revenues limited to capital purposes.
- Each MAPS initative was funded via separate sunset tax.

1/2018 - 2/2020
- Voter-approved SUT to fund *Better Streets, Safer City* projects.
- Revenues limited to capital purposes.
- Fifteen (15) month sunset provision.

4/2020 - 3/2028
- Voter-approved SUT dedicated to *MAPS 4* projects.
- Approximately 11% of revenues dedicated to ongoing operational costs.
- Eight (8) year sunset provision.

1/2009 - 3/2010
- Voter-approved SUT for city sports facilities.
- Fourteen (14) month sunset provision.

APPENDIX B

Case Study No. 2
City of Tulsa, Oklahoma

Taxing Authority

The City of Tulsa, Oklahoma is authorized by the State of Oklahoma to levy both a property tax and a sales and use tax (Oklahoma State Statute). Tulsa exercises their authority to impose both taxes. The State of Oklahoma prohibits municipalities from levying a property tax to fund day-to-day-operations. Oklahoma is the only state with this restriction.

Sunset Taxes

The City of Tulsa first began using sunset taxation in January 1981. A series of five-year temporary taxes continued through July 2006. Each of these sales taxes were allowed to sunset, with a new tax (effectively an extension) of the same amount being adopted for five (5) years. This five-year sunset provision was replaced with an exact dollar amount being collected for the temporary tax approved by voters to begin collection in August 2006. The one-percent sales tax was to remain in effect until $459.161 million was received.

Upon satisfaction of the $459 million collection, voters approved a sales tax initiative known as "Fix Our Streets". The sales tax began August 1, 2006 with a sunset date of June 30, 2014. Voters approved the extension of the 1.1% sales tax through June 30, 2021 to provide funding for the "Improve Our Tulsa" plan.

A fifteen-year tax economic development sales tax was approved by voters in 2016. The tax began collection on January 1, 2017 and will continue through December 31, 2031. Revenues can be used as cash payments for specified projects or paying debt service on indebtedness for the specified projects (City of Tulsa Municipal Code). The projects specified for tax revenues are collectively referred to as "Vision Tulsa".

Primary Purpose and Uses of Sunset Taxes

All temporary taxes collected from 1981 through July 2006 were used to fund capital projects across all areas of governmental operations. Such uses include, but are not limited to, public safety, water and wastewater, transportation infrastructure, parks and recreation, economic development, and city facilities.

The Fix Our Streets sales tax (August 2008 through June 2014) was used expressly for the major rehabilitation of arterial streets, streets in general, and intersections. All sales tax revenues were used for capital projects and not continued operating costs.

The Improve our Tulsa sales tax was used for continued transportation infrastructure needs, water and wastewater projects, city facilities, parks and recreation, public safety, and other general capital needs of the city. All revenues were dedicated to capital projects and not continued operating costs.

Projects specified in the Vision Tulsa plan are concentrated on generating additional revenues through economic development improvements. The projects include Arkansas River infrastructure and amenities and remodeling and expansion of the Gilcrease Museum, city-owned Tulsa International Airport infrastructure, Tulsa Zoo, and Cox Business Center. All revenues will be used for capital purposes.

<u>Current Status of Sunset Tax</u>

The Vision Tulsa sales tax continues to be collected. The original projects for which revenues were pledged have been amended in accordance with the city's municipal code. Amendments to such projects were presented to and approved by the City Council and codified in the municipal code.

A new temporary tax was approved by voters to begin collection once the Improve Our Tulsa sales tax sunsets. This new tax will continue to be collected through December 31, 2025 *or* until $193 million is collected. Mirroring the previous temporary taxes, revenues are dedicated solely towards capital expenditures. The figure below provides a summary of the series of temporary taxes approved by Tulsa voters.

Tulsa, Oklahoma
Sunset Sales Tax History

1/1981 - 7/2006
- Voters approve a temporary tax for capital projects.
- Series of voter-approved extension of the sunset date.
- Five (5) year sunset provision for each extension.

8/2006- $459m
- Voters approve an extension of the sunset provision.
- Revenues dedicated to capital projects.
- Sunset Date corresponds to revenue.
- Tax sunsets upon collection of $459m.

10/2011 - 6/2014
- Voters approve to extend the sunset provision.
- Sunset Date of June 30, 2014.
- Revenues earmarked for *Fix Our Streets* capital program.

7/2014 - $563M *or* 6/2021
- Voters approve to extend the sunset provision.
- Tax sunsets upon collection of $563M or June 30, 2021.
- Revenues earmarked for *Improve Our Tulsa* capital program.

7/2021 - 12/2025 *or* $193M
- Voters extend the *Improve Our Tulsa* sunset tax.
- Tax sunsets upon collection of $193M or 12/2025.
- Revenues earmarked for for *Improve Our Tulsa 2* capital program.

1/2017 - 12/2031
- Voters approve an additional temporary tax.
- Revenues earmarked for economic development, aka *Vision Tulsa* capital program.
- Fifteen (15) year sunset provision.

APPENDIX C

Case Study No. 3
City of Fort Smith, Arkansas

Taxing Authority

The City of Fort Smith is authorized by the State of Arkansas to levy an income tax, property tax, and/or sales and use tax within its jurisdiction. Each of these taxes require voter approval (Arkansas State Statute). Fort Smith levies both a property tax and sales and use tax, which account for over 70% of General Fund revenues (FY20 ACFR). Revenue from the City's property tax is used expressly for the Local Police and Fire (LOPFI) Contribution Fund for pension contributions. State legislation restricts the local sales and use tax being committed to securing payment of bonds and/or any purposes for which the City's general fund may be used.

Sunset Taxes

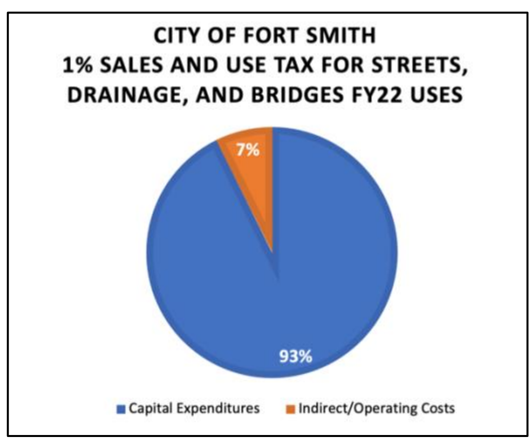
Fort Smith exercises its local taxing authority by levying three separate sales and use taxes for a total local tax rate of two percent (2%). Fort Smith does not levy a permanent SUT; each of these sales tax issues have sunset provisions included in the authorizing ordinance and are identified below:

1. 1% - Dedicated for Streets Drainage, and Bridges (through 10/31/25)
2. 0.75% - Redemption of Sales and Use Tax Bond Issues Outstanding (through 12/31/22)
3. 0.25% - Fire and Parks Operations and Capital Projects (through 9/31/22)

Primary Purpose of Sunset Taxes

The one percent (1%) sales and use tax dedicated for streets, drainage, and bridges was first approved by voters in 1985 for a period of ten (10) years. Per the authorizing ordinance, revenues are designated for the use of City streets, bridges, and associated drainage. Voters have renewed this tax in 1995, 2005, and 2015. During the 2015 election, a separate ballot issue was presented asking voters to allocate five-percent (5%) of revenues to fund trails and greenways. Voters rejected this proposal and the original purpose of the tax remained intact.

Proceeds from this tax are primarily devoted to capital expenditures. However, 85% of the Engineering Department's FY21 Budget is funded by the 1% Street Sales Tax Fund. Other city departments, i.e., City Administration, also receive an ancillary appropriation from the 1% SUT. Therefore, special revenues are used for both operating and capital purposes. Based on the Fiscal Year 2022 – 2026 Capital Improvement Program for Streets, Bridges, and Drainage, 93% of revenues are used to fund capital projects, as shown in the figure to the right.

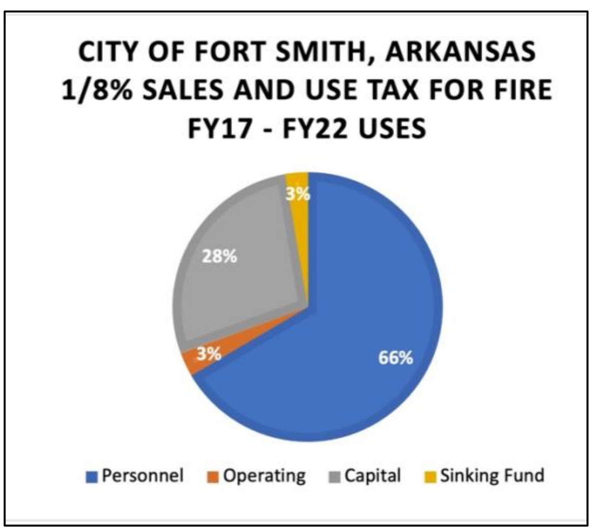


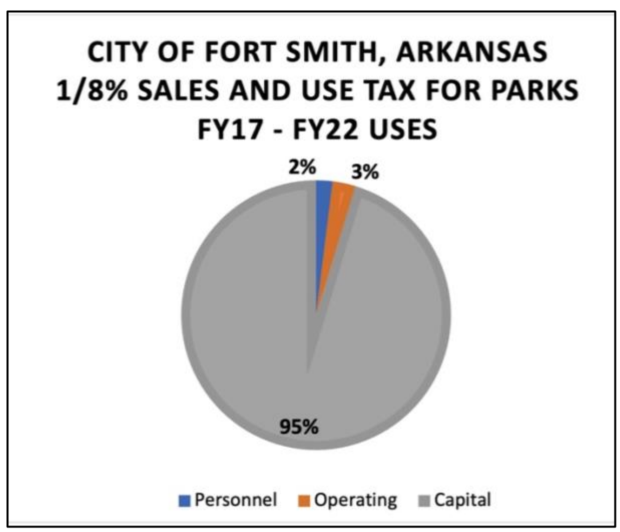
The existing 0.75% SUT for refunding bond issues first began as a 0.5% SUT in January 1998 to fund the *1997 Series Bonds.* These bonds were used to fund the construction of a convention center, library, and riverfront improvements (ex. amphitheater and events building). The tax was to sunset once the bonds were retired or a provision amending such was approved by voters.

Voters approved an additional 0.5% SUT to be collected starting May 1, 2001 to first retire the *1997 Series Bonds* and finance the *2001 Series Bonds* for wastewater improvements and the Lake Fort Smith water supply extension. The tax continued until bonds were approved or the provision was amended by voters.

Beginning May 1, 2006, voters approved a 1% SUT to refund the *2006* and *2008 Series Bonds*, which refunded earlier bonds for wastewater and radio communication improvements, to be retired by 2012.

Voters again approved the continuation of a 1% SUT in 2012. This is the first time the tax has deviated from being dedicated solely to bond financing. Three quarters (0.75%) of the tax is dedicated to refunding the previous bond issues and the *2012 Series Bonds*. The purposes of the 2012 bonds were to refund the previous bonds outstanding, additional water and wastewater improvements, construct an additional fire station, and new aquatic facility. The remaining 0.25% is split evenly between the Parks Department and Fire Department. This portion of the tax began collection on October 1, 2012, with a sunset date of September 31, 2022. Both departments have used their share of revenue (1/8% SUT each) to fund both operations and capital expenses. Operational costs for both departments include personnel and continued operating expenses (ex. utilities and property insurance) associated with projects funded by the 0.25% SUT. The figures below provide a five-year use of the revenues for each respective department (FY18 – FY22 Budgets).





Current Status of Taxes
The 1% SUT for Streets, Drainage, and Bridges will remain in effect through October 31, 2025. It is assumed the City will ask citizens to extend the sunset date an additional ten (10) years.

The existing 0.75% SUT will be allowed to sunset on December 31, 2022. However, during the May 24, 2022 election, the City asked voters to adopt the following ordinances, which will leave the City's local tax at its current rate of two percent (2%).

1. 0.75% SUT commencing January 1, 2023 and continuing through December 31, 2030. Revenues received from this tax will be divided and restricted for the following purposes:

    a. 83.3% of the net collections are restricted for consent decree sewer purposes. There is not stipulation expressly prohibiting the use of revenues for operating expenses. Bond financing is a permitted use.

    b. 16.7% of the net collections are restricted for police department purposes. There is not stipulation expressly prohibiting the use of revenues for operating expenses. Bond financing is a permitted use.

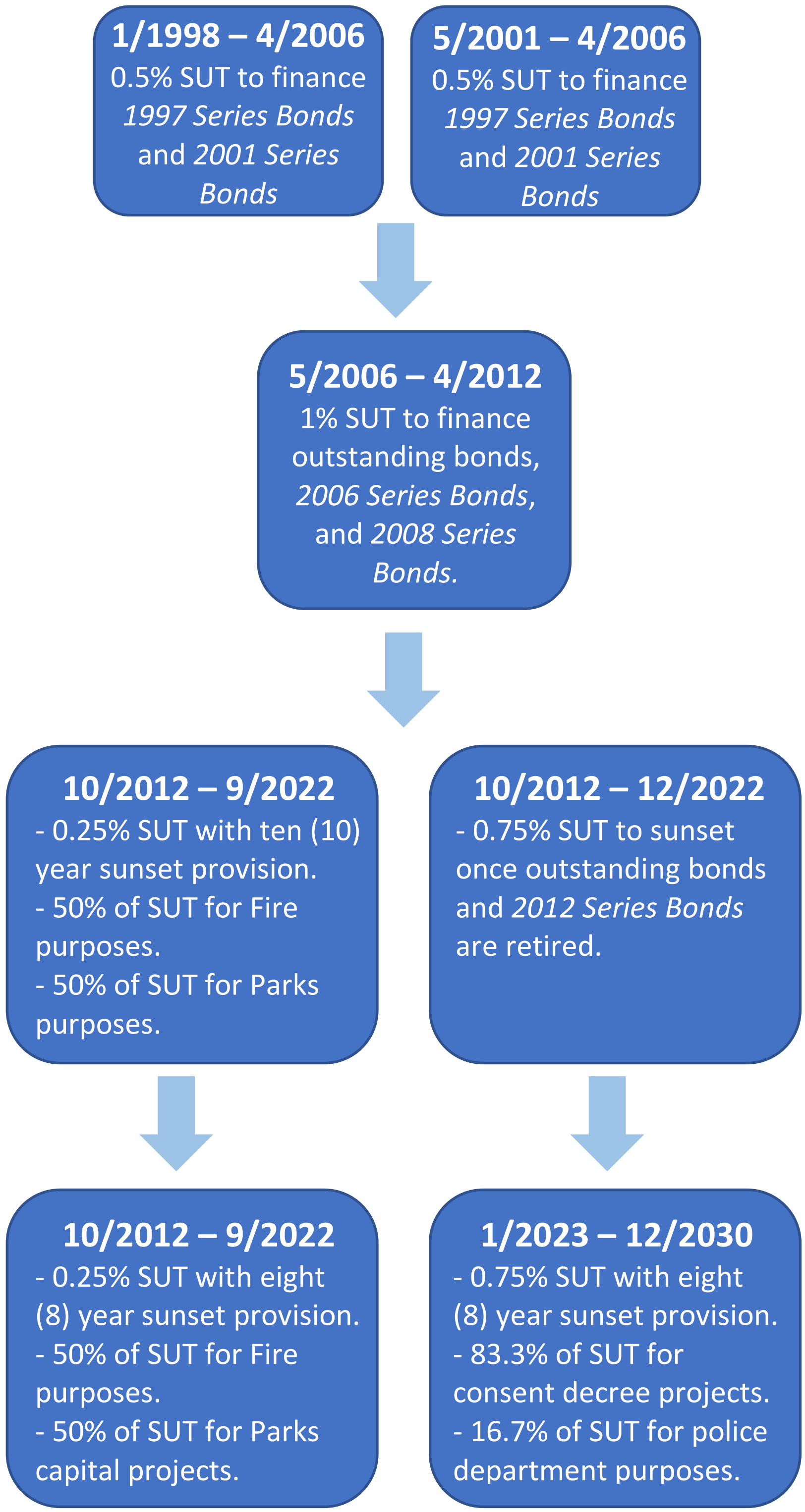
2. Extending the current 0.25% SUT for fire and parks purposes through September 31, 2030. Revenues are restricted to the following purposes:

    a. One-half of the 0.25% SUT, or 1/8%, is dedicated for "fire department purposes", which is the same language in the 2012 ballot measure. This language allows revenues to be used to fund both operating and capital expenses. Bond financing is a permitted use.

    b. One-half of the 0.25% SUT, or 1/8%, is dedicated for "park and recreation purposes capital improvement projects", which eliminates the use of funds for continued operational costs. Ongoing operational costs currently being funded by the 1/8% SUT will be transferred to the Parks Department's other operating budgets, which are primarily funded through the City's General Fund. Bond financing is a permitted use.

Because the City's 1% SUT for Streets, Drainage, and Bridges has remain unchanged since its inception, a flowchart depicting its progression is not necessary. However, the flowchart on the following page provides a summary of the progression of the other sunset taxes.

City of Fort Smith, Arkansas
Sunset Sales and Use Tax History



APPENDIX D

Case Study No. 4
Garland County of Arkansas

Taxing Authority
Garland County is authorized by the State of Arkansas to levy an income tax, property tax, and/or sales and use tax within its jurisdiction. The local sales and use tax is restricted to two purposes: 1) securing payment of bonds, and 2) any purposes for which the county's general fund may be used (Arkansas State Statute). These two purposes may also be used in combination. Garland County levies both a property tax and sales and use tax, which comprise the majority of the county's revenue portfolio (FY21 ACFR).

Sunset Tax
State law requires all local sales and use tax issues to be voted on and approved by citizens within the taxing jurisdiction. In 2011, voters approved the issuance of sales and use tax bonds, referred to as *Series 2011 Bonds,* in the amount of $41,240,000. Voters simultaneously approved a temporary 0.625% Sales and Use Tax to finance the bond issue. The temporary tax was to sunset once the bonds matured. The *Series 2011 Bonds* were paid off on March 1, 2017, two years prior to their projected maturity date. The tax continued to be collected through June 30, 2017, as State law requires sales taxes to begin and terminate on the first day of a new quarter

In 2016, voters approved another sales and use tax bond issue, referred to as *Series 2016 Bonds*, in the amount of $54,695,000. Collection began following the sunset date on the 0.625% SUT levied for the *Series 2011 Bonds*. The tax will remain in effect until the bonds are fully redeemed.

Primary Purpose and Uses of Sunset Tax
The *Series 2011 Bonds* were issued to construct a new detention facility and make any improvements to existing detention facilities. Any and all related expenses associated with the construction of the facility were approved uses of the bond funds.

The *Series 2016 Bonds* are restricted for the purposes of constructing new transportation infrastructure and making improvements to existing transportation infrastructure. Authorized uses of bond proceeds include streets, bridges, sidewalks, land acquisition, traffic control devices, etc. The "Martin Luther King Bypass" extension was the only project expressly listed on the ballot issue approved by voters.

The 0.625% sales and use tax has been used solely as "special obligations" to refund the bonds. As noted previously, the *Series 2011 Bonds* were paid off prior to their maturity date, but the revenues continued to be receipted for another quarter. These revenues were maintained in a special fund and were used towards the *Series 2016 Bonds*. The revenues pledged for the *Series 2016 Bonds* have been used solely to finance the bonds.

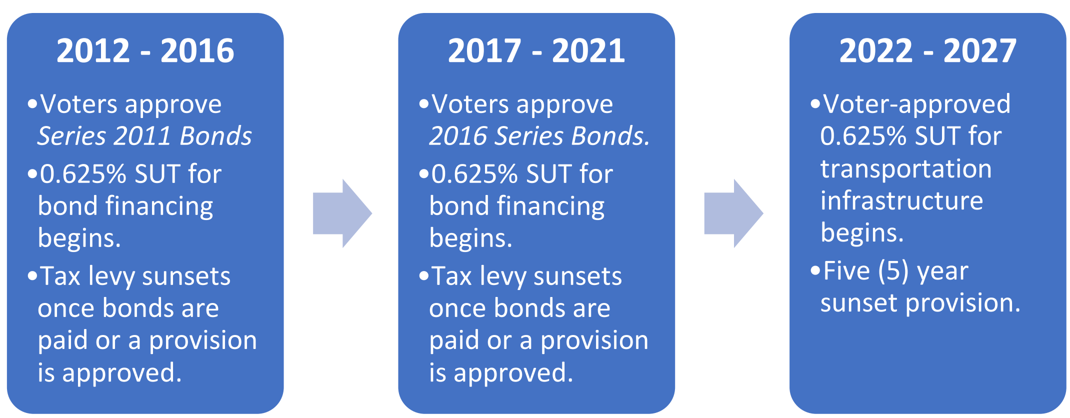
Current Status of Sunset Tax

The temporary 0.625% sales and use tax levied to finance the *Series 2016* bonds was to remain in effect until the bonds were retired. Actual revenues received exceeded estimates, allowing Garland County to retire its debt almost a year early, with collections sunsetting on June 30, 2022. This bond series was used primarily to extend an expressway, leaving interior roads unaddressed.

A committee known as "Our Roads Now" was formed in December 2021 to spearhead a campaign for a five-year sales and use tax to address the deteriorating streets. In accordance with State legislation, Garland County residents were asked to approve this temporary tax levy of 0.625%. Voters narrowly approved the tax with 52.65% of voters in favor of the ballot issue (Garland County Election Commission). The five-year "Road Improvements" 0.625% sales and use tax began July 1, 2022 and will continue through June 30, 2027. The tax is projected to generate approximately $70 million in revenue, which will be used as pay-as-you-go capital for transportation infrastructure. The authorized uses of tax revenues mimic those identified in the *2016 Series* bond issue, less the Martin Luther King Bypass extension being expressly mentioned. Provided this, it is assumed these revenues will not be used to fund any ongoing operational costs.

The figure below provides a summary of the progression of the sunset tax from its inception to current state.

Garland County, Arkansas
0.625% Sales and Use Tax



APPENDIX E

Case Study No. 5
Yakima County of Washington

Taxing Authority

Yakima County is authorized by the State of Washington to levy both a property tax and sales tax within their jurisdiction for specific purposes (Washington State Statute). Yakima County exercises their authority to impose both taxes. Taxes serve as the primary source of funding for the General Fund (FY19 ACFR).

Sunset Tax

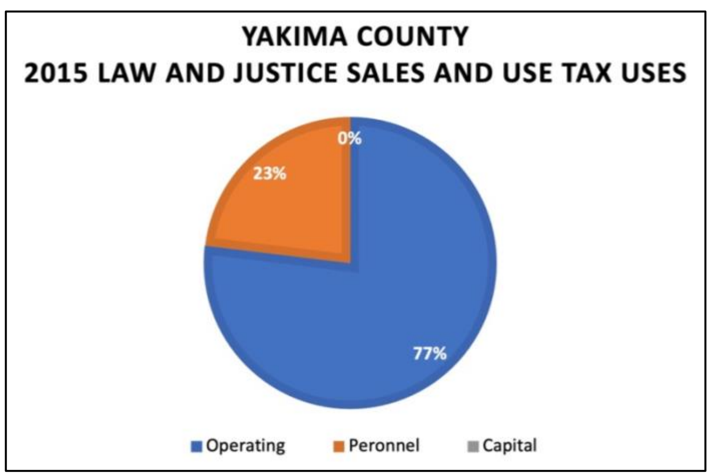
Yakima County levies a three-tenths percent (0.3%) sales and use tax (the maximum rate allowed) on all retail sales within the county for Public Safety. This SUT is known as the “Law and Justice Tax. Per State legislation, this tax category requires voter approval. When levied by a county, the county receives 60% of revenues and the remaining 40% is dispersed to cities within the jurisdiction on a per capita basis. Voters first approved the levy in 2004, with collection commencing in 2005 and sunsetting at calendar year-end 2010. Voters approved the extension of the sunset provision through 2016 and then again through 2022.

Primary Purpose of Sunset Tax

The Law and Justice Tax was presented to voters for “criminal justice purposes” at both the county and city/town level. For the purposes of this research project, only the revenue disbursement for Yakima County is analyzed. It is recognized the Law and Justice Tax is critical to the public safety operations for municipalities within the county.

Uses of Tax

The budget documents published on the County’s website do not provide sufficient detail on the actual uses (ex. personnel, operating, and capital) of the Law and Justice Tax. The information provided in the Annual Comprehensive Financial Reports (ACFRs) is limited to departmental uses and capital expenditures. Therefore, the Fiscal Year 2015 dispersal document provided on the Yakima County website is used for this section, as it provides a detailed description of the actual uses of the tax revenue.

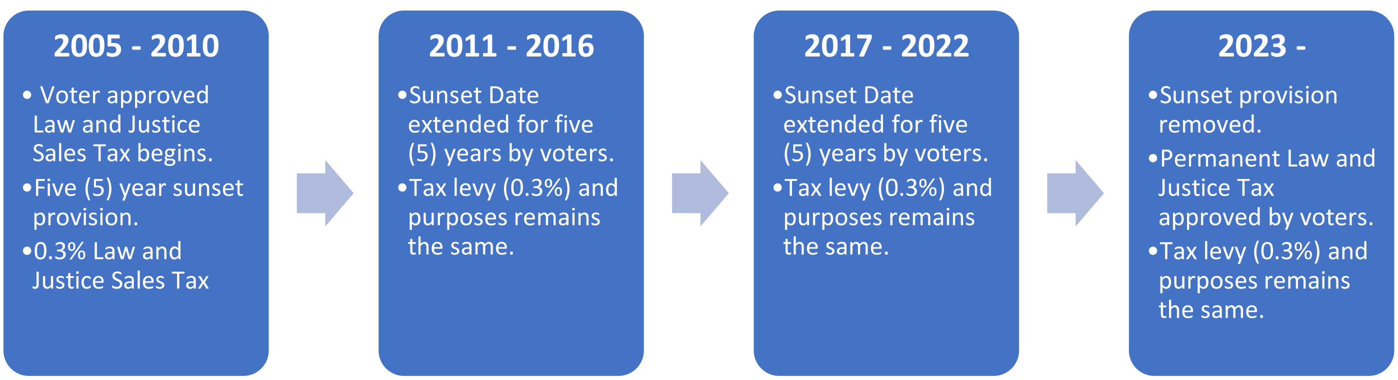


During FY15, Yakima County did not utilize revenues from the Law and Justice Tax for any one-time expenditures, i.e., capital. All revenues were used for ongoing operational costs. These costs include personnel, lease agreements, contracted attorneys, security, etc. The figure to the right provides a breakdown of the County's uses of the tax.

<u>Current Status of Sunset Tax</u>
Revenues receipted from the Law and Justice Tax have always been used to fund public safety operations in general; they were never limited to one-time expenditures. This tax has been used to fund personnel, equipment purchases, and general operating expenses (ex. facility leases). City officials noted the need for a stable funding source for local law enforcement during their 2021 campaign for the Law and Justice Tax. In lieu of another extension of the tax, Yakima County voters were asked to approve a *permanent tax* in November 2021. The transition to a permanent tax was approved by almost 70% of voters (Ferolito, 2021). A guaranteed revenue stream for law enforcement purposes is now established. This eliminates the uncertainty regarding future funding for operations (outside of standard revenue volatility).

The figure below provides a summary of the progression of the Law and Justice Tax from its inception to present-day.

Yakima County, Washington
0.3% Law and Justice Sales Tax



APPENDIX F

Internal Review Board Process

The Federal Policy for Protection of Human Subjects, generally referred to as "the Common Rule", establishes Internal Review Boards. IRBs exist to protect the rights and welfare of human subjects participating in research by following ethical principles and federal regulations. To be subject to review and approval of the IRB, an activity must meet the federal definition of both "research" and "human subjects". Activities also meeting the Food and Drug Administration (FDA) definition of "clinical investigation" are subject to the IRB process.

Research is defined as, "A systematic investigation...designed to develop or contribute to generalizable knowledge" (University of Kentucky). The meaning of "generalizable knowledge" is determined based on the researcher's intent, as there is no regulatory guidance (CITI Program). If the intent is to contribute to a body of knowledge or if the results are replicable, then the study satisfies the definition of research.

Human subjects are classified as living individuals about whom the researcher obtains information through intervention or interaction; or private or identifiable information is used during any point of the research process. Certain living individuals included in the research process are exempt from the human subject definition. This occurs when the individual is asked to provide specific information that is not based on opinions, characteristics, or behaviors. When human subjects are used to complete research, the IRB functions to ensure proper safeguards are in place to protect the human subjects.

Individuals must follow the guidelines established by the researcher's respective university to determine if their project is subject to the IRB process. This typically begins with human subject protection training to ensure the individual understands the applicability of the IRB process. If the individual's research project is subject to the IRB process, an application with specific information and/or forms is submitted for review by the IRB. Once the IRB Approval Letter is issued, the researcher is then authorized to conduct his or her research in accordance with the approved plan.

This research project does meet the definition of "research", as it investigates the use of the sunset provision in the local tax code to develop best practices. The resulting best practices are intended to contribute to generalizable knowledge. There is no direct or indirect interaction made with any individual(s) as part of this research project. Therefore, "human subjects" are not used in my research. Because the methods used to complete this research project do not satisfy both definitions for "research" and "human subjects", my research project is not subject to the IRB process.