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A Brief History of the Property Tax in Georgia

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I. Introduction

This report is an update of the chronology of the development of Georgia's property tax system that was published by the Fiscal Research Center in 2008. The state's current property tax can be traced back to legislation passed in 1852. This report begins by describing the tax system that existed prior to 1852 and discussing why that system was replaced. It then describes how that tax system evolved to what is now in place in Georgia, pointing out the significant changes that were made over the past 165 years.

For both the property tax that has existed since 1852 and its precursor, the state defined what property is taxed by the state and local governments. Local governments have no say regarding the definition of tax base, although the state has approved jurisdiction-specific deviations. Currently, local governments can choose only the tax rates they impose, although at times the state has even restricted this power. Thus, the discussion of the evolution of the property tax is really a discussion of state legislation. In general, no distinction is made between the local government property tax and the state property tax. Only for those few provisions that applied differentially to local governments does this report refer to local governments. However, these provisions no longer matter because in 2016 the state government ceased to impose a property tax for its own revenue purposes.[1]

II. The Pre-1853 Tax System in Georgia

The property tax as it now exists in Georgia has its origins in state legislation passed in 1852 that became effective in 1853. Prior to 1852, tax revenue was generated by a set of per unit and ad valorem tax rates that varied by type of property. While the general structure of the pre-1852 taxes existed well before the beginning of the 19th century (Schmeckebier 1900), the Tax Act of 1804 established the structure of tax rates. This general tax structure was used until 1852.

The Tax Act of 1804 established a set of specific tax rates on property for state tax purposes.[2] The state tax rates varied by the type and location of property, with some tax rates specified as a percentage of value and others as dollars per unit, e.g., per acre. For example, for tide swamp land of the first quality, the tax rate was 3 cents and 7 mills (3.7¢) per acre, while tide swamp land of the third quality was taxed at 7 mills per acre. Pine land adjoining such a tide swamp or within three miles of water carriage was taxed at 6 mills per acre. Taxes on other lands were based on the location of the land, usually specified by the rivers to which the land was adjacent. In all, there were at least 19 separate classifications of land, including all other pine land, many with tax rates that varied across three levels of quality.

[1] GA Laws 2010, pp. 9-84.

[2] The legislation is found in Cobb (1851, pp.1065-71).

Land that was not so enumerated was taxed at 31.25 cents per $100 of value, as were buildings located within the limits of any town, village or borough. Stock in trade (inventory) was also taxed at 31.25 cents per $100 of value. In addition, the following taxes were specified:

- $1 on four-wheel carriages
- 50 cents on two-wheel carriages
- $4 on practitioners of law or physic (i.e., a physician)
- $4 on all factors and brokers
- 18.75 cents per $100 of sales by factors and brokers
- 50 cents per $100 on funded stock of the United States

The act also specified a set of poll taxes (Cobb 1859).[3] The poll tax was set at 31.25 cents on free white males 21 years of age and over, free "negro, mulatto and mustizo" males 21 years of age and over, and all "negroes and other slaves" under the age of 60.[4]

Over the next 47 years, a number of changes to the tax rates were made. In 1807, the poll tax on free "negroes, mulattoes, and mustizoes" between the ages of 21 and 60 was set at $4. In 1825, free white males 60 years of age and over were exempted from the poll tax. In 1835, church lands and burying grounds were exempted. In 1842, a tax of $25 was imposed on billiard tables. In 1851, the poll tax on male citizens between 21 and 60 years of age was reduced to 25 cents, while the poll tax on every "free negro or free person of color" between the ages of 18 and 50 years of age was raised to $5, and the poll tax on each "negro or person of color nominally a slave," unless over the age of 60 or "valueless," was raised to $150. In 1850, taxes were imposed on sulkeys and buggies (50 cents), rockaway coaches or closed carriages ($1), two-horse stages ($4), stages over two horses ($6), omnibuses ($10) and heads of cattle owned by citizens of Florida and kept within Georgia (5 cents). In addition, during the period, taxes of 31.25 cents per $100 were applied to various financial capital, including bank stock and the stock of the Steamboat Company of Georgia and of railroads.

While the rate structure established in 1804 generally stayed in place, between 1805 and 1852, Georgia's revenue needs changed, and the state began collecting revenue on some fraction of the rates (Wallenstein 1987). In 1824, for example, the state rates were reduced in half. Following further reductions, in 1835 Georgia levied no property or poll tax to support state government, although the state did levy taxes, with the revenue given to county governments. This goal of a tax-free state government was reached when state revenue generated from investments in public enterprise, including state-owned railroads, was sufficient to finance the state government. However, by 1840, the state had to reimpose taxes, and by 1843, the state taxes were again 100 percent of the rates established in 1804.

County and municipal governments were allowed to levy tax rates equal to a percentage of the rates listed in the 1804 Act. At midcentury, county and municipal taxes in the aggregate roughly equaled those imposed by the state, and most counties imposed taxes close to 50 percent of the state rates (Wallenstein 1987, p. 42).

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[3] A poll tax is a tax levied as a fixed dollar amount per adult person. Payment of the poll tax and one's property taxes was a requirement to be allowed to vote. After Reconstruction, the poll tax was used as a means of disenfranchising blacks.

[4] A mustizo is a "child of a negro and an Indian."

III. The Adoption of the General Property Tax of 1852

In 1852, the state legislature adopted a new property tax system. Note that in 1852 the tax on property was the principal source of government revenue because there was no income tax in Georgia until 1929 or general sales tax until 1951. In the years leading up to the adoption of the 1852 legislation, there was a national debate over property taxation, and in particular over the issues of universality and uniformity. The argument was made that all property should be taxed (universality) and taxed at the same percentage of value (uniformity). In 1818, the general ad valorem property tax was born in the United States when Illinois became the first state to adopt a uniformity and universality provision in its constitution (Fisher 1996).[5]

The debate in Georgia regarding the structure of taxes was largely over the issue of uniformity.[6] A commission appointed by the legislature argued in 1839 that taxation should "be fair and equal, in proportion to the value of property, so that no one class of individuals, and no one species of property, may be unequally or unduly assessed."[7] Under the 1804 Act, tax uniformity did not exist. For example, the tax on a merchant's stock worth only $100 was the same as that paid by the owner of a slave, which generally were worth $500 to $1,000 (Wallenstein 1985, p. 465). The commission recommended that the set of miscellaneous specific taxes be replaced with an ad valorem general property tax.

A shift from the tax rate structure established in 1804 and its subsequent amendments to a general ad valorem property tax would shift the burden of taxation. Thus, the fight over a new property tax was a political one between the "winners" (town lots and merchants) and "losers" (rural land owners) of a shift to a general property tax. When the change was made, the distribution of the tax burden changed. Wallenstein (1985, p. 482) reports that taxes on slaves represented 49.1 percent of the tax imposed in 1849 (i.e., under the 1804 Act) but 42.3 percent under the ad valorem tax adopted in 1852. Taxes on rural lands went from representing 19.8 percent to 25.8 percent of taxes imposed, town lots went from 13.5 percent to 5.7 percent, and stock in trade went from 6.3 percent to 2.2 percent.

In 1852, the legislature replaced the tax system adopted in the 1804 Act with a general ad valorem tax.[8] The tax system adopted in 1852 is the basis of the property tax that currently exists in Georgia, although many substantive changes have been made over the past 165 years. The 1852 legislation imposed a uniform tax on the market value of all real and personal estates, whether owned by residents or nonresidents or by individuals or corporations. Real estate included land and buildings, mines, minerals, fossils and quarries. Personal property included both tangible and intangible property, including chattels, money, debt due, accounts receivable, public stocks, capital invested, "Negro slaves," pleasure carriages, and goods, wares and merchandise. Certain property was exempted, including: plantation and mechanical tools; $300 of household items; poultry and libraries owned by individuals; $200 of other property; wearing apparel; annual crops and provisions; firearms and other instruments; munitions of war not held for resale; lands belonging to the U.S. or Georgia governments; colleges, incorporated

[5] Fisher (1996) provides a history of the property tax in the United States, including the movement to adopt uniformity and universality.

[6] Wallenstein (1985) provides a history of the adoption of the ad valorem tax in Georgia.

[7] Quoted in Wallenstein (1985, p. 465).

[8] The original legislation can be found in Cobb (1859, pp. 659-661).

academy or seminary of learning; property used for public worship; books and philosophical apparatus not held for resale; every poor house, alms-house and house-of-industry; real or personal property belonging to any charitable institution; public libraries and other literary associations; and stocks owned by the state.

The 1852 legislation also imposed new poll tax rates. Free persons of color between the ages of 18 and 50 were taxed at $5, while male citizens between the ages of 21 and 60 years were taxed at 25 cents. (The poll tax was repealed in 1945.[9]) There was also a $5 tax imposed on practitioners of law, dentistry, and physic, and Daguerreian artists (i.e., photographers).

Taxpayers were required to file a return listing their property subject to the property tax and the value of the property. Counties were required to have a tax-receiver to whom the taxpayer returned property for taxation.[10] Some property was returned to the state comptroller-general, namely the property of railroads, street railways and telegraph, telephone, sleeping car and express companies.

In making an annual return of property, the owner was required to answer a set of questions regarding ownership of various types of property and the value of the property owned.[11] If a person failed to make a return or failed to affix a value, the tax-receiver would assign a value and double the tax. If the tax-receiver found that the return was below market value, the tax-receiver was required to increase the assessment and so notify the taxpayer.

This system of self-assessment led, as one would expect, to underreporting of value and to inequities in tax burdens. Schmeckebier (1900, p. 230) describes some of the assessment inequities. He reports, for example, that in 1878 cultivated land of the same condition was valued at an average of $19.61 per acre in Bibb County and at $9.18 per acre in Muscogee County. He also notes that self-assessment was relied on for county and state tax purposes, but that in cities valuations were made by assessors. Furthermore, substantial amounts of certain types of property, particularly personal property, both tangible and intangible, escaped taxation.

At the end of the 19th century, the property tax was the primary revenue source for the state. Of the $2.6 million of state tax revenue, $1.9 million (73.8 percent) came from the property tax. Another $234,000 was from the poll tax. Most of the rest of the tax revenue came from taxes on railroads, liquor and insurance companies (Schmeckebier 1900, p. 218). Property taxes comprised an even larger share of revenue for local governments. For example, in 1900, property taxes were $228,925, or 97.9 percent of all revenue, for Fulton County (Manners 1943), and in 1903, property taxes represented $872,728, or 78.4 percent, of all revenue for the city of Atlanta (City Comptroller 1904).

[9] GA Laws 1945, pp. 129-135.

[10] The use of the term "return property" persists today, even though most property owners do not "file a return," but rely on the tax assessor to provide the value of the property.

[11] Schmeckebier (1900) provides the list of questions.

IV. Post-1853 Changes in the General Property Tax

Since the implementation of the general property tax in 1853, the state has made many changes to the structure of the property tax. This section focuses on the changes since 1900 and considers three categories of change. First, over the years, the state has improved the administration of the property tax, particularly the assessment process. Second, the state has moved away from the principle of universality by eliminating various categories of property from the tax base. Third, the state has moved away from the principle of uniformity by allowing differential treatment of property.

ADMINISTRATION OF THE PROPERTY TAX[12]

At the end of the 19th century, the property tax was essentially an exercise in self-assessment. Self-assessment led to considerable variation across properties in the ratio of assessed value to market value as well as to substantial underreporting of property. As a result, in 1913, the state legislature created the position of Tax Commissioner, whose duty was to equalize the returns from the different counties.[13] (This legislation led to tax digests being rejected by the state.[14] However, by 1920 the state took the position that it was not required to reject tax digests, and thus ceased to do so until the 1960s.) In addition, each county was directed by the 1913 legislation to appoint three tax assessors responsible for supervising returns and searching for concealed property (Brooks 1972 c1913, p. 359). The taxpayer could appeal through a three-person arbitration panel, with the taxpayer appointing one member, the tax-receiver appointing a second, and the two appointees selecting the third. (This appeals procedure remained in place until 1972.) The valuation established by the panel was final: The taxpayer could not appeal to the courts. Not until the 1937-38 extra legislative session did the state legislature add an appeal to the courts as part of the appeals process.[15]

From about 1920 until the late 1960s, the state did not provide oversight of the assessment process. Thus, essentially individuals declared their own property values, with the expected result of underreporting and wide differences in the ratio of reported value to actual value.[16] The situation began to change in the 1960s. First, because of the poor quality of the assessment process, many counties and school systems were having to levy tax rates in the 60 to 70 mill range. And many, if not most, did not have records good enough to know which properties were assessed and which were not on the digest. The state, therefore, created a County Revaluation Loan Program that allowed counties to receive an interest-free loan from the state, contract with an approved reappraisal company for a complete mapping and reappraisal of all properties in the county, and have the state inspect and approve the work as it was being done. During the 1960s, most counties conducted these revaluation programs. Even though the statute at the time did not provide for fractional assessments, the counties that used the

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[12] This section benefited from communications with Jack Morton, former deputy commissioner for the Department of Revenue.

[13] GA Laws 1913, pp. 123-134

[14] Tax digest refers to a list of properties and property values in a jurisdiction. The digest is essentially the property tax base.

[15] GA Laws Extra Session 1937-38, pp. 145-150.

[16] Sapp (1963) reported that taxpayers did not return property at fair market value. In Pulaski County, 65 percent of property was completely homesteaded, with a returned value of $2,000, i.e., the value of the homestead exemption. After a revaluation, the tax digest was reduced by only 10 percent due to homestead exemptions.

state revaluation program agreed by contract to set a ratio of no less than 30 percent and no more than 40 percent based upon the revaluation results.

Second, as a part of a new, basic foundation program for school funding, the state auditor in 1965 conducted the first statewide sales ratio study, a study mandated for each county by the state legislature in 1964.[17] The study compared the sales price of property to the assessed value of the property in the subsequent year. Over time, the procedures for conducting the study changed, but a sales ratio study is now conducted each year and is used to equalize property tax digests across counties for school funding purposes and by the revenue commissioner in his or her review of the property tax base.

Based upon the results of the published sales ratio study and the knowledge gained from the county digest revaluations, the Georgia State Revenue Study Committee (1966) reported wide variations in the ratio of assessed value to market value across and within counties. The ratio study reported average assessment ratios ranging from 5.02 percent to 42.38 percent (Georgia County Government 1965). Statewide, the average ratio of assessed value to fair market value was only 21.3 percent.

The significant amount of statistical data available on actual assessment ratios and the heightened awareness of the shortcomings in the assessment process led to a suit that was filed by Alex McLennan in the Superior Court of Fulton County challenging the variation in assessment ratios as a violation of the uniformity provision of the Constitution. The linchpin for the suit was the language of the uniformity provision requiring all taxation to be uniform within the limits of the jurisdiction levying the tax, and because the state levied a tax of 0.25 mills, statewide uniformity was required. The court ruled in 1965 in favor of the plaintiffs, directing State Tax Commissioner Hiram Undercofler to equalize all county assessments at the same level.

Undercofler decided to require that each county achieve an assessment ratio of 40 percent. He argued that requiring all counties to assess property at 100 percent would affect all counties and that setting an assessment ratio of less than 40 percent would affect those counties that had conducted a reassessment (Undercofler 1965). Thus, he was prepared to require all counties to assess property at 40 percent of fair market value. In 1966, legislation was passed requiring equalization between counties and across classes of property, but implementation of the equalization was delayed for one year.[18] The Superior Court then ordered that compliance with the new tax equalization law be delayed until March 1967 (Brown 1966).

In 1968, legislation was passed setting 40 percent as the required ratio of assessed value to fair market value for state and county property taxes; the legislation did not apply to municipalities.[19] In 1972, legislation was passed that required municipalities to adopt the 40 percent assessment rate, unless the municipality had used a higher assessment rate in 1971; there were 12 such municipalities.

Substantial changes in the administration of the property tax were legislated in 1972. Many of those changes had been proposed by the Georgia State Revenue Study Committee (1966). First, counties became the sole assessors for all property within a county. Legislation passed in 1890-91 had allowed municipalities to appoint their own assessors; by the late 1960s, about 400 municipalities were conducting their own assessments for their property tax (Georgia State Revenue Study Committee

[17] GA Laws 1964, pp. 706-711.

[18] GA Laws 1966, pp. 45-47.

[19] GA Laws 1968, pp. 358-360.

1966). The assessed values the municipalities derived differed from the assessed values assigned by the county. The 1972 legislation removed municipalities from the assessment business by requiring municipalities to use the assessed value determined by the county.[20] Legislation was passed in 2015 that allowed two or more counties to have a joint assessment staff conduct the assessments in each of the counties.[21]

Second, the state established criteria for the minimum number of appraisers each county must employ (based on the number of parcels in the county)[22] and for the initial and continuous training of assessors and appraisers and their certification.[23] The state also created a fund to pay part of the cost of the minimum staff in each county. Third, a state board of equalization was created to hear and adjudicate property tax appeals for companies that return property to the state revenue commissioner.[24] In addition, county boards of equalization were created to hear and adjudicate property tax assessment appeals.[25] This replaced the arbitration procedure that had been in place since 1913. In 2009, the state allowed binding arbitration, although this option does not preclude appeals to superior court.[26]

Fourth, a procedure known as factoring was imposed to ensure that the property tax digest in each county was assessed at 40 percent of fair market value. If the state concluded that a category of property in a county was assessed at less than 40 percent, the state would require that the county adjust (factor) the appraised value of all properties within that property class by a common factor so that the ratio of assessed value to fair market value for the class was 40 percent. However, the procedure did not address the lack of uniformity in assessments across properties within a county.

While the 1972 legislation improved the assessment process, there was still wide variation in assessment ratios within and between counties. The continuing concern over the equities in assessments led in 1988 to another significant set of legislative changes in the administration of the property tax.[27] This legislation specified new procedures for reviewing and approving property tax digests and charged the state revenue commissioner with ensuring uniformity and equalization between and within counties. The commissioner was given the responsibility to measure the quality of the assessment based on three factors: how close the actual assessment ratio was to 40 percent, the amount of variance in the actual assessment ratios across parcels within each property class, and the amount of bias in assessments. The legislation went on to specify that if the commissioner disapproved the digest, i.e., if the commissioner ruled that a county's digest was not appropriately valued, then the county was required to correct the digest by the following year. Even if the digest was disapproved, the county could use the digest to collect property taxes. If the county did not correct the digest, then the commissioner could withhold certain state grants in the following year. The legislation also set up a process that counties could use to appeal the commissioner's decision. An Ad Valorem Assessment Review Commission, composed of five members from each congressional district and appointed by the governor, was established. If an appeal

[20] GA Laws 1972, pp. 1103-1104.

[21] GA Laws 2015, pp. 1219-1261.

[22] GA Laws 1972, pp. 1104-1114.

[23] GA Laws 1972, pp. 1114-1118.

[24] GA Laws 1972, pp. 1120-1124.

[25] GA Laws 1972, pp. 1094-1101.

[26] GA Laws 2009, pp. 216-223.

[27] GA Laws 1988, pp. 1763-1775.

was made, the chairman of the commission was to appoint an appeals board from the membership of the commission.

In 1992, the review procedures were modified by the legislature.[28] The legislation established a three-year cycle for conducting a systematic review of each county's property tax digest. For example, if Fulton County was reviewed for deficiencies in 1992, it would have until 1995 to correct said deficiencies. Instead of rejecting a digest, the new procedures specified that the revenue commissioner could either accept the digest or, if there were deficiencies, conditionally accept a county's digest. If conditionally accepted, the county had until the next review year to correct the deficiencies. The legislation specified that if the actual assessment ratio was less than 40 percent, the county would be required to pay the difference between the actual property tax revenue the state collected from its 0.25 mill property tax rate and the amount the state would have collected if the digest had been assessed at 40 percent. If the county did not fix the deficiencies by the next review year, then in addition to withholding certain grants, the commissioner was further authorized to impose a $5 per parcel penalty. The legislation also changed the appeal procedures, replacing the Ad Valorem Assessment Review Commission with a hearing officer appointed by the State Board of Equalization.

Originally, the Georgia Code simply said that the property tax was imposed on the fair market value, but it did not include a definition of fair market value. However, by 1910, the code specified that the value would be the amount realized from a cash sale as normally conducted, but not a forced sale. In 1991, a new definition of fair market value was adopted: "the amount a knowledgeable buyer would pay for the property and a willing seller would accept for the property at an arm's length bona fide sale."[29]

In 1975, the state began to specify a list of conditions that had to be considered in assessing property, including zoning, existing use and restrictions on use.[30] In 2009, the state added certain non-arms' length sales, such as foreclosures and bank-owned sales, to that list.[31] Foreclosures were deleted from the list in 2010.[32]

Since 1852, and particularly since 1972, the state has greatly improved the administration of the property tax. Concerns regarding underreporting of property values and the resulting inequities in the taxes imposed on properties of similar value led to much greater state oversight of the assessment process. These legislative changes, along with advances in the ability to conduct mass appraisals, have substantially improved the equity of assessments.

UNIVERSALITY

One of the principles that drove the structure of the 1852 legislation was that, with a few exemptions, all property should be subject to the property tax. During the first 100 years or so after the property tax was established, the state largely clung to that principle. For example, as different forms of intangible assets came into use, they were added to the tax base. The constitutions that the state adopted over the years since 1852 have all reflected the principle by specifying that all property was to be subject to

[28] GA Laws 1992, pp. 2494-2504.

[29] GA Laws 1991, p. 1903.

[30] GA Laws 1975, p. 96.

[31] GA Laws 2009, pp. 27-31.

[32] GA Laws 2010, pp. 1104-1135.

the property tax unless an exemption was approved by a referendum. However, changes were made over the years, particularly after 1945.

Consider first the list of explicitly exempted property. While some of the language changed, there were relatively few changes to the list of exempt property between 1853 and 1945. The 1945 Constitution (Paragraph IV) listed the following exemptions:

- all public property;
- places of religious worship or burial;
- all institutions of purely public charity;
- all intangible personal property owned by or irrevocably held in trust for the exclusive benefit of religious, educational and charitable institutions, no part of the net profit from the operation of which can inure to the benefit of any private person;
- all buildings erected for and used as a college, incorporated academy or other seminary of learning, and also all funds or property held or used as endowment by such colleges, incorporated academies or seminaries of learning;
- the real and personal estate of any public library, and that of any other literary association, used by or connected with such library;
- all books and philosophical apparatus and all paintings and statuary of any company or association, kept in a public hall and not held as merchandise or for purposes of sale or gain; and
- farm products, including baled cotton grown in this state and remaining in the hands of the producer, but not longer than for the year next after their production.

Since 1945, several addition exemptions have been approved by the voters. These additions and the year in which the legislation was enacted are listed below:

- property of nonprofit hospitals (1947);[33]
- single-family residences owned by religious groups (1955);[34]
- air and water pollution control equipment (1966);[35]
- nonprofit homes for the aged (1977);[36]
- nonprofit homes for the mentally disabled (1984);[37]
- the state headquarters of the PTA (1984); [38]
- property owned by and used for a headquarters, post home or similar facility of a veterans' organization, i.e., VFW (1994);[39]
- property owned by the Masons and used for charitable and fraternal purposes (1995);[40]

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[33] GA Laws 1947, pp. 1183-1186.
[34] GA Laws 1955, pp. 262-264.
[35] GA Laws 1966, pp. 993-994.
[36] GA Laws 1977, pp. 1152-1154.
[37] GA Laws 1984, pp. 1253-1254.
[38] GA Laws 1984, pp. 520-522.
[39] GA Laws 1994, pp. 965-967.
[40] GA Laws 1965, pp. 233-234.

- property owned and used by an organization that refurbishes historic military aircraft (2006);[41] and
- buildings and up to 15 acres of land owned and used exclusively by a public charity for securing income so long as the income is used exclusively for the operation of the charitable institution (first passed in 2006, revised in 2007).[42]

Farm products remaining in the hands of the producer for up to one year remain exempt, but 2000 and 2006 referenda added farm tractors, combines and all other farm equipment other than motor vehicles. These exemptions apply only to family-owned farms.

Many of these additional exemptions are consistent with the nature of the original list, which included property used for charitable, religious or educational purposes, and government property. But many of the additions to the list carved out exemptions for specific organizations or for family farms.

Other changes have affected property that was partially exempted. The original 1853 legislation exempted $300 of household items. A 1937 constitutional amendment provided the following exemption: "All personal clothing, household and kitchen furniture, personal property used and included within the home, domestic animals and tools, and implements of trade of manual laborers, but not including motor vehicles, are exempted from all state, county, municipal and school district ad valorem taxes, in an amount not to exceed $300.00 in actual value."[43]

In 1970, this provision was changed.[44] The new constitutional provision allowed the General Assembly to exempt all personal clothing and effects, household furniture, furnishings, equipment, appliances and other personal property used within the home, if not held for sale, rental or other commercial use.[45] Thus, rather than being part of the $300 exemption, all household personal property was exempted. The $300 exemption was retained for "tools and implements of trade of manual laborers and domestic animals." In 2000, "tools and implements of trade of manual laborers" was carved off and the exemption limit increased to $2,500.[46] The $300 exemption limit continued to apply but only to domestic animals.

In 1986, the state exempted personal property of a taxpayer — other than motor vehicles, mobile homes and trailers — if the total fair market value was $500 or less.[47] The limit was increased to $7,500 in 2003.

The state passed legislation in 2012 that began the process of removing motor vehicles from the property tax base. Vehicles titled in the state after 2012 were exempt from the ad valorem tax system.[48] Vehicles titled between Jan. 1, 2012, and Mar. 1, 2013, were initially included in the ad valorem base but

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[41] GA Laws 2006, pp. 235-237.

[42] GA Laws 2006, pp. 376-379.

[43] GA Laws 1937, p. 38, ratified 1937.

[44] GA Laws 1970, pp. 990-992.

[45] This exemption was promoted by Governor Maddox as a form of property tax relief (Ball and Bennett 1969). It was reported that household furnishings were ignored in most counties (Undercofler 1965).

[46] GA Laws 2000, pp. 470-471.

[47] GA Laws 1986, pp. 878-879.

[48] The legislation applied to new and used vehicles and vehicles titled as part of a transfer of title because of inheritance, change of residence or other circumstance. The legislation did not apply to corrected titles, replacement titles or titles reissued to the same owner.

had the option of leaving the ad valorem system by Feb. 28, 2014, if certain conditions were met.[49] In place of the property tax on motor vehicles, the state adopted a title fee, which is based on the market value of the motor vehicle and is paid when a vehicle is titled.[50]

The changes in personal property exemptions reflected several realities. First, inflation had eroded the value of the exemptions. Second, assessing household effects was very difficult. When the state relied on self-assessments, people grossly undervalued personal property. When a county assessor was responsible, the assessor had no information on which to base an assessment. Thus, it became impractical to assess personal household property. Third, many other states had exempted personal household effects.

Over time, a variety of exemptions for businesses were granted. In 1924, a constitutional amendment authorized cities and counties to exempt new buildings and equipment used in the manufacturing or processing of cotton, wool, linen, silk, rubber, clay, wood, metal, mineral, milk or electricity for five years.[51]

Beginning in 1976, the state began to adopt provisions to exempt inventory from the property tax. In 1976, the Georgia Constitution was amended to provide for a Freeport exemption, which allows an exemption of some percentage of certain classes of inventory from the local property tax.[52] The three classes of inventory that can be exempted are 1) a manufacturer's inventory in the process of manufacture, 2) finished goods manufactured in Georgia still held by the manufacturer, and 3) finished goods in warehouses awaiting out-of-state shipment. The 1983 Constitution continued the exemption but specified that the implementation and administration were to be specified by general law. In response, the legislature passed such legislation in 1984.[53] Freeport exemption is a local option tax exemption. The local government may choose, subject to voter approval, an exemption of 20 percent, 40 percent, 60 percent, 80 percent or 100 percent. A separate referendum must be held for each of the three classes of inventory.

A second level was added to the Freeport exemption in 2012. This legislation made it a local option to exempt business inventory from the property tax.[54] In 2016, the Freeport exemption was expanded to include inventory held in fulfillment centers.[55] In 2009, the state exempted all inventory from the state ad valorem tax.[56] Watercraft held in dealers' inventory was permanently exempted in 2016; prior to 2016, this exemption had been temporarily adopted.[57]

In 1982, two related amendments to the Georgia Constitution were passed. The first allowed the General Assembly to provide by local law for the exemption of inventory located in the city of Atlanta's

[49] Residents who chose to opt their vehicle out of the ad valorem system had to pay the difference between the amount of ad valorem and sales and use tax paid in 2012 and if applicable 2013 and 2014 and the amount of state and local title ad valorem tax that would have been due if the vehicle was registered after Mar. 1, 2013.

[50] GA Laws 2012, pp. 257-302.

[51] GA Laws 1923, pp. 67-69; ratified Nov. 4, 1924.

[52] GA Laws 1976, pp. 1755-1759. See Coalson (1991) for a discussion of the Freeport exemption.

[53] GA Laws 1984, pp.1058-1066.

[54] GA Laws 2012, pp. 249-247.

[55] GA Laws 2016, pp. 731-736.

[56] GA Laws 2009, pp. 674-675.

[57] GA Laws 2016, pp. 731-736.

enterprise zones.[58] The second amendment allowed the General Assembly to treat real property located in the city of Atlanta's enterprise zones as a separate class of property and thus to exempt it.[59] The exemption applied to county and city property taxes but not the property tax levied by the school system or by the state. In 1996, a constitutional amendment was passed that expanded the enterprise zone program to the entire state.[60]

The 1877 Constitution provided an exemption of $1,600 in real or personal property. In 1937, the state adopted the current $2,000 homestead exemption. Since 1937, the state, through voter referenda, has adopted several additional homestead exemptions. Many of these new exemptions apply only to low-income elderly home owners.[61] In general, the homestead exemptions only apply to state, county and county school system property taxes, although there are some exceptions. Listed below are the current state homestead exemptions and the year they were adopted by the state legislature:

- Standard homestead exemption (1937).[62] This is the basic homestead exemption and is $2,000, a value that has not changed since it was established in 1937.
- Disabled veteran (1957) and surviving spouse exemption.[63] The owner must be a disabled veteran or un-remarried surviving spouse or minor children. The value of the exemption is $50,000 ($77,037 for 2017). The surviving spouse exemption was added in 1957.
- Low-income elderly exemption (1964).[64] Owners must be 65 years of age or over and have a family income of less than $10,000. The homestead exemption is $4,000 for non-school property taxes.
- Low-income elderly education exemption (1974).[65] The owner must be 62 years of age or over and have a family income of less than $10,000. The homestead exemption is $10,000 for school property taxes only.
- Floating homestead exemption (1994).[66] This exemption equals the increase in assessed value, other than due to an expansion or renovation, since the date the property became eligible for the exemption. The value of the exemption is reset to zero when the property is sold or transferred other than to a spouse. In effect, this homestead exemption means that the taxable value of the property does not increase. Eligible homeowners must be 62 years of age or over and have family income of less than $30,000. This exemption applies only to state and county taxes, not to taxes levied by schools or municipalities. This exemption cannot be used with other homestead exemptions.
- Surviving spouse exemption (2000).[67] An un-remarried surviving spouse of a member of the armed forces who was killed in action is allowed a $50,000 ($77,037 for 2017) homestead exemption. The exemption applies to all property taxes.

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[58] GA Laws 1982, pp. 2645-2647.

[59] GA Laws 1982, pp. 2647-2648.

[60] GA Laws 1996, pp. 1666-1667. There was a failed attempt to pass this amendment in 1986. For a discussion of enterprise zones in Georgia, see Cavanagh (1985-86).

[61] Homestead exemptions that are means-tested do not use a common definition of income.

[62] GA Laws 1937, pp. 1122-1124, ratified June 8, 1937.

[63] GA Laws 1957, pp. 72-77.

[64] GA Laws 1964, pp. 939-940.

[65] GA Laws 1974, pp. 1649-1652.

[66] GA Laws 1994, pp. 400-403.

[67] GA Laws 2000, pp. 799-802.

- Elderly exemption (2006).[68] Owners who are 65 years of age or over are allowed a 100 percent exemption from the state property tax.
- Surviving spouse of a peace officer or firefighter (2006).[69] An un-remarried surviving spouse of a peace officer or firefighter killed in the line of duty is granted a homestead exemption equal to the full value of the home.
- Surviving spouses or children of any disabled veteran (2009). The exemption is in the amount of $32,500 ($77,037 for 2017) and applies to any subsequent homestead within the same county.[70]

Many local governments (counties, school systems and municipalities) have been granted authority to adopt other homestead exemptions or to modify the state homestead exemptions. Local government homestead exemptions require separate state legislation and then approval in a local referendum, and they only apply to the particular government's property tax. The nature of these local homestead exemptions varies widely but some commonalities exist.[71]

- Most but not all municipalities have established homestead exemptions.
- A number of school systems, particularly in the Atlanta area, provide a 100 percent homestead exemption from school property taxes for the elderly.
- Since 2001, a number of jurisdictions have adopted a floating homestead exemption. (While similar in practice, these are distinct from the state floating homestead exemption discussed above.) Such exemptions are in place for 14 school systems, 16 municipalities and 25 county governments. These floating homestead exemptions are in addition to other homestead exemptions that might apply.
- In Columbus-Muscogee County, a local constitutional amendment was passed in 1981 that freezes the assessed value for homesteaded property until the property is sold or transferred, other than to a spouse. Homeowners are also eligible for other homestead exemptions that might apply.[72]

As noted above, after the 1852 legislation establishing the ad valorem tax was passed, the state specified additional intangible properties that would be taxed. However, by the end of the century, calls were being made for treating intangible property differently. In 1899, 1919, 1923 and 1929, special tax commissions advocated classifying intangible property as a separate category, with all commissions arguing that taxing intangibles at the then current rates was confiscatory (Brooks 1946, p. 18). Proposed amendments to accomplish that were defeated at the polls in 1930 and 1935. Finally, in 1937, the Georgia Constitution was amended to allow intangible property to be treated as a separate category, and subsequently, intangible property was taxed at special statewide rates.[73] Money was taxed at 10 cents per $1,000 and notes at $1.50 per $1,000. In 1942, loans and stocks were added to the base, with loans taxed at 50 cents per $1,000 and stocks at $1 per $1,000. Accounts receivable were added in 1950 and taxed at $3 per $1,000. In 1953, the state established a separate recording tax on long-term notes (three years or more) at a rate of $1.50 per $500 or fraction of face value.[74] In 1967, the state

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[68] GA Laws 2000, pp. 376-379.

[69] GA Laws 2006, pp. 1104-1108.

[70] GA Laws 2009, pp. 646-647.

[71] See Banzhaf, Mickey, and Patrick (2010) for a discussion of age-based property tax exemptions.

[72] GA Laws 1981, pp. 1926-1928.

[73] GA Laws 1937, pp. 39-41; ratified June 8, 1937.

[74] GA Laws 1953, pp. 379-390.

adopted a real estate transfer tax at a rate of $1 on the first $1,000 and 10 cents on each additional $100 of fair market value.[75]

Eventually the state began slowly reducing the intangible personal property assets that were subject to the tax (Georgia Tax Reform Commission n.d.), until 1996, when the state completely eliminated the intangible tax.[76] This was done in part because the intangible tax as it was then structured was declared unconstitutional.[77]

Taxpayers were required to self-report the value of intangible assets that they owned. These reports were subject to possible audit, but there was substantial underreporting of the intangible tax, as noted by the Georgia Tax Reform Commission (n.d.). In addition, most other states had eliminated the tax on intangible personal property. Both of these factors played into the decision to eliminate the property tax on intangibles.

UNIFORMITY

The principle of uniformity — the principle of applying the same effective property tax rate on all property — was generally held to until 1983. Since then, a few exceptions have been granted. "Uniformity" would mean that the ratio of taxes paid to market value, or what is called the effective tax rate, is the same across properties within a jurisdiction. The effective tax rate can differ between properties as a result of exemptions such as homestead exemptions, different assessment ratios or different tax rates. The same tax rate is applied to all property within a jurisdiction (whether it is a municipality, a community improvement district, a special service district, etc.), so this is not a source of a lack of uniformity. Partial exemptions, such as for certain inventory and homesteaded property, will lead to different effective tax rates. Such exemptions were discussed in the previous section and, thus, are not discussed in this section. Instead, this section focuses on exemptions that result in the ratio of assessed value to market value being different from 40 percent.

The first exception, adopted in 1983, was provided for tangible real property used for bona fide agricultural uses.[78] The provision, which applies to certain family farms, specifies that such farms are assessed at 75 percent of the value at which other property is assessed, i.e., at 30 percent rather than 40 percent.

A second exception was made in 1991, when certain property was allowed to be taxed on 40 percent of current use value[79] rather than fair market value.[80] The Conservation Use program applies to certain agricultural land, timberland and environmentally sensitive land, and the Residential Transitional program applies to certain single-family properties. The owners have to agree not to change the use of the property for 10 years.

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[75] GA Laws 1967, pp. 788-792.

[76] GA Laws 1996, p. 1665.

[77] The court ruled that the intangible tax violated the interstate commerce clause because of the special treatment of the stock of Georgia firms.

[78] GA Laws 1983, p. 1850-1856.

[79] *Current use value* is the price that a property would sell for if the future owner had to use the property in its current use, which may not be its highest and best use.

[80] GA Laws 1991, pp. 1903-1935.

A constitutional amendment and enabling legislation were passed in 2008 establishing a Conservation Use program for forest land. Like the other Conservation Use program, the taxable value is based on 40 percent of the current use value and requires a 15-year covenant.[81]

A third exception is the tax treatment of timber. In 1990, the Association County Commissioners of Georgia reported that the income from tree harvesting would not cover the property taxes given a 20-year growing cycle. Furthermore, the proper appraising of the value of timber faced serious technical and administrative difficulties. In 1991, the state shifted from taxing timber based on 40 percent of current market value to taxing timber on 100 percent of fair market value at the time of harvest.[82]

A further special treatment was adopted in 1988 and relates to property that is declared to be historic.[83] Such property is valued for eight years after acquisition at the greater of the purchase price or the appraisal of fair market value at the time it is certified by the Department of Natural Resources. Finally, in 2002, legislation was passed under which brownfield property (i.e., contaminated property) is valued for 10 years at the lesser of the purchase price or the appraisal of fair market value.[84]

In 2003, a special treatment for brownfields was adopted. Under this program, the property's assessed value is set for 10 years at the minimum of the acquisition cost or the assessment based on fair market value at the time of application to the program.[85] In 2012, legislation was adopted that extended the period for brownfield preferential assessment for one year for each 365 days of construction inactivity for a maximum of five consecutive years.[86]

In 2009, the state adopted an assessment freeze policy that lasted three years.[87] The policy meant that any increase in property value due to property value inflation would not be included in the assessed value. To the extent that property values increased at differential rates, the effective tax rates differed across properties. There were exceptions to the policy, including corrections due to factual errors in the valuation of the property and additions and improvement to the property. In addition, counties and county school districts that had a constitutional limitation on millage rate increases, and counties that had done a comprehensive county-wide revaluation in 2008 or were under contract prior to Feb. 28, 2009, to have a comprehensive revaluation, were exempt.

MISCELLANEOUS CHANGES

Over the last 165 years, the state has imposed various tax rate limitations. In 1904, a constitutional amendment imposed a state property tax limit of 5 mills.[88] In 1951, the state adopted a sales tax. The following year, the state property tax rate was reduced to 0.25 mills, except "to provide for repelling invasions, suppressing insurrections, or defending the state in time of war."[89] In 2010, legislation was adopted that, beginning tax year 2012, reduced the state property tax rate by .05 annually until it was

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[81] GA Laws 2008, pp. 297-308.
[82] GA Laws 1991, pp. 1903-1935.
[83] GA Laws 1988, pp. 2119-2121.
[84] GA Laws 2002, pp. 1504-1505.
[85] GA Laws 2003, pp. 170-176.
[86] GA Laws 2012, pp. 843-847.
[87] GA Laws 2009, pp. 780-782.
[88] GA Laws 1903, pp. 21-22.
[89] GA Laws 1952, pp. 469-472.

eliminated for the 2016 tax year.[90] A 5 mill property tax limit for county school systems was imposed by a 1920 constitutional amendment.[91] The limit did not apply to county school systems that were in existence before the 1877 Constitution. The limit was increased to 15 mills in the 1945 Constitution. In 1960, the constitution was amended to increase the property tax rate limit for county school systems to the current 20 mill limit; this limit does not apply to independent school systems.[92]

Counties were subject to a tax limit well before 1852. Counties were authorized to level a tax of 100 percent of the state tax for accumulated debt and current expenses. In 1921, counties were allowed to levy an additional tax not to exceed 50 percent of the amount of the state tax, provided two-thirds of the grand jury recommended such a tax.[93] The state law was not clear as to what expenditures these limits applied. The 1933 Code of Georgia quotes the Supreme Court as follows (p. 2340): "It is very difficult, perhaps impossible, to say exactly what was the true intent of the framers of the code." It goes on to say, "Tax levies for the support of the poor, the county police, and the expenses incident thereto, and the public schools are taxes levied under special acts, and do not come under [this] section of the code." As part of a complete rewrite of the public finance code in 1978, the two limits were changed to 5 mills and 2.5 mills. In 1981, the limitations were repealed.[94]

Legislation passed in 1874 imposed a maximum tax rate for municipalities of 0.5 percent, but this rate did not apply to expenditures for schools, roads, or the payment of principal and interest on debt.[95] An additional levy with no limitation was allowed if the 0.5 mill tax was not sufficient to meet necessary expenses, but the rate had to be approved in a referendum by two-thirds of the voters. Savannah was exempt from the limitation, and other municipalities were added to the exempt list over time. For example, Augusta was exempted in 1939 and Atlanta in 1955. Furthermore, the municipal charters approved by the General Assembly allowed different maximum tax rates. For example, in 1927, the charter approved for Fairmount allowed a maximum property tax rate of 1 percent, while for Macon the maximum tax rate was set at 1.5 percent. The charter approved for Berkeley Lake in 1956 allowed a maximum property tax rate of 40 mills. Over time, as charters were rewritten, these tax rate limitations were typically removed, but not for all municipalities. There are still property tax limits for independent school systems that are lower than 20 mills. The 0.5 percent tax rate limit was repealed in 1977.[96]

A property tax deferral program was adopted in 1980.[97] Under this program, a homeowner age 62 or over with a household income of $15,000 or less may defer property tax payments on the first $50,000 of assessed value.

In 1999, the state adopted a Homeowners Tax Relief Grant program.[98] Under this program, owners of homesteaded property received a credit on their property tax bill for county and county school district property taxes. The credit equaled the tax reduction that the owner would receive from an increased homestead exemption, the value of which was set each year by the state. In 2002, the property taxes

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[90] GA Laws 2010, pp. 9-84.
[91] GA Laws 1919, pp. 66-68; ratified 1920.
[92] GA Laws 1960, pp. 1444-1446.
[93] Digest of Georgia Laws 1851, p. 184.
[94] GA Laws 1981, pp. 1857-1887.
[95] GA Laws 1874, pp. 109-110.
[96] GA Laws 1977, pp.1226-1227.
[97] GA Laws 1980, pp. 1707-1715.
[98] GA Laws 1999, pp. 273-276.

imposed by municipalities and independent school districts were added to the program. While the program is still in the Georgia Code, state funds for the program have not been appropriated since 2008.

In 1999, the legislature passed the Comprehensive Taxpayer Bill of Rights as an attempt to prevent so-called back-door tax increases and to provide for a more informed public regarding property taxes.[99] This legislation provided for increased notice through advertisement and public hearing when local governments levy ad valorem tax rates that result in increased revenue associated with property value appreciation.

V. Summary

In 1852, Georgia adopted an ad valorem property tax that is the foundation for the state's current property tax system. It was founded on the principles that with few exceptions the property tax should be imposed on the market value of all property (universality) and that all property in a jurisdiction should be taxed at the same ad valorem tax rate (uniformity). These two principals have been expressed in all of the various constitutions that Georgia has adopted since 1852.

Over the past 165 years, the state has made many changes to the property tax system and its administration. It has greatly improved the administration of the property tax. In particular, the state has moved from a system under which the taxpayer largely self-reported property and its value, which led to substantial understatement of property value and large inequities in tax burdens, to one in which the government takes the lead in determining value and in ensuring uniformity in assessment across properties.

Over time, the state has increased the properties that are fully or partially exempt from the property tax, e.g., intangible property, various types of personal property and homesteaded property through the homestead exemption. There has also been a divergence from the uniformity principle, primarily over the past 25 years. No one has attempted to quantify the magnitude of the effect of these changes on the value of the property tax digest, and thus it is not possible to judge the degree of divergence from the two principles.

While each of these changes can be justified or rationalized, with each change, the property tax comes to resemble less and less the general ad valorem property tax built on the principles of universality and uniformity. Existing and proposed exemptions (particularly of personal property), the adoption of current use value, and the expanded use of floating homestead exemptions are moving the property tax further and further from congruence with the two founding principles. If these changes are signals that the state has rejected the principles of universality and uniformity, then perhaps it is time to articulate a new set of tax principles on which to base future changes to the structure of the property tax.

[99] GA Laws 1999, pp. 1043-1062.

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