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Personal Property Taxation in Kansas, by the Kansas Legislative Council Research Department

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REVIEW OF GOVERNMENT PUBLICATIONS

PERSONAL PROPERTY TAXATION IN KANSAS. Part I. Policy and Administration, pp. ix, 27; Part II. The Collection Problem, pp. ix, 35; Part III. Motor Vehicles, pp. viii, 20. Research Department, Kansas Legislative Council.

These three pamphlets, discussing various aspects of the personal property tax problem in Kansas, were prepared by the Research Department of the Legislative Council of that state. The Council is a permanent committee, and its research department, likewise permanent, is intended to collect data with regard to problems before or likely to come before the legislature.

For this reason, the work under review makes extensive studies not only of the situation in Kansas, but of the experience of other states. Even if this were not so, an intelligent consideration of the Kansas situation would be of real interest outside of that state, since Kansas is a rather typical midwestern state with important mining as well as agricultural interests. However, the careful studies which are made here of the experience of other states emphasize the importance and usefulness of this work even outside Kansas.

The usefulness of the three pamphlets is also increased by the very commendable practice of including a summary of the important points studied and conclusions reached in the body of the work. This summary is put at the beginning of each pamphlet, and seems itself to rather adequately cover the important points.

Part I deals with "policy and administration," but "administration" deals entirely with assessment procedure, and is first considered. Under this category, there is first discussed the problem of how much taxable personal property escapes assessment in Kansas. The figures indicate that the amount of such evasion is considerable. This is due to many factors, of which the diversity of the character of personal property, and the comparative ease of concealment of some classes of such property, are perhaps the most important.

To escape this difficulty, the most important suggestion is to provide for self-listing—that is, let each taxpayer list his own personal property for taxation in somewhat the same way that he lists his income with respect to income taxation. Experience of other states seems to indicate that this suggestion has real merit, but only if there is adequate provision for checking and auditing such lists—again like the income tax situation.

Another difficulty in personal property taxation, which also is far from peculiar to Kansas, is the problem of valuation. Many classes of personal property, especially intangibles, and certain sorts of tangibles, like automobiles (which, however, is not discussed here), have fairly definite standards of value; but others, notably household furniture, seem to have practically no standards at all. For the class last named, a rule-of-thumb, but not wholly unsatisfactory, solution, is to compute it on the basis of the value of the house.

Finally in connection with this problem there is a rather detailed discussion of the most desirable date for assessment. It would appear, however, that this is not of any general importance.

Passing to the question of policy, the report considers three possible suggestions. The first of these is the classification of personal property. The Kansas constitution has a "uniform and equal" clause, though with a modification as to intangible property, so that any general classification would seem to be precluded in that state without constitutional amendment. However, the experience of Indiana (*Lutz v. Arnold*, 208 Ind. 480) seems to indicate that such a clause does not prevent classification if the state courts can be sufficiently persuaded of its desirability. The next suggestion is exemption, either partial or total, of personal property from taxation. Kansas already has a very limited monetary exemption, which may operate in fact to give substantial total exemption to household furniture of persons of moderate means. Other states have experimented with further exemptions to manufacturers and farmers, and some have exempted personal property altogether, with replacements through excise and income taxes, and the like. No definite conclusions are reached as to this, though there it is suggested that a conditional exemption (taxing all personalty of those having in excess of the exemption) may work considerable hardship. Finally, there is the allied suggestion of substituting other forms of taxation for the tax on certain forms of personal property. Especially important in Kansas is the proposal for a special excise tax with respect to grain, which would thus be exempted from property taxes. A few other states have tried this with apparent success, including persuasion of the courts that this is really an excise tax. A severance tax with respect to oil and gas properties has also been proposed.

Part II deals with the problem of collections. It is pointed out that extensive tax delinquencies are serious, not only because they increase the burden on non-delinquent taxpayers, but also because the pressure for collection of such delinquencies is not the same as in private business. In Kansas an annual delinquency of personal property taxes of about 10 percent appears, and a substantial part of this is never collected. However, the rate of delinquency on real estate taxes is slightly higher, and the amount of such delinquency much higher than with respect to personal property taxes. This is at least partly due to the more adequate assessments of real property commented on in Part I, though it may also be due to tax moratoria in the depression years. Even so, the delinquency of personal property taxes is far from negligible.

The report next considers the operation of the Kansas system, which puts the burden of collecting delinquent taxes upon the county sheriff, through warrants. It is commented that the warrants are often returned "no property found," though the assessor the next year finds plenty of property. But even more serious is the time factor, which is doubly bad—too much time elapses between assessment and efforts to collect delinquent taxes, and too little time is given the sheriff to collect on his warrants.

The next point of attention, quite naturally, is suggested changes for the improvement of the Kansas system. This seems very important, since, although some county officials have made the present

system work fairly well, no substantially better results can be hoped for without some change in the system.

The first suggestion is to shorten the time between assessments and collection, thus incidently giving more time for collection of delinquencies. A long time between assessment and collection is more serious for personal property taxes than for real property taxes, because of the danger of disappearance of personal property. It has even been suggested, and tried in some states, to collect personal property taxes at the time of assessment. However, this would seem to give rise to serious difficulties, not only with respect to the differences in tax rates, but also where the taxpayer is subsequently able to prove over-assessment. It is also suggested that tax bills be sent out to the taxpayers. But the draftsmen of the report are not able to reach any definite conclusion as to the desirable number of installments for payment, except to point out that a great number of installments seems desirable with respect to delinquent taxes than would be worth while for current taxes. Similarly, and in accordance with experience elsewhere, there is considerable doubt as to what is the best arrangement of penalties and interest, though the opinion is expressed that discounts for prompt payment are not particularly helpful. It is strongly recommended that such taxes be made personal liabilities of the taxpayer so that they can be sued for, though of course without making this the sole method of collection. It is also suggested that the Kansas law as to liens for personal property taxes is badly in need of clarification, though no definite recommendation is made as to how far the lien should extend. One other interesting suggestion is made that evidence of tax payment be made a prerequisite to drawing state funds, either as salaries or payment on contracts, and also for obtaining licenses. On the license question, the automobile situation is most important, and this is discussed in Part III.

Part II concludes with a discussion of possible changes in organization. Doubt is expressed whether the sheriff can ever be made a particularly efficient collector, and it is suggested that the assessor might be a better collector, at least for delinquent taxes. The suggestion of a separate office for collecting both current and delinquent taxes is also mentioned with guarded approval.

In Part III the principal problem considered is the desirability of requiring evidence of payment of personal property taxes as a prerequisite to the obtaining of an automobile license. As a preliminary, however, consideration is given to the various forms of property taxes on automobiles.

Kansas, like about one-half the states (including Indiana), taxes automobiles under the regular property tax. Automobiles are difficult to conceal, so there is no serious problem with this, except possibly with respect to valuation. The two methods of standard valuation of automobiles used in other states are discussed, and it is shown that both appear to work reasonably satisfactorily. Kansas does not officially have a standardized method of valuation, though automobile valuations in that state seem reasonably satisfactory.

On the other hand, a large number of states do not thus tax

automobiles. A few have special ad valorem taxes which are called excise taxes. The chief advantage of this (apart from a perhaps successful evasion of the equality and uniformity constitutional clauses) is a better coordination of the collection procedure. And quite a few states wholly exempt automobiles from property taxation, either by total exemption of personal property, or as a special exemption. Most of these states have replacement taxes, either by higher license fees, or higher gasoline taxes, or both.

We then come to the discussion of the principal problem—should the applicant for an automobile license be compelled to prove that he has paid his personal property taxes? It is confessed that the precise amount of evasion of property taxes on automobiles in Kansas cannot be determined, and that it is probably not nearly as high as is often supposed; nevertheless, it appears substantial, and if this proposal will prevent such evasion, it would be worth while.

The states which have adopted this proposal usually confine the personal property tax which must be proved to have been paid, to the tax on the automobile itself. It is suggested that this would be more effective if applied to all personal property taxes. It may be said parenthetically that while Indiana does not make this requirement, it does require evidence of payment of poll taxes, which, being on the same receipt as property taxes, substantially requires payment of them also. Confining the tax required to be paid to the tax on the automobile raises difficult problems of apportionment, especially where, as in Kansas, there is a limited monetary exemption. Another problem is what year's taxes are to be covered. It would appear that if the license is required at or near the beginning of the year, it will not be practicable to require payment of the current year's taxes.

The report concludes that such a requirement seems on the whole to work well. Arguments that it unfairly discriminates against automobile owners are stated, but seem effectively answered by pointing out that the requirement is only for the payment of taxes which would otherwise already be delinquent.

In this connection, some other methods, slightly less drastic, have sometimes been used. Two or three states provide for suspension of an existing automobile license after delinquency on property taxes. Both theory and experience seem to concur in condemning this method as unworkable. More desirable, though less completely effective, is using registration lists to check property tax assessments on automobiles. Several states, including Indiana, have statutory provisions for this, but it would seem available everywhere and decidedly worth while.

The three pamphlets together do not attempt to reach any conclusion upon the most definite problem of all—that is to say whether the property tax should not be wholly abolished. It is certainly doubtful—and the data in these reports, as well as many others, intensify such doubt—whether the personal property tax can ever be made a desirable form of taxation. To abolish it and substitute other taxes of legal and practical difficulties it is not likely to be accomplished

Nevertheless, this is perhaps still questionable; anyway, because may be the solution of the problem.

generally for a long time. If the personal property tax is to be continued, it should be better administered. The Kansas Legislative Council has given its own legislature some most excellent suggestions for this purpose, and most of these suggestions are pertinent in many other states. By its work the Council has performed a service of immense value, which is by no means confined to the state and people of Kansas. All of us who are interested in taxation (and who isn't now-a-days) owe to the Council a debt of gratitude for their careful and thoughtful work on this important topic.

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