STATE AND LOCAL TAXATION

A White Paper Report

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NATIONAL ASSOCIATION of REALTORS®

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- *Recovering Online Legal Research Costs*
- *Private Transfer Fees—Potential for Trouble, Problems for the Future?*
- *Government Responses to Climate Change—A Look at State and Local Actions Affecting the Real Estate Industry*
- *Maintaining Properties in Foreclosure—How Communities Across America are Responding to the Vacant Property Crisis in Their Own Backyards*

- *Water Rights—A White Paper Report*
- *Building Codes: Origins and Implementation*
- *Hydraulic Fracturing: Framing the “Fracking” Frenzy*

Preface

"A camel is a horse that was designed by a committee."

Alexander Issigonis, automobile designer

Tax Freedom Day 2013 arrived on April 18. That was the day when Americans earned enough money -- $4.22 trillion – to pay the nation's total federal, state, and local tax bill for the year, according to the Tax Foundation.[1] This White Paper examines the state and local share of the bill -- $1.45 trillion in 2013 – and the host of sales, income, property, excise, and other taxes, fees, and surcharges behind it.

The average American paid $4,412 – or 9.9% of their income – in state and local taxes in 2010, according to the latest State and Local Tax Burden Rankings from the Tax Foundation. Using Tax Freedom Day as a yardstick, the state and local tax burden is inching lower. It took 36.9 days to pay the state and local share of the nation's tax bill in 2013 -- down from 38 days in 2009.

Yet the figures *behind* those figures are the real story – the horse-by-committee canvas of taxes and tax breaks that fluctuate from state to state, industry to industry, and individual to individual based on the fiscal and political needs and ambitions of the day. Like stacks of blocks in a Jenga game, state and local tax structures tilt as pieces are removed and replaced, creating winners and losers across all sectors – including housing and real estate.

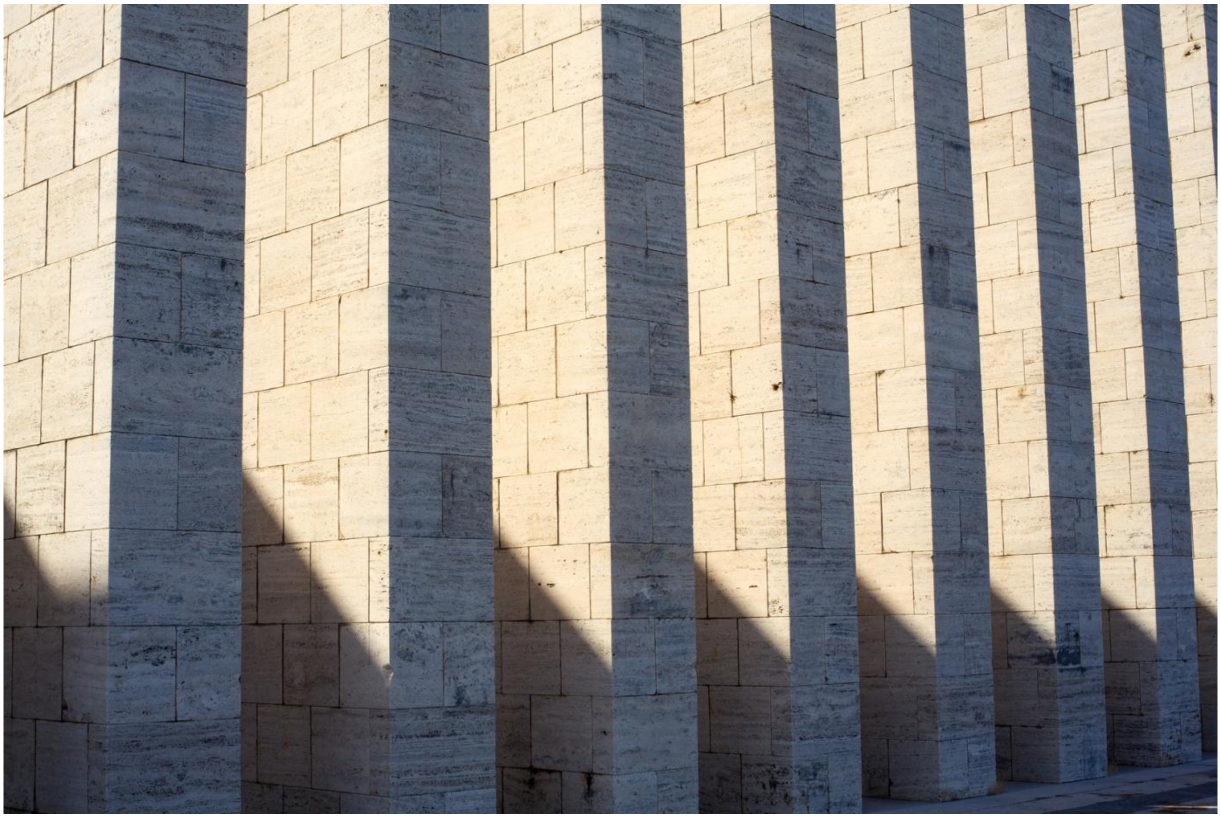
[1] The Tax Foundation is a non-partisan tax research group based in Washington, D.C. *Editor's Note:* The Tax Foundation allows reuse and reprinting of its map graphics if properly attributed to the Foundation. Several such maps are reproduced in this paper.

Housing and real estate are deeply woven into state and local tax structures. Property taxes, for example, accounted for 74.2% of all local government tax revenue in 2011 and 33.1% of state and local tax revenue combined, according to the Annual Survey of State and Local Government Finances from the U.S. Census Bureau. Real estate transactions generate smaller sums via – depending on the state – transfer taxes, mortgage recordation fees, taxes on services such as appraisals, and taxes on commissions. Mortgage interest and property tax deductions are pivotal policy considerations in states and municipalities with income taxes, which accounted for 21.3% of all state and local tax revenue in 2011, according to the Census Bureau. Against this backdrop comes a rising tide of state tax reform – with potentially serious consequences for housing and real estate.

In some cases, lawmakers want to reduce tax inequities. As things stand, virtually every state's tax structure takes a greater share of income from middle and low-income families than from wealthy families, according to a 2013 report from the Institute on Taxation and Economic Policy entitled, "Who Pays: A Distributional Analysis of the Tax Systems in all 50 States." In many states, though, the big push is to pare or scrap personal and corporate income taxes. The goal is to stimulate economic growth by keeping more dollars in the hands of consumers and businesses – with the cuts being offset by expanded sales taxes and diminished exemptions. This emerging shift of the tax load is a red flag for housing and real estate. Transfer taxes, taxes on services, and the mortgage interest/property tax deduction are all in play as lawmakers attempt to overhaul their tax structures while balancing their budgets.

North Carolina was a poster child for the potential squeeze on housing and real estate during the 2013 legislative session. Four unfriendly revisions to the tax code – including ending the mortgage interest/property tax deduction – were proposed as part of an effort to provide relief from individual and corporate income taxes. In the end, only a $20,000 cap on the mortgage interest/property tax deduction was enacted. However, all indications are that round two is coming – not just in North Carolina, but in other states like Louisiana and Nebraska as well, where 2013 tax reform efforts also included aborted attempts to end state income taxes.

The tax reform tug-of-war is an example of the complex and dynamic relationships that exist among various state and local funding sources. This White Paper is a window into how tax revenues are generated, who pays, where the money goes, and what can be expected in the future.



I. The Power of State and Local Governments to Levy Taxes

The power to levy taxes is one of the shared powers of the federal, state, and local governments.[2] The federal government's power to levy and collect taxes comes from the Taxing and Spending Clause of the United States Constitution.[3] Likewise, the states get their power to tax from their state constitutions. Virtually every state constitution has a general welfare clause, for instance, which is interpreted as granting the state an independent power to regulate for the general welfare, as well as an entire article on taxation.[4] But the power to tax is not limitless; just as state constitutions grant taxing authority, they also place restrictions on the power to tax. Several state constitutions impose limits on the rates of real property and sales taxes, for example.[5] And most state constitutions include a provision requiring that taxes be levied and collected only for "public purposes," a term that is inherently vague and has been subject to various interpretations when challenges are raised to new tax proposals.[6]

To carry out the functions of local government, cities are granted powers by the state.[7] The state sets the standards, but the cities themselves may legislate to protect the health, safety, and welfare of their residents, as long as the city regulations do not

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[2] *See, e.g*., *Financing State and Local Government*, American Government Online (2013), http://www.ushistory.org/gov/12b.asp.

[3] U.S. Const. art. 1, sec. 8, cl. 1 (originally, "The Congress shall have Power to lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence [sic] and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States.").

[4] *See, e.g*., Ga. Const. Art. VII, Taxation and Finance; N.Y. Const. Art. XVI, Taxation; Tex. Const. art. 8, Taxation and Revenue.

[5] *See* M. David Gelfand, Joel A. Mintz, & Peter W. Salsich, Jr., *State and Local Taxation and Finance* (3d ed. 2007), at 9.

[6] *Id.* at 9-10.

[7] *See* Guide to Government, *About Municipal Government* (Cal. League of Women Voters 2013), http://www.guidetogov.org/ca/state/overview/municipal.html#2.

conflict with state or federal law. Cities may generate revenue by levying taxes, imposing license and service fees, and borrowing money.[8] The state may, however, prohibit certain kinds of local taxation. Cities also receive substantial sums of money raised by the state from tax levies.[9]

Other local jurisdictions within a state's borders may also have taxing authority. The governing body of a county, transit authority, or other special purpose district may vote to impose certain taxes, for instance, if state law allows it. In addition, school districts may get involved in local taxation through special referenda to raise funds for particular purposes.[10]

Most states and localities levy three principal types of taxes:

- **Income taxes**, which are imposed by all but a handful of states on both personal and corporate incomes. Some states do not allow local governments to levy income taxes, but in others, like Ohio, many cities and towns impose an income tax on both individuals and corporations.[11]
- **Sales taxes**, which are the most important source of revenue for **state governments**. Nearly all states have a general sales tax that applies to most

[8] *About Municipal Government*, *supra*, http://www.guidetogov.org/ca/state/overview/municipal.html#2.

[9] *Id., About Municipal Government*, http://www.guidetogov.org/ca/state/overview/municipal.html#2.

[10] *See, e.g.*, Gelfand, *supra*, *State and Local Taxation and Finance*, ch.3, pt. D (discussing school district financing issues).

[11] *See* Ohio Dep't of Taxation, *Local Taxes*, http://www.tax.ohio.gov/portals/0/communications/publications/brief_summaries/2012_Brief_Summary/2012_BSOT_Section3_A1_Local_Taxes_Title_Page.pdf; *see also* Mich. Dep't of Treasury, Frequently Asked Questions, *What Cities Impose an Income Tax?*, http://www.michigan.gov/taxes/0,4676,7-238-43715-153955--F,00.html.

goods, but groceries are often excluded, and clothing is exempt in some states as well. Some cities also collect sales tax.

- **Property taxes**, which provide the chief source of income for **local governments**. Property taxes are levied on land, buildings, and personal dwellings. City tax assessors are generally employed to assign a property value on which these taxes are based. Real property taxes are considered controversial in some circles, because other types of property, such as stocks, bonds, and bank accounts, generally are not taxed. Some argue that those who hold "real" property pay a disproportionate share of taxes.[12]

Several states also impose severance taxes, levied on those who extract natural resources, like coal, oil, timber, or natural gas, from the land. Other taxes relevant to real estate include real estate transfer taxes, and inheritance and estate taxes, which are imposed when a person dies and property passes to his or her heirs. In addition, almost all states have special excise taxes that apply to gasoline, liquor, automobiles, and cigarettes.[13] Each of these types of taxes is discussed in more detail in Part III below. Other sources of state income include license and other types of fees, grants from the federal government, and, in some states, lotteries. In the end, though, about half of a state's revenue comes from taxes.[14]

Although *paying* taxes may be a citizen's least favorite government-related activity, all citizens have come to rely on the *benefits* that are funded by the taxes they

[12] *Financing State and Local Government*, *supra*, http://www.ushistory.org/gov/12b.asp.

[13] *Id., Financing State and Local Government*, http://www.ushistory.org/gov/12b.asp.

[14] *Id.*, *Financing State and Local Government*, http://www.ushistory.org/gov/12b.asp.

pay. State and local governments provide or support vital services like police protection, education, highway building and maintenance, public assistance, and health care. Taxes are a major source of revenue to fund these services, which many people may take for granted until something goes wrong—their children's schools become over-crowded or even close down, or they blow a tire in a pothole. Although Benjamin Franklin said that only two things are certain—death and taxes[15]—the reality is that, along with the certainty of the *payment* of taxes comes the certainty of citizens' reliance on what their tax dollars can do for them.

[15] *The Works of Benjamin Franklin* (1817) ("'In this world nothing can be said to be certain, except death and taxes.").

PITHY PUNCHLINES PROVIDE TAX RELIEF

Taxes rarely give anyone cause to smile, but this might. Enjoy.

"I am proud to be paying taxes in the United States. The only thing is I could be just as proud for half the money." *Arthur Godfrey*

"What's the difference between a taxidermist and a tax collector? The taxidermist takes only your skin." *Mark Twain*

"The IRS spends God knows how much of your tax money on these toll-free information hot lines staffed by IRS employees whose idea of a dynamite tax tip is that you should print neatly. If you ask them a real tax question, such as how you can cheat, they're useless." *Dave Barry*

"The wages of sin are death, but after they take the taxes out, it's more of a tired feeling, really." *Paula Poundstone*

"The government that robs Peter to pay Paul can always count on the support of Paul." *George Bernard Shaw*

"There is just one thing I can promise you about the outer space program: your tax dollars will go farther." *Wernher von Braun*

"The income tax has made liars out of more Americans than golf." *Will Rogers*

"We have what it takes to take what you have." *Unofficial motto of the IRS, anonymous*

"I have something my doctor calls 'narcotaxis.' Within 20 seconds of hearing someone launch into an explanation of tax laws, my eyes become glassy, my body loses all feeling, and I go into a shallow coma." *Russell Baker*

"I have trouble reconciling my net income with my gross habits." *Errol Flynn*

"The taxpayer: that's someone who works for the government but doesn't have to take a civil service exam." *Ronald Reagan*

"You don't pay taxes. They take taxes." *Chris Rock*

"How much money did you make last year? Mail it in." *Proposed tax form, Stanton Delaplane*

II. What Do State and Local Taxes Pay For?

Tax dollars are used to provide many vital public services. The 50 states and the District of Columbia together spent over $1 trillion in state revenues in fiscal year 2011, according to a recent survey by the National Association of State Budget Officers.[16] This total excludes the federal funds that the states also spent that year. Education is the single biggest expenditure in all states.[17] The average state (including the localities within it) spends nearly one-quarter of its budget on K-12 public schools.[18] Funding for education comes primarily from the local school district budget, but most state governments also provide significant financial and administrative support to schools.[19] Health care is the next biggest budget item, as Figure 1 below shows.[20]

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[16] Center of Budget and Policy Priorities, *Policy Basics: Where Do Our State Tax Dollars Go?* (Apr. 12, 2013), http://www.cbpp.org/cms/index.cfm?fa=view&id=2783.

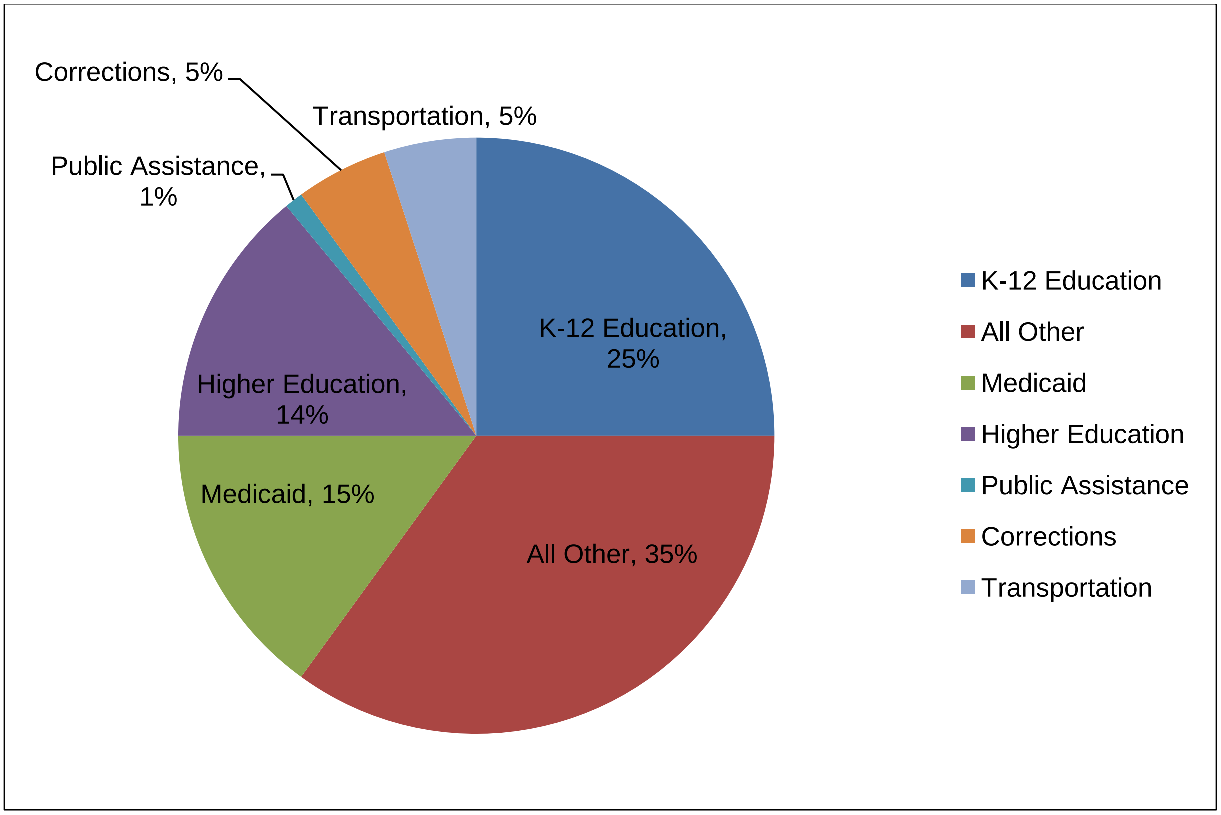
[17] *Financing State and Local Government*, *supra*, http://www.ushistory.org/gov/12b.asp.

[18] *Id., Financing State and Local Government*, http://www.ushistory.org/gov/12b.asp.

[19] *Id., Financing State and Local Government*, http://www.ushistory.org/gov/12b.asp.

[20] *Policy Basics: Where Do Our State Tax Dollars Go?*, *supra*, http://www.cbpp.org/cms/index.cfm?fa=view&id=2783. Source: National Association of State Budget Officers State Expenditure Report FY 2011 (Dec. 2012).

Figure 1. Percentage of State Spending on Public Services (Fiscal Year 2011)



The "All Other" category in the Figure above includes funds designated for caring for persons with disabilities, pensions and health benefits for public employees, economic development, environmental protection, state police, parks and recreation, and general aid to local governments.[21]

On average, three areas of spending make up over half of state spending: K-12 education, higher education, and health care.[22] Other bigger-ticket items for state and local governments include:

- Public welfare.

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[21] *Id., Policy Basics: Where Do Our State Tax Dollars Go?*, http://www.cbpp.org/cms/index.cfm?fa=view&id=2783.

[22] *Id., Policy Basics: Where Do Our State Tax Dollars Go?*, http://www.cbpp.org/cms/index.cfm?fa=view&id=2783.

- Highways.
- Police and fire protection.
- Interest on debt.

Public utilities (through state public utilities commissions). Although each of these items comprises less than 10% of state and local expenditures in most states, together they consume a good portion of our tax dollars.[23] Each of the more significant expenditures of tax revenues is discussed individually below.

The percentages and totals provided in the Figure above and the following discussion indicate how states spend their tax dollars on average, across the entire country. In reality, the specific mix of spending varies from state to state, depending on such factors as how the state and its localities share funding responsibilities for public services, and how much state policymakers choose to invest in health care, education, and other areas.[24] In some cases, this variation is significant. For example, whereas West Virginia spends 10% of its budget on K-12 education, Vermont, at the other end of the spectrum, spends 32%. Similarly, although Medicaid makes up only nine percent of the state budget for Wyoming, it consumes about 34% of Arizona's budget.[25]

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[23] *Financing State and Local Government*, *supra*, http://www.ushistory.org/gov/12b.asp. See also *Policy Basics: Where Do Our State Tax Dollars Go?*, *supra*, http://www.cbpp.org/cms/index.cfm?fa=view&id=2783 (stating that "states also fund a wide variety of other services, including transportation, corrections, pension and health benefits for public employees; care for persons with mental illness and developmental disabilities; assistance to low-income families; economic development; environmental protection; state police; parks and recreation; housing; and aid to local governments").

[24] *Policy Basics: Where Do Our State Tax Dollars Go?*, *supra*, http://www.cbpp.org/cms/index.cfm?fa=view&id=2783.

[25] *Id., Policy Basics: Where Do Our State Tax Dollars Go?*, http://www.cbpp.org/cms/index.cfm?fa=view&id=2783.

A. K-12 Education

States are a major funder of the nation's public elementary and secondary schools, which serve about 50 million students—or nearly nine out of ten enrolled school-age children.[26] On average, one-fourth of state spending, or about $260 billion, goes toward public education. States generally provide grants to local school districts (or to cities or counties, if those entities are responsible for administering schools) to fund schools, rather than directly paying teacher salaries and other school costs. Local governments are the other primary funder of public schools. The federal government pays only about 13% of public school costs.[27]

B. Higher Education

States also play a major role in funding higher (post-secondary) education by supporting public community colleges, university systems, and vocational education institutions. This support accounts for approximately 14% of state spending, or some $140 billion.[28]

[26] *Id., Policy Basics: Where Do Our State Tax Dollars Go?*, http://www.cbpp.org/cms/index.cfm?fa=view&id=2783. *See also* Gelfand, *supra*, *State and Local Taxation and Finance*, ch.3, pt. D, School Finance Requirements.

[27] *Policy Basics: Where Do Our State Tax Dollars Go?*, *supra*, http://www.cbpp.org/cms/index.cfm?fa=view&id=2783. *See also* Gelfand, *supra*, *State and Local Taxation and Finance*, ch.3, pt. D, School Finance Requirements.

[28] *Policy Basics: Where Do Our State Tax Dollars Go?*, *supra*, http://www.cbpp.org/cms/index.cfm?fa=view&id=2783. *See also* Gelfand, *supra*, *State and Local Taxation and Finance*, ch.3, pt. D, School Finance Requirements.

C. Health Care

Together with the federal government, states fund health insurance for low-income families through Medicaid and other state programs like the Children's Health Insurance Program (CHIP). Every month, these programs provide health care coverage and long-term care coverage to almost 60 million low-income children, parents, seniors, and persons with disabilities. Together, these programs consume about 15% of state budgets, or about $150 billion.[29]

While education's share of total state spending has remained relatively constant since the National Association of State Budget Officers began its annual survey of state spending in 1987, Medicaid's share has grown. This increase is due to rising health care costs and increased enrollment, especially of children. Even so, Medicaid still consumes a significantly smaller share of state budgets than education.[30]

D. Other Expenditures

States spend the remaining half of their budgets on a wide variety of other programs.

[29] *Policy Basics: Where Do Our State Tax Dollars Go?*, *supra*, http://www.cbpp.org/cms/index.cfm?fa=view&id=2783.

[30] *Id.*, *Policy Basics: Where Do Our State Tax Dollars Go?*, http://www.cbpp.org/cms/index.cfm?fa=view&id=2783.

1. Transportation

State funding for transportation accounts for about five percent of state spending, on average, totaling some $54 billion. These funds are used to build and repair roads and bridges, and for public transit systems.[31]

2. Corrections

Prisons, juvenile justice programs, and parole and other corrections programs make up almost another five percent of state budgets, or $50 billion total. Although these costs have increased significantly over the years, overall they remain a relatively small portion of state spending.[32]

3. Assistance to the poor

Cash assistance to low-income individuals and families makes up only a tiny part of state spending—about one percent, or $13 billion.[33]

4. Other spending

Comparable national data do not exist for the individual areas of spending that make up the remaining 35% of state budgets, but some of the larger items in this

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[31] *Id., Policy Basics: Where Do Our State Tax Dollars Go?*, http://www.cbpp.org/cms/index.cfm?fa=view&id=2783.

[32] *Id., Policy Basics: Where Do Our State Tax Dollars Go?*, http://www.cbpp.org/cms/index.cfm?fa=view&id=2783.

[33] *Id., Policy Basics: Where Do Our State Tax Dollars Go?*, http://www.cbpp.org/cms/index.cfm?fa=view&id=2783.

“Other” category are contributions to public employees’ pension and health benefits, and general aid to local governments.[34]

[34] *Id., Policy Basics: Where Do Our State Tax Dollars Go?*, http://www.cbpp.org/cms/index.cfm?fa=view&id=2783.

III. Forms of State and Local Taxation

“State and local governments obtain income from a variety of sources, and the breakdown changes drastically from state to state,” reports Tax Foundation economist Elizabeth Malm.[35] “Proportions vary based on the types of taxes and fees administered within state borders, the types of resources within the state, and the policy priorities of state and local governments,” Malm explains.[36]

Property taxes make up the largest piece of the state and local government revenue pie, according to a recent analysis by the Tax Foundation. These taxes bring in 35% of the total, with sales and gross receipts coming in a close second at 34%.[37] Individual income taxes comprise a 20% slice, whereas corporate income taxes bring in the smallest amount of any major tax, providing only about three percent of the funds taken in by state and local tax collectors.[38] These proportions are illustrated in Figure 2 below.

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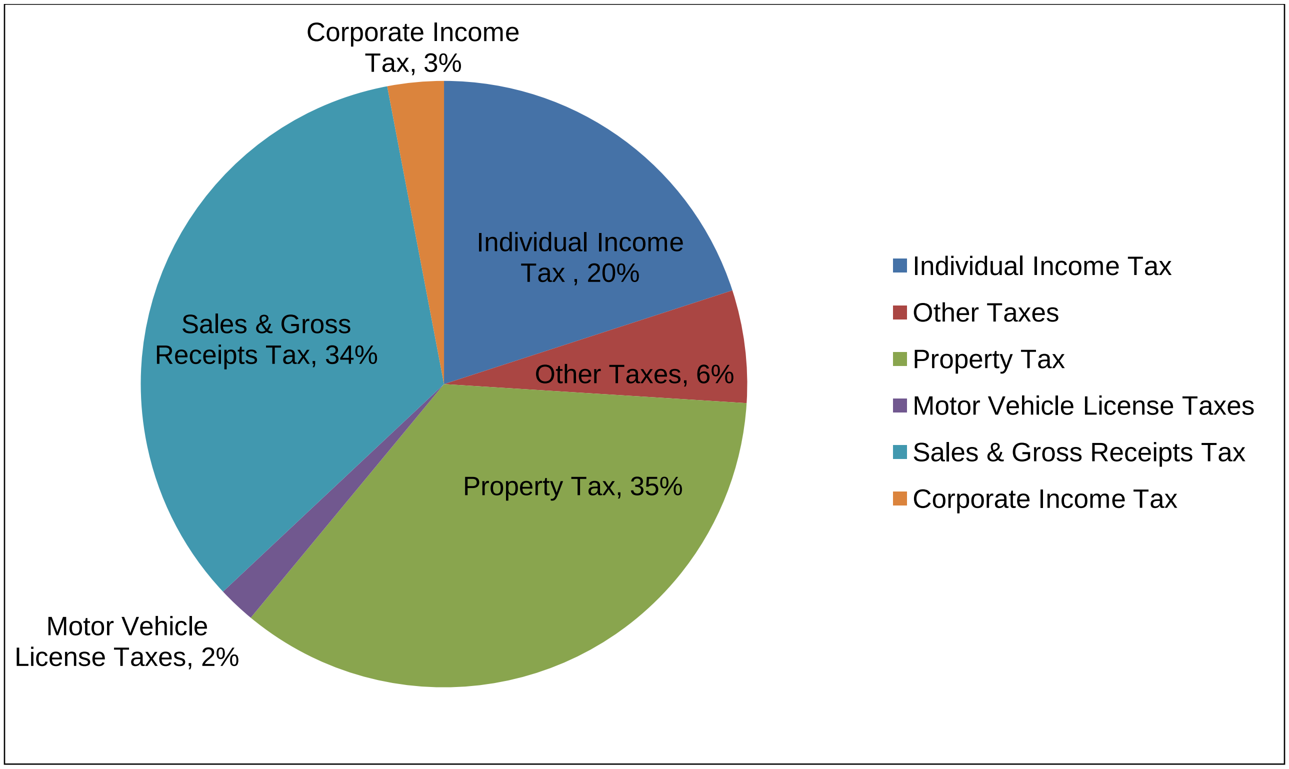
[35] *See* Richard Morrison, *Where Do State and Local Governments Get Their Revenues* (Tax Found. Jan. 29, 2013), http://taxfoundation.org/article/where-do-state-and-local-governments-get-their-revenue. The Tax Foundation is “a nonpartisan research organization that has monitored fiscal policy at the federal, state, and local levels since 1937.” To learn more about the Tax Foundation, contact Richard Morrison, the Tax Foundation’s Manager of Communications, at 202-464-5102 or morrison@taxfoundation.org. *See also* Elizabeth Malm & Ellen Kant, *Tax Foundation Fiscal Fact No.* 354 (Jan. 28, 2013), “The Sources of State and Local Tax Revenues,” http://taxfoundation.org/article/sources-state-and-local-tax-revenues.

[36] *Id., Where Do State and Local Governments Get Their Revenues*, http://taxfoundation.org/article/where-do-state-and-local-governments-get-their-revenue.

[37] *Id., Where Do State and Local Governments Get Their Revenues*, http://taxfoundation.org/article/where-do-state-and-local-governments-get-their-revenue.

[38] *Id., Where Do State and Local Governments Get Their Revenues*, http://taxfoundation.org/article/where-do-state-and-local-governments-get-their-revenue.

Figure 2. Sources of State and Local Tax Revenue (Fiscal Year 2010)[39]



As noted above, the percentages represented in the Figure are national averages, and there are significant local variations. Compare New Hampshire, which receives almost 65% of its total state and local revenue from property taxes, with Arkansas, which receives less than 20% of its budget from the same source.[40] When a jurisdiction has an abundance of natural resources, for example, the state governments—like those of Alaska and Wyoming—are able to collect more revenues from taxes on those resources, thereby potentially reducing the personal tax burden on most residents.[41]

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[39] Source: U.S. Census Bureau, Tax Foundation calculations.

[40] Malm & Kant, *supra*, *Tax Foundation Fiscal Fact No.* 354, http://taxfoundation.org/article/sources-state-and-local-tax-revenues.

[41] *Id.*, *Tax Foundation Fiscal Fact No.* 354, http://taxfoundation.org/article/sources-state-and-local-tax-revenues.

Changes occur not only across state lines, but also over time. A century ago, property taxes provided over 80% of all state and local government funds, but in recent decades that proportion has fallen to about one third of total tax receipts. Corporate income taxes were nonexistent in 1913, but increased to six percent of state and local revenues in 1980, only to fall back to 3.4% in fiscal year 2010.[42]

The most recent comparative data available for each state are presented in Table A-1 in the Appendix, which shows the percentage of revenues comprised by each major tax category, in each U.S. jurisdiction.

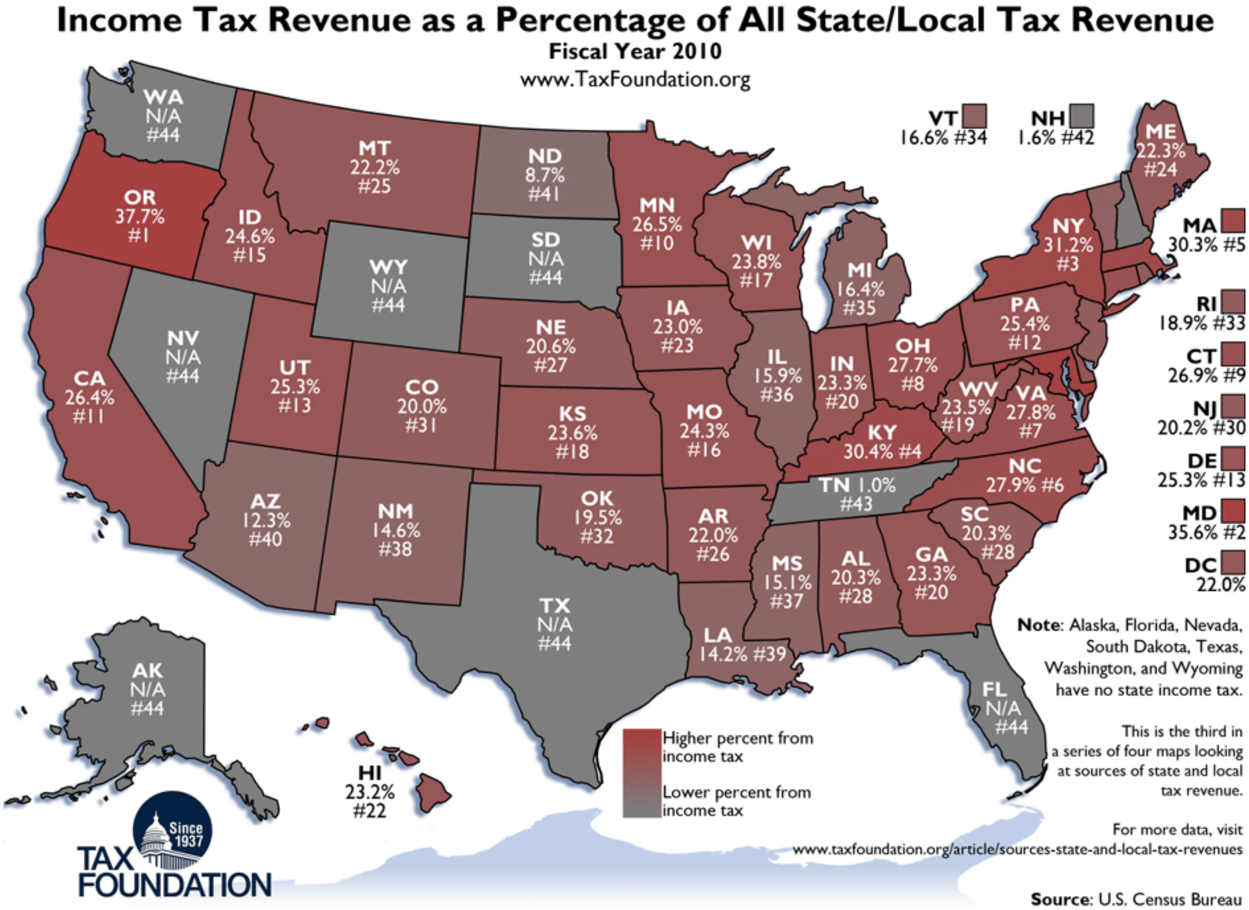
Each of the major sources of state and local revenue will be considered individually below.

A. Income Taxes

As the following map shows, income taxes make up a significant portion of revenue for state and local governments, at least in the states that impose such a tax.

[42] *Id., Tax Foundation Fiscal Fact No.* 354, http://taxfoundation.org/article/sources-state-and-local-tax-revenues.

Figure 3.[43]



The various types and sources of income taxes are separately considered in the following sections, with comparisons illustrated by a series of maps showing the variations from state to state.

1. State Income Taxes

a. Individual Income Taxes

Individual income taxes are imposed on "all income from whatever source derived."[44] Although this broad-sweeping language applies to all states, there are

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[43] Tax Found. Monday Map (Feb. 11, 2013), http://taxfoundation.org/blog/monday-map-income-tax-revenue-percentage-all-statelocal-tax-revenue.

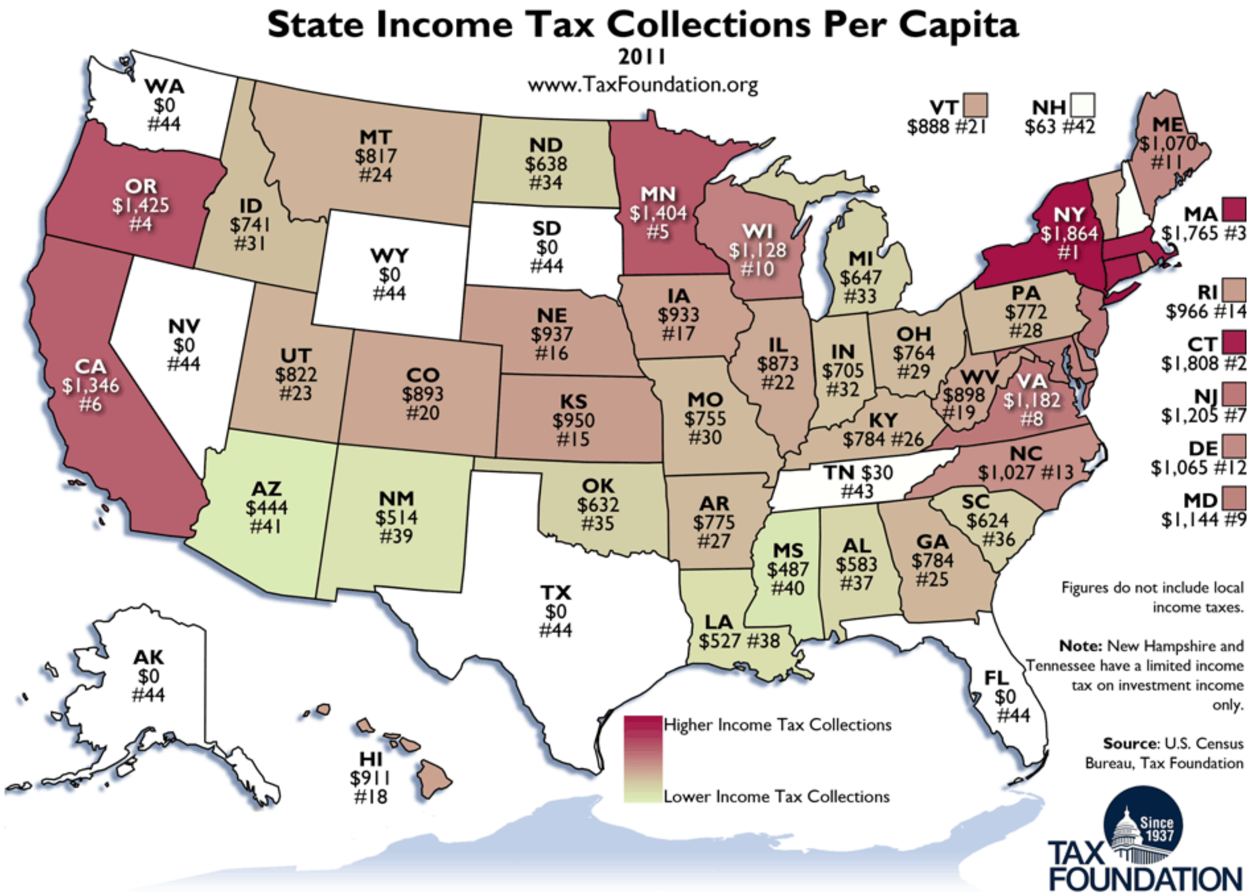
significant variations in how much income tax is imposed and collected in the various jurisdictions. For instance, the following map shows the average state income tax collected per capita for calendar year 2011. Note that New York, with its high marginal tax rates[45] and wealthy tax base, collected the most—an average of $1,864 per resident. The state with income taxes that collected the least per capita was Arizona ($444). As noted above, seven states—Alaska, Florida, Nevada, South Dakota, Texas, Washington, and Wyoming—impose no income tax at all.[46]

[44] 26 U.S.C. § 61 (2013).

[45] The two different types of tax rates often create confusion about taxes. A taxpayer's "average" tax rate (or effective tax rate) is the percentage of income that he or she pays in taxes. A taxpayer's "marginal" tax rate, by contrast, is the tax rate imposed on his or her last dollar of income. A taxpayer's average tax rate is usually much lower than his or her marginal tax rate. *See* Center on Budget & Policy Priorities, *Policy Basics: Marginal and Average Tax Rates* (Apr. 15, 2013), http://www.cbpp.org/cms/?fa=view&id=3764.

[46] Tax Found., Weekly Map: State Income Tax Collections Per Capita, posted Apr. 22, 2013 by Nick Kasprak.

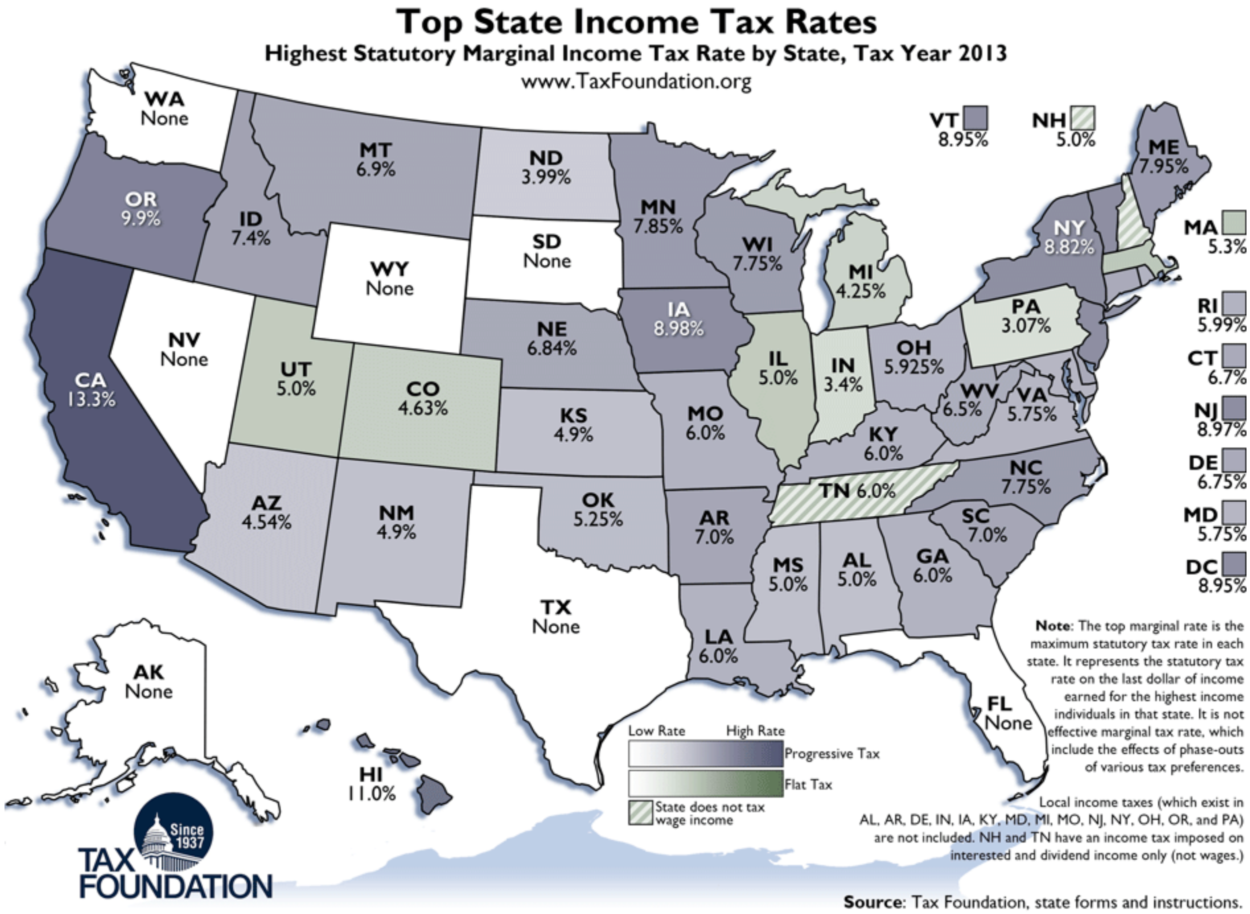
Figure 4.[47]



Note, too, that highest per-capita collection does not necessarily equate with the highest rate imposed. California has the highest top income tax rate at 13.3%, with the seven no-income-tax states at the other end. Of the states that do impose an income tax, the lowest top-tax rate is in Pennsylvania (3.07%).

[47] Tax. Found. Weekly Map (Apr. 22, 2013), http://taxfoundation.org/blog/weekly-map-state-income-tax-collections-capita.

Figure 5.[48]



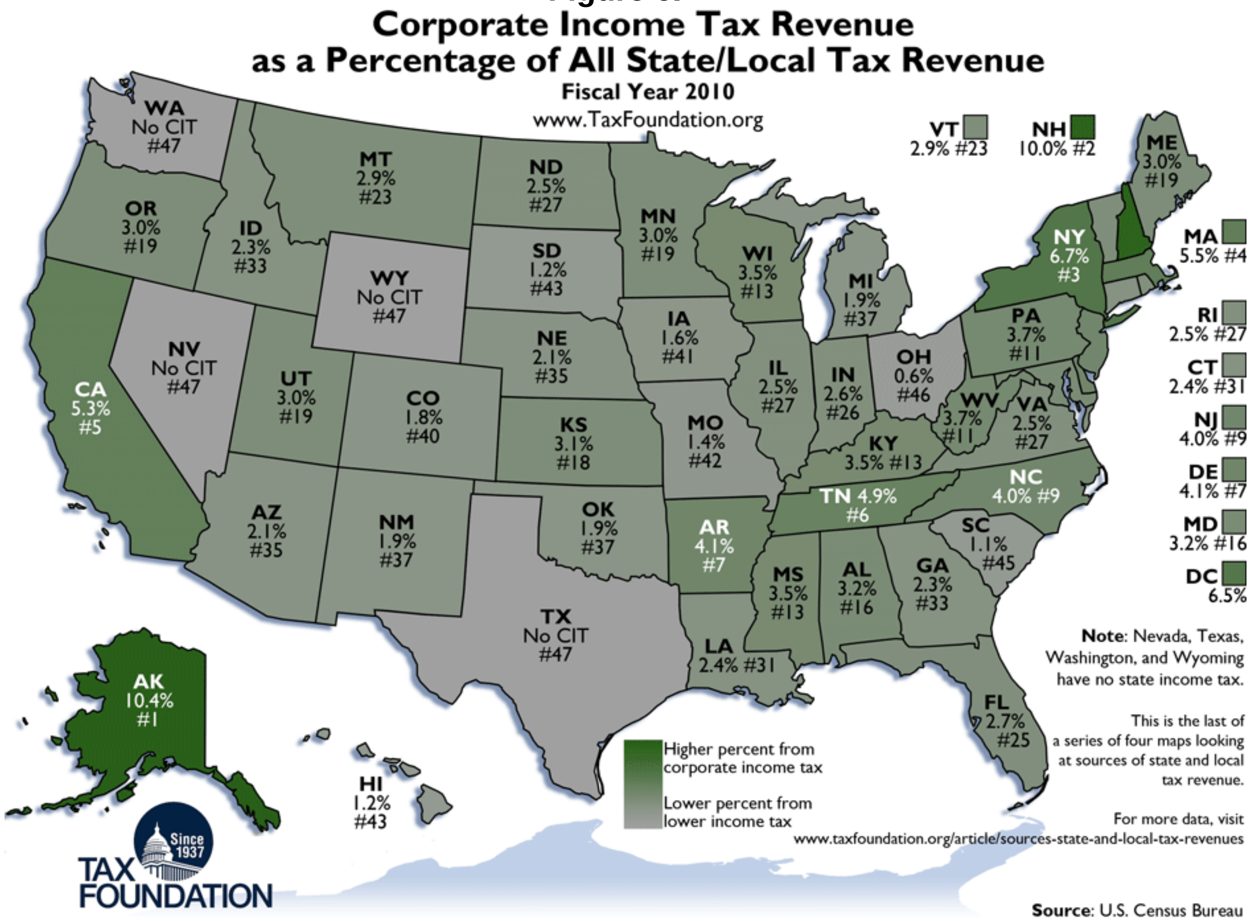
The state-by-state income tax rate information is presented in more detailed form in Table A-2 in the Appendix.

b. Corporate Income Taxes

Corporate income taxes provide a much lower percentage of state revenues overall, but still may shape economic development decisions. The following map shows what percentage of state revenue is comprised by corporate income taxes across the United States.

[48] Tax Found. Monday Map (Mar. 18, 2013), http://taxfoundation.org/blog/monday-map-top-state-income-tax-rates-2013.

Figure 6.[49]



Again, higher contributions to overall tax revenue do not necessarily correspond to higher tax rates. Iowa, which ranks 41st in terms of contribution of corporate income taxes to state revenues, actually has the highest corporate income tax rate at 12%. Three states, (Nevada, South Dakota, and Wyoming) impose no corporate income tax at all. The map in Figure 7 below compares the rates imposed across the United States.

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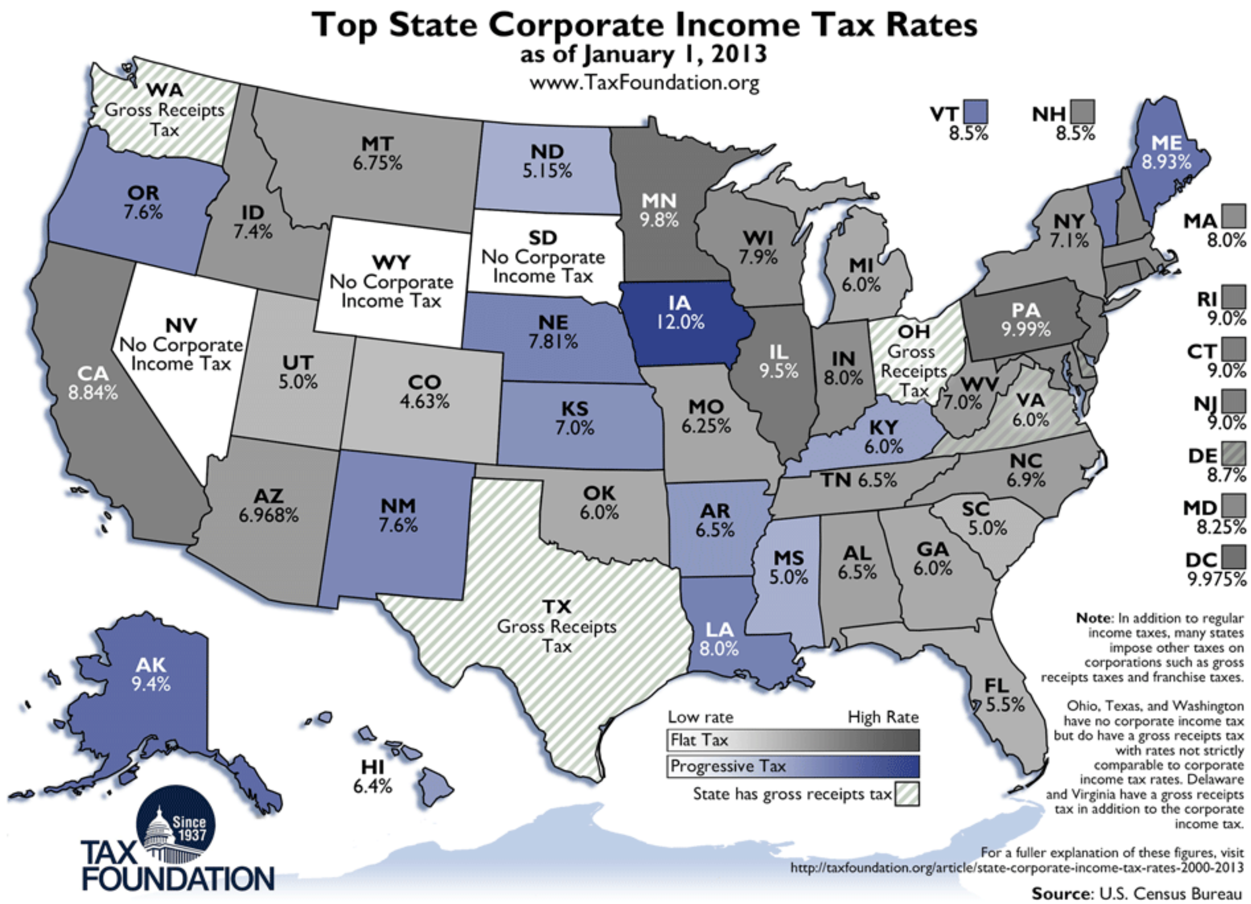
[49] Tax. Found. Monday Map (Feb. 25, 2013), http://taxfoundation.org/blog/monday-map-corporate-income-tax-revenue-percentage-all-statelocal-tax-revenue.

Figure 7.[50]



2. Local Income Taxes

The majority of U.S. states impose both personal and corporate income taxes on their residents, but only a few (17) authorize municipalities within their borders to impose local income taxes.[51] Table 1 below shows which states allow the imposition of local income taxes, and how many cities within the state elect to do so.

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[50] Tax Found. Weekly Map (Mar. 26, 2013), http://taxfoundation.org/blog/weekly-map-top-state-corporate-income-tax-rates.

[51] Gelfand, *supra, State and Local Taxation and Finance* at 58; Joseph Henchman & Jason Sapia, Tax Foundation Fiscal Fact No. 280, *Local Income Taxes: City- and County-Level Income and Wage Taxes Continue to Wane* (Aug. 31, 2011), http://taxfoundation.org/article/local-income-taxes-city-and-county-level-income-and-wage-taxes-continue-wane.

Table 1. Local Income Tax Jurisdictions by State (2011)[52]

State	Number of Local Income Tax Jurisdictions	State	Number of Local Income Tax Jurisdictions
Alabama	4	New York	4
California	1	Ohio	774
Colorado	3	Oregon	2
Delaware	1	Pennsylvania	2,961
Indiana	91	West Virginia	3
New Jersey	1	**Total**	**4,943**

Local income taxes arose during the Great Depression, as declining property tax revenues caused by rising foreclosures forced local governments to look for alternative ways to raise revenue. The first local income taxes emerged in Philadelphia in 1939, as the city sought to escape impending bankruptcy. Local income taxes then gradually spread to select cities in Ohio in 1946, Kentucky in 1947, Missouri in 1948, and Michigan in 1962. New York City and Baltimore did not enact their municipal income tax schemes until 1966.[53]

As the Table above demonstrates, local income taxes are now imposed by nearly 5,000 jurisdictions in total, affecting over 23 million Americans.[54] The amount of tax varies from minute amounts in several states, to an average 1.55% in Maryland. Local

[52] Henchman and Sapia, *supra*, Tax Foundation Fiscal Fact No. 280, *Local Income Taxes: City- and County-Level Income and Wage Taxes Continue to Wane* http://taxfoundation.org/article/local-income-taxes-city-and-county-level-income-and-wage-taxes-continue-wane. Source: Tax Foundation calculations.

[53] *Id.*, *Local Income Taxes: City- and County-Level Income and Wage Taxes Continue to Wane* http://taxfoundation.org/article/local-income-taxes-city-and-county-level-income-and-wage-taxes-continue-wane.

[54] *Id.*, *Local Income Taxes: City- and County-Level Income and Wage Taxes Continue to Wane* http://taxfoundation.org/article/local-income-taxes-city-and-county-level-income-and-wage-taxes-continue-wane.

income taxes provide a long-standing and significant source of revenue to many cities, particularly in the "Rust Belt" states in the northeastern United States.[55]

Local taxes may be imposed by cities, counties, or school districts. In Indiana and Maryland, *all* counties impose a local income tax. In Ohio, 593 municipalities and 181 school districts impose such a tax, and in Pennsylvania a whopping 2,469 municipalities and 469 school districts impose local income or wage taxes. Many cities and school districts in Iowa and Michigan also collect local income taxes.[56]

Local Income and wage taxes generally apply to those who live or work in a jurisdiction. Thus, unlike property taxes, local income taxes can also be applied to nonresidents. In most cases, however, city leaders understand the need to avoid taxation in excess of benefits provided, and therefore impose a lower rate on nonresidents than on residents. In Maryland, for instance, county and city income taxes range from 1.25% to 3.20%, but nonresidents pay a uniform statewide rate set at the lowest county rate of 1.25%. Ohio communities, by contrast, generally impose the same rates on both residents and nonresidents.[57]

Over the past few decades, the number of local income tax jurisdictions has declined, and, although there are some exceptions, the rates at which these taxes are imposed have dropped as well. In Philadelphia, for example, the wage tax in 1995 was

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[55] *Id., Local Income Taxes: City- and County-Level Income and Wage Taxes Continue to Wane* http://taxfoundation.org/article/local-income-taxes-city-and-county-level-income-and-wage-taxes-continue-wane.

[56] *Id., Local Income Taxes: City- and County-Level Income and Wage Taxes Continue to Wane* http://taxfoundation.org/article/local-income-taxes-city-and-county-level-income-and-wage-taxes-continue-wane.

[57] *Id., Local Income Taxes: City- and County-Level Income and Wage Taxes Continue to Wane* http://taxfoundation.org/article/local-income-taxes-city-and-county-level-income-and-wage-taxes-continue-wane.

4.96% for residents and 4.31% for nonresidents. It gradually dropped to the 2011 rate of 3.928% for residents and 3.498% for nonresidents. Further cuts are anticipated. On the other hand, New York City postponed a planned reduction in its city income tax, choosing to at least temporarily preserve the current level. Portland, Oregon's Tri-Met and Lane County districts, by contrast, actually increased their rates in recent years.[58]

B. Sales Taxes

1. In General

Sales taxes are another significant contributor to state and local coffers. The map below shows how much sales, excise,[59] and gross receipt taxes contribute to state and local revenues, topping out at 60.5% in Washington state.[60] Gross receipts taxes are simply structured, taxing all business sales with few or no deductions. Because they tax *transactions*, they are often compared to retail sales taxes; however, while sales taxes generally apply only to final sales to consumers, gross receipts taxes apply to all transactions, including intermediate business-to-business purchases of supplies, raw materials, and equipment. As a result, gross receipts taxes create an extra layer of

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[58] *Id., Local Income Taxes: City- and County-Level Income and Wage Taxes Continue to Wane* http://taxfoundation.org/article/local-income-taxes-city-and-county-level-income-and-wage-taxes-continue-wane.

[59] Excise taxes are special taxes imposed on specific goods or activities, such as gasoline, tobacco, or gambling, rather than general taxes like income- or consumption-based taxes. Excise taxes are often included in the final price of products and services, and therefore may be hidden to consumers. Overall excise taxes account for less than 10% of all federal receipts. All 50 states and many local municipalities levy excise taxes of various kinds. Studies show that "excise taxes are disproportionately borne by low-income taxpayers, making them one of the most regressive components of the U.S. tax system." See Tax Foundation, *Excise Taxes*, http://taxfoundation.org/tax-topics/excise-taxes.

[60] Note, however, that whereas Washington state has high sales taxes, it imposes no income tax.

taxation at each stage of production that sales and other taxes do not—a phenomenon economists call "tax pyramiding."[61]

Washington is a bit of an anomalous state, tax-wise, in that it assesses both a sales tax on retail sales, including some services that involve improvements to real property, and a business and occupations tax on the gross income of most businesses. The retail sales tax applies to the sale price of tangible personal property sold to persons for use in performing a business activity that is taxable as a "service and other business" under the business and occupations tax. The business and occupation tax, which is levied under chapter 82.04, subjects certain business and service activities

STATE GROSS RECEIPTS TAXES ARE SO YESTERDAY

Like boy bands and Crocs, dubious tax trends also come and go. Case in point: state gross receipts taxes. The number of states with a gross receipts tax shot from one in 2002 to eight in 2006, but the ranks are now down to Washington, Virginia, Ohio, and Texas, according to the Tax Foundation.

Gross receipts taxes are continuing to fall from favor. Texas reduced its rate in 2013 and all three gubernatorial candidates in Virginia support repealing the tax entirely, said Scott Drenkard, an economist with the Tax Foundation.

Gross receipts taxes go by various names, ranging from the business and occupation tax in Washington to the commercial activities tax in Ohio. Gross receipts taxes are small and simple to administer, but by taxing the total sales of each business involved in producing a product, they inflate the cost of doing business each step of the way. The result is a cascade of compounding prices and taxes known as tax pyramiding.

"It's not a tax on each transaction per se," Drenkard said, "but it gets baked into the price at each transaction."

Pyramiding peaks in industries where products move through multiple stages of production – from raw material to manufacturing to distribution and so on. Gross receipts taxes also hurt industries with low margins because they represent a greater percentage of their profits. States often try to level the playing field with various credits, exemptions, rate adjustments and income thresholds, but that just adds complexity – defeating the goal of simplicity – without eliminating the problem, according to the Tax Foundation.

The good news for REALTORS® is that no state with a gross receipts tax double-taxes commissions. Brokers can exclude from their gross receipts the portion of commissions they pass on to agents so that money is subject to the gross receipts tax just once as the tax obligation of the agent.

Tax pyramiding can, however, ripple through the home-building industry depending on the state. In Washington, for example, prime contractors are subject to a gross receipts tax on the total value of a contract. The amount they pay to subs and suppliers is then subject to tax once again as the tax obligation of those who receive the payment.

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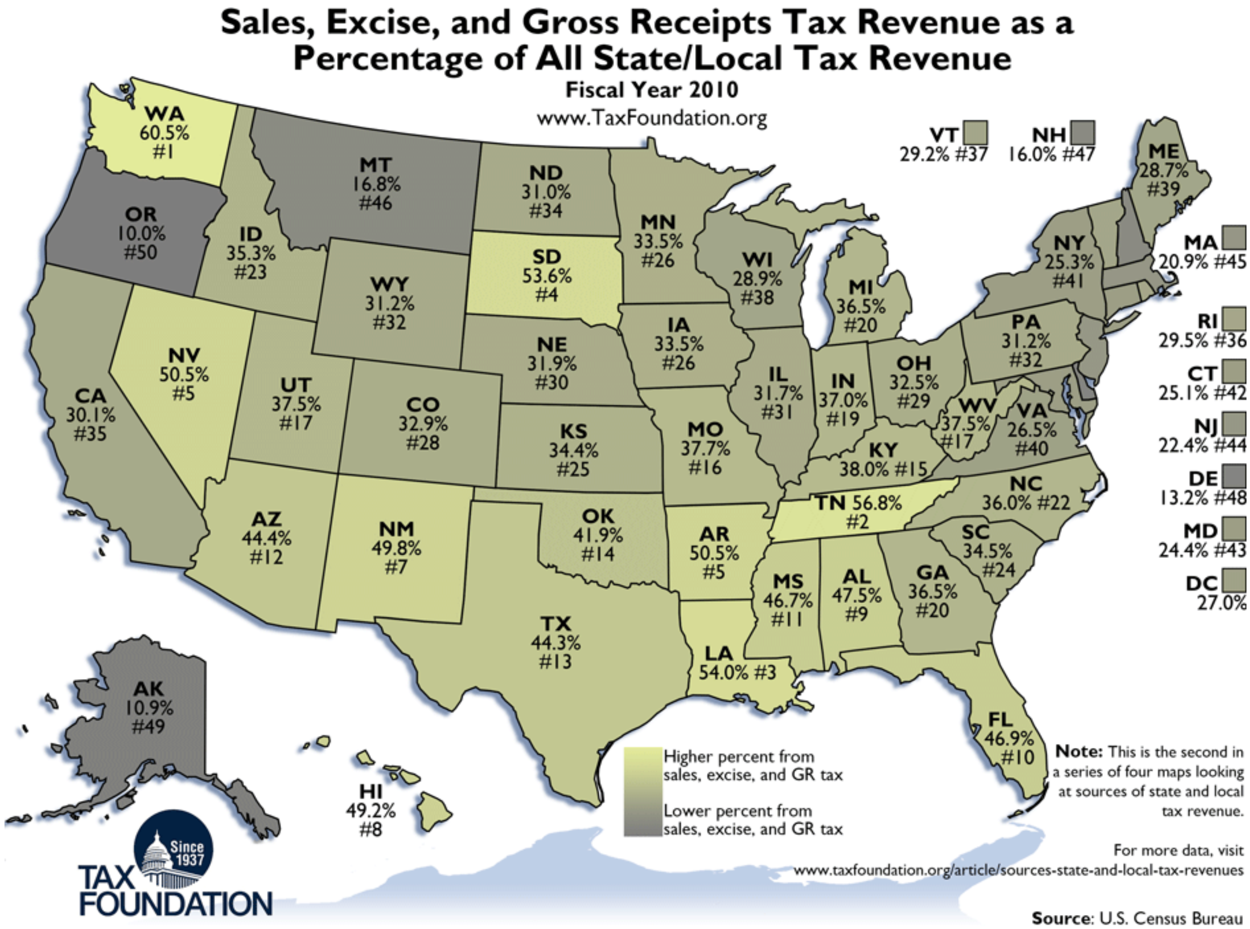
[61] *See* Tax Foundation, *Gross Receipt Taxes*, http://taxfoundation.org/tax-topics/gross-receipts-taxes.

to a tax on their gross income. These businesses generally include persons who render professional or personal services to other individuals (rather than to personal property), such as accountants, agents, appraisers, architects, attorneys, brokers, engineers, landscape architects, lawyers, loan agents, real estate agents, and "numerous other persons." They do not include personal and professional services specifically included in the definition of "sale at retail," such as the provision of abstracts, title insurance, escrow businesses, and credit bureau businesses.[62]

[62] For more information on the specific provisions referenced and Washington state's fairly complicated tax scheme in general, see Wash. Rev. Code §§ 82.04.050, .051, .070, .080, .220, .250, .260, .263, .280, .290, .29002, .320, .4281, .44525; .08.010, .020 (2012); Wash. Admin. Code 458-20-138, -146, -151, -163, -207, -224 (2013). These provisions are summarized by LRC in the State Issues Tracker Library, available via ebook to NAR® members (see the Annual Report on Sales Tax on Services for Washington state).

Figure 8.[63]



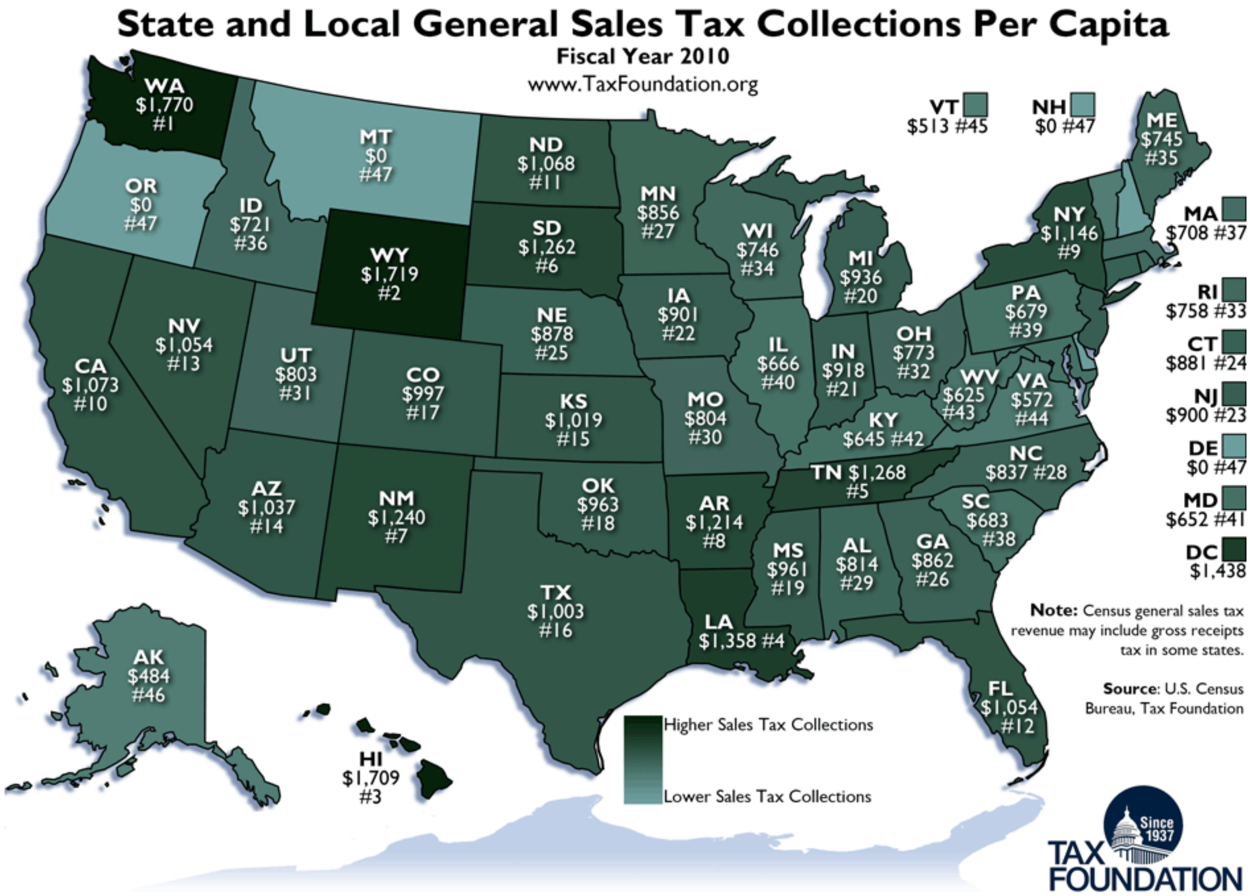
Sales taxes are one of the more “transparent” ways to collect tax revenue.[64] While graduated income tax rates and income-based brackets are complex and may be confusing to many taxpayers, sales taxes are easier to understand, because buyers can reach into their pockets or purses and see the amount printed on a receipt each time they make a purchase. And these amounts do add up. The map below shows the

[63] Tax Found Weekly Map (Feb. 4, 2013), http://taxfoundation.org/blog/weekly-map-sources-state-and-local-tax-revenue-sales-excise-and-gross-receipts-tax.

[64] *See* Scott Drenkard, *State and Local Sales Tax Rates in 2013* (Tax Found. Feb. 11, 2013), http://taxfoundation.org/article/state-and-local-sales-tax-rates-2013.

amount of sales tax revenue collected per capita in each state for fiscal year 2010, and ranks the states from highest to the lowest sales-tax-revenue producers.

Figure 9.[65]



In addition to (or sometimes instead of) statewide taxes, local sales taxes are collected in 37 jurisdictions. The rates can be substantial, so a state with a moderate-seeming statewide sales tax could actually have a very high combined state-local rate.[66] Five states do not impose a statewide sales tax at all: Alaska, Delaware, Montana, New Hampshire, and Oregon. But in Alaska and Montana, localities are allowed to charge

[65] Tax Found. Monday Map (Apr. 8. 2013), http://taxfoundation.org/blog/monday-map-sales-tax-collections-capita-fiscal-year-2010.

[66] *See* Drenkard, *supra*, *State and Local Sales Tax Rates in 2013*, http://taxfoundation.org/article/state-and-local-sales-tax-rates-2013.

sales taxes. High local rates in populous cities like Juneau and Kodiak (five percent and six percent respectively) increase the average local rate, but not enough to give Alaskans a higher combined rate than any state that charges a statewide sales tax. The five states with the highest average combined state-local rates are Tennessee (9.44%), Arizona (9.16%), Louisiana (8.87%), Washington (8.86%), and Oklahoma (8.67%). The five states with the lowest average combined rates are Alaska (1.69%), Hawaii (4.35%), Maine (5%), Virginia (5%), and Wyoming (5.34%).[67]

On a more localized basis, the highest total sales tax rate in the United States is in Tuba City, Arizona, which has a combined rate of 13.725%, composed of a 6.6% state tax, a 1.125% Coconino county tax, and an additional six percent tribal tax levied by the To'Nanees'Dizi local government.[68] The highest city rate is seven percent in Wrangell, Alaska which, given the small population of approximately 2,382, does not have much of an impact on the average local rate.[69]

On a statewide level, California has the highest rate at 7.5%.[70] Five states tie for second-highest with seven percent each: Indiana, Mississippi, New Jersey, Rhode Island, and Tennessee. The lowest statewide sales tax in jurisdictions that imposes

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[67] *Id.*, Drenkard, *State and Local Sales Tax Rates in 2013*, http://taxfoundation.org/article/state-and-local-sales-tax-rates-2013.

[68] *Id.* (citing To'Nanees'Dizi Local Government Sales Tax Return, TC-FORM 600, http://www.tndtaxcode.com/forms/amended_FORM_600_07-12-11.pdf; Vertex Inc., *2012 Sales Tax Rate Report*, http://www.vertexinc.com/pressroom/2013/Vertex%20Inc%20-%202012%20Sales%20Tax%20Rate%20Report.pdf).

[69] *Id.*, Drenkard, *State and Local Sales Tax Rates in 2013*, http://taxfoundation.org/article/state-and-local-sales-tax-rates-2013.

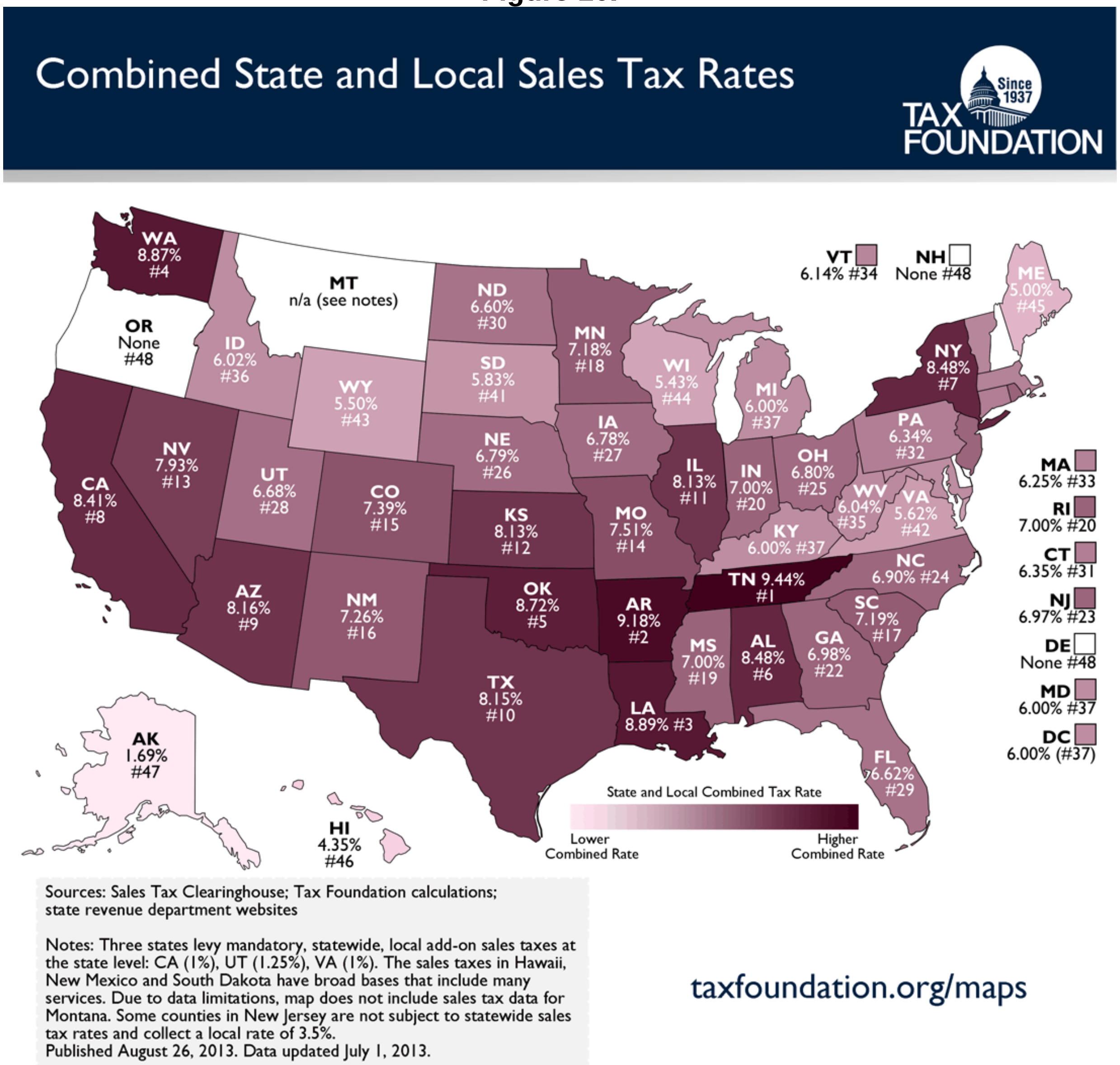
[70] *Id.*, Drenkard, *State and Local Sales Tax Rates in 2013*, http://taxfoundation.org/article/state-and-local-sales-tax-rates-2013. This figure includes a mandatory 1% add-on tax that is collected by the state but distributed to local governments. A similar situation exists in Utah and Virginia.

such a tax is in Colorado, with a rate of 2.9%. Seven states follow with four percent: Alabama, Georgia, Hawaii, Louisiana, New York, South Dakota, and Wyoming.[71]

The consolidated state and local sales tax averages, as well as the ranks for each jurisdiction, are presented in the following map.

[71] *Id.* Note that the sales tax bases in Hawaii and South Dakota include many services so their sales taxes are not strictly comparable to other states' sales taxes.

Figure 10.[72]



The state and local sales tax rate data are also presented in greater detail in Tables A-3 and A-4 in the Appendix. Note that strict comparisons are not entirely possible because of differences in tax bases (e.g., the structure of sales taxes, or defining what is taxable and non-taxable). State laws can vary significantly in this

[72] Tax Found. Monday Map (Aug. 26, 2013), http://taxfoundation.org/blog/monday-map-combined-state-and-local-sales-tax-rates.

regard. Some states exempt clothing, for instance, or tax it at a reduced rate.[73] The taxation of services and business-to-business transactions also varies across state lines.[74] Many states exempt groceries from sales tax, while others tax them at a reduced rate.[75]

Table 2 demonstrates these food-based sales tax variations.

Table 2. Sales Tax Treatment of Groceries, Candy, and Soda[76]

State	General Sales Tax	Grocery Treatment	Candy Treated as Groceries?	Soda Treated as Groceries?
Ala.	4.00%	Included in Base	Yes	Yes
Alaska	N/A	N/A	N/A	N/A
Ariz.	6.60%	Exempt	Yes	Yes
Ark.	6.00%	2.00%	Yes	Yes
Calif. (a)	7.50%	Exempt	Yes	No
Colo.	2.90%	Exempt	No	No
Conn.	6.35%	Exempt	No	No
Del.	N/A	N/A	N/A	N/A

[73] Joseph Henchman, *State Sales Taxes on Clothing*, Tax Found. Tax Policy Blog (Jan. 24, 2012), http://taxfoundation.org/legacy/show/27915.html.

[74] Tax Found., *2013 State Business Tax Climate Index*, Tax Foundation Background Paper No. 64 (Oct. 9, 2012), http://taxfoundation.org/article/2013-state-business-tax-climate-index).

[75] Tax Found., *2013 State Business Tax Climate Index*, Tax Foundation Background Paper No. 64 (Oct. 9, 2012), http://taxfoundation.org/article/2013-state-business-tax-climate-index).

[76] Tax Foundation, *Facts & Figures—How Does Your State Compare* (Scott Drenkard ed. Mar. 18 2013), http://taxfoundation.org/sites/taxfoundation.org/files/docs/ff2013.pdf (data current as of Jan. 1, 2013). Source: Tax Foundation, *Overreaching on Obesity: Governments Consider New Taxes on Soda and Candy (2011)*.

Notes for table:

(a) Three states collect a separate, uniform “local” add-on sales tax (California (1%), Utah (1.25%), and Virginia (1%)), which is included in their state sales tax for purposes of this table.

(b) At the time these data were compiled, West Virginia was in the process of phasing out and ultimately eliminating its tax on groceries, provided certain fiscal conditions were met.

State	General Sales Tax	Grocery Treatment	Candy Treated as Groceries?	Soda Treated as Groceries?
Fla.	6.00%	Exempt	No	No
Ga.	4.00%	Exempt	Yes	Yes
Hawaii	4.00%	Included in Base	Yes	Yes
Idaho	6.00%	Included in Base	Yes	Yes
Ill.	6.25%	1.00%	No	No
Ind.	7.00%	Exempt	No	No
Iowa	6.00%	Exempt	No	No
Kans.	6.30%	Included in Base	Yes	Yes
Ky.	6.00%	Exempt	No	No
La.	4.00%	Exempt	Yes	Yes
Maine	5.00%	Exempt	No	No
Md.	6.00%	Exempt	No	No
Mass.	6.25%	Exempt	Yes	Yes
Mich.	6.00%	Exempt	Yes	Yes
Minn.	6.875%	Exempt	No	No
Miss.	7.00%	Included in Base	Yes	Yes
Mo.	4.225%	1.225%	Yes	Yes
Mont.	N/A	N/A	N/A	N/A
Nebr.	5.50%	Exempt	Yes	Yes
Nev.	6.85%	Exempt	Yes	Yes
N.H.	N/A	N/A	N/A	N/A
N.J.	7.00%	Exempt	No	No
N.M.	5.125%	Exempt	Yes	Yes
N.Y.	4.00%	Exempt	No	No
N.C.	4.75%	Exempt	No	No
N.D.	5.00%	Exempt	No	No
Ohio	5.50%	Exempt	Yes	No
Okla.	4.50%	Included in Base	Yes	Yes
Ore.	N/A	N/A	N/A	N/A
Pa.	6.00%	Exempt	Yes	No
R.I.	7.00%	Exempt	No	No
S.C.	6.00%	Exempt	Yes	Yes
S.D.	4.00%	Included in Base	Yes	No
Tenn.	7.00%	5.25%	Yes	Yes

State	General Sales Tax	Grocery Treatment	Candy Treated as Groceries?	Soda Treated as Groceries?
Tex.	6.25%	Exempt	No	No
Utah (a)	5.95%	1.75%	Yes	Yes
Vt.	6.00%	Exempt	Yes	Yes
Va. (a)	5.00%	2.50%	Yes	Yes
Wash.	6.50%	Exempt	Yes	No
W.Va. (b)	6.00%	1.00%	Yes	No
Wis.	5.00%	Exempt	No	No
Wyo.	4.00%	Exempt	Yes	Yes
D.C.	6.00%	Exempt	Yes	No

Sales tax rates have a definite impact on consumer and business decisions. Research shows that consumers will leave high-tax areas to make major purchases in nearby low-tax areas.[77] Chicago-area consumers, for instance, make major purchases in surrounding suburbs or online to avoid Chicago's 9.25% sales tax rate.[78] Delaware actually uses its state border welcome sign to remind motorists that Delaware is the "Home of Tax-Free Shopping."[79] And businesses sometimes locate just outside the borders of high sales tax areas to avoid paying high rates. If state and local governments raise their rates too high relative to their neighbors, they could end up with

[77] *Id.* (citing Mehmet Serkan Tosun & Mark Skidmore, *Cross-Border Shopping and the Sales Tax: A Reexamination of Food Purchases in West Virginia* (Working Paper, 2005), http://www.rri.wvu.edu/pdffiles/Tosunwp2005-7.pdf; Randolph T. Beard, Paula A. Gant, & Richard P. Saba, *Border-Crossing Sales, Tax Avoidance, and State Tax Policies: An Application to Alcohol*, Southern Economic Journal 64(1), at 293-306 (1997)).

[78] *Id.* (citing Susan Chandler, *The Sales Tax Sidestep*, Chicago Tribune, July 20, 2008, http://articles.chicagotribune.com/2008-07-20/business/0807190001_1_sales-tax-tax-avoidance-tax-landscape).

[79] *Id.* (citing Len Lazarick, *Raise Taxes, and They'll Move, Constituents Tell One Delegate*, Marylandreporter.com, Aug. 3, 2011, http://marylandreporter.com/2011/08/03/raise-taxes-and-theyll-move-constituents-tell-one-delegate/).

less revenue than expected based on consumers' and business entities' preference to shop and locate in lower-tax areas.[80]

Of course, sales taxes are just one element of an overall tax structure and must be considered in a broader context. Washington state, for example, has high sales taxes but no income tax; neighboring Oregon has no sales tax, but high income taxes. While many factors may influence business and consumer decisions, sales taxes are one area where policymakers have direct control and can make an impact.[81]

2. Sales Taxes on Services

a. Overview

As of April 2013, 81% of state-level jurisdictions[82] imposed a sales tax on at least some services, such as telecommunications, entertainment admissions, or utilities, according to research conducted by Legal Research Center (LRC).[83] However, most of these taxes do not apply to construction services, real estate commissions, or other services related to real estate. Three states[84] have no broad-based sales tax at all, on either goods or services. Eight jurisdictions[85] have a business or occupation tax that, although technically not a sales tax, effectively taxes the sale of services in the

[80] *Id., Facts & Figures—How Does Your State Compare* (Scott Drenkard ed. Mar. 18 2013), http://taxfoundation.org/sites/taxfoundation.org/files/docs/ff2013.pdf.

[81] *Id.*

[82] AL, AZ, AK, CA, CO, CT, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NV, NJ, NY, NC, ND, OH, OK, PA, PR, RI, SC, TN, TX, UT, VT, VI, WA, WV, WI, WY.

[83] The LRC research results referenced throughout this White Paper, including links to all primary source materials, are available to NAR® members via the website www.legalebook.com.

[84] AK, MT, NH.

[85] DE, GU, HI, NM, OR, SD, VI, WA.

jurisdiction. Washington's fairly complicated tax scheme includes both a sales tax on goods and some services, and a business and occupation tax on many services.[86]

Expanding a state's sales tax to services has been a fairly popular focus of state legislatures. Georgia, Illinois, Kansas, Maine, North Dakota, and Vermont, among others, considered such bills during recent legislative sessions. On the other hand, over the course of the last decade, several states, including Florida, Massachusetts, and Michigan, repealed their broadly based taxes on services. (In some cases, the acts were repealed as of their effective dates.)

Although the following discussion focuses on real estate concerns, a variety of tangentially related services may also be taxed, including but not limited to services in the following categories of potential relevance to the real estate industry:

- Construction (e.g., well drilling, general services).
- Finance and insurance (e.g., investment counseling, financial reporting).
- Business (e.g., ad sales, employment agencies, secretarial services).
- Computer (e.g., software, ISP hosting, data processing).
- Professional (e.g., accounting, architectural design).
- Leases and rentals (e.g., mobile home parks).

b. General Services Taxes

Professional services are generally taxed in only seven state-level jurisdictions.[87] Most states with a sales tax exempt the bulk of professional services, but professionals are often required to pay a sales tax on items purchased to conduct their businesses.

[86] For more about Washington's tax scheme, see Part III.B.1 above.

[87] DE, GU, HI, NM, SD, VI, WA.

The majority of states with a broad-reaching business and organization tax apply the tax to most professions, although South Dakota exempts medical professionals.

The application of sales and business and occupation taxes to contracting and construction trades varies significantly, and how the taxes are applied can turn on minor distinctions. For example, only prime contractors' services are taxed in Arizona. In Connecticut, a contractor's services are taxable only if they are rendered in conjunction with existing commercial, industrial, or income-producing property; they are exempt if rendered in connection with new construction or residential property. In West Virginia a contractor's services are exempt if the activity results in a capital improvement. Overall, fourteen state-level jurisdictions[88] tax contracting or construction services under certain delineated circumstances.

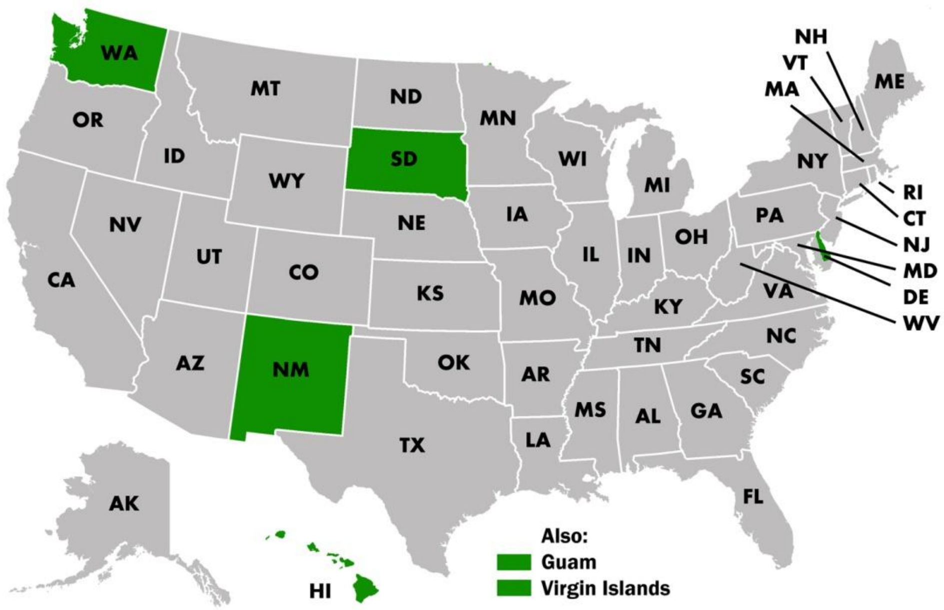
c. Sales Tax on Commissions

Most states do not tax real estate commissions. Only seven of the surveyed jurisdictions[89] assess either a sales tax or a business and occupation tax on real estate commissions. These states are shown in **green** in the map below.

[88] AZ, CT, DE, GU, HI, IA, KS, MS, NM, SD, TX, VI, WA, WV.

[89] DE, GU, HI, NM, SD, VI, WA.

Figure 11. Jurisdictions Imposing Taxes on Real Estate Commissions[90]



No jurisdictions added a tax on real estate commissions during the past year, but Washington recently clarified its method of determining taxes for real estate brokers.

d. Sales Tax on Related Services

Services that are related to real estate transactions are typically taxed like professional services. Eight state-level jurisdictions[91] tax property management, and nine jurisdictions[92] tax land surveys. Between May 2011 and April 2012, 12 jurisdictions[93] revised their laws relevant to taxing services that are related to real estate

[90] Based on research conducted by Legal Research Center, Inc. in April 2013.

[91] CT, DE, GU, HI, NM, SD, VI, WA.

[92] DE, GU, HI, NM, SD, TX, VI, WA, WV.

[93] CT, DE, FL, GA, GU, IA, LA, NE, NJ, OH, TX, WA.

transactions, and from April 2012 to April 2013 nine jurisdictions[94] further revised those laws. However, once again all of the changes were minor and of no significance for present purposes.

C. Property Taxes

1. Overview

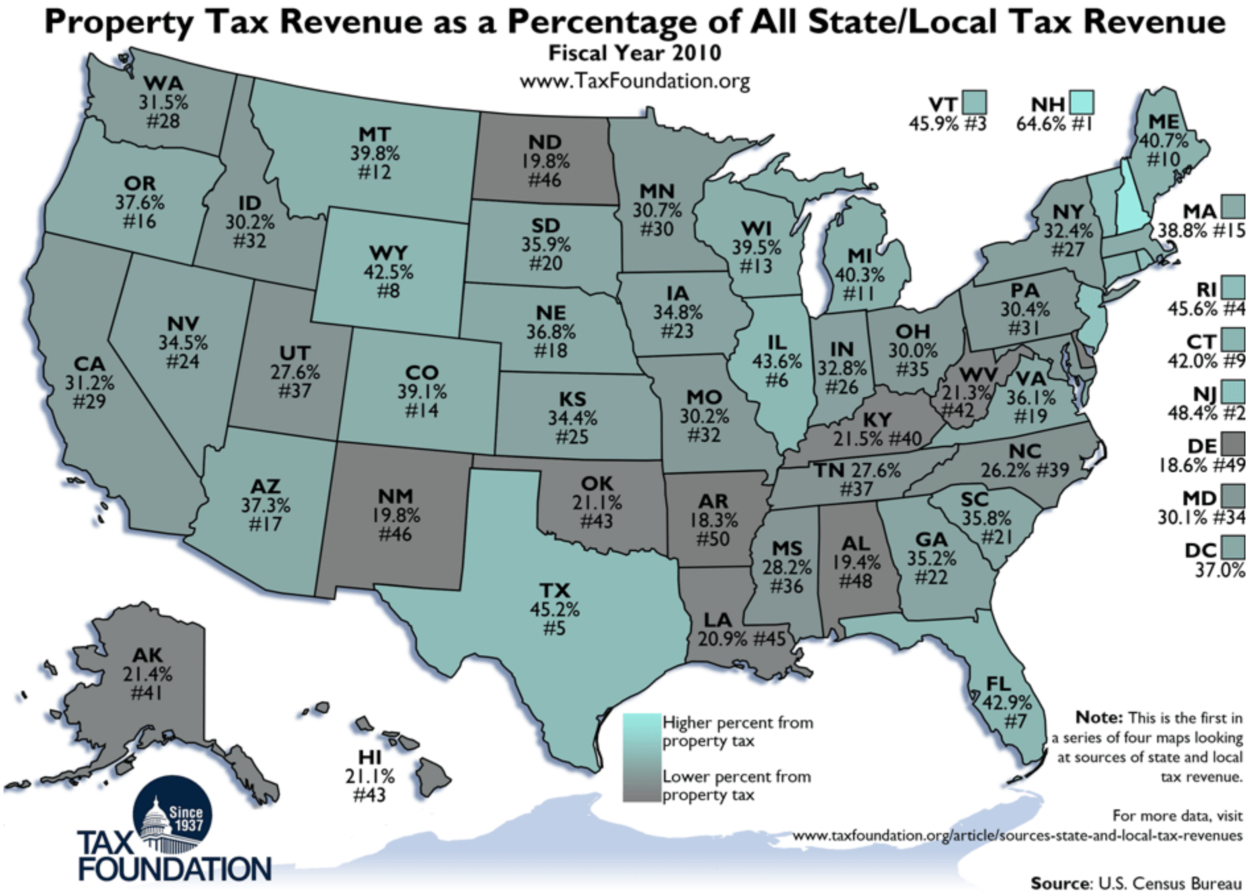
Property taxes can be assessed against both real and personal property. While all state-level U.S. jurisdictions have some form of real property (land and structure) taxation, far fewer impose taxes on intangible personal property (such as stocks, bonds, patents, and copyrights) and tangible personal property (like boats, cars, and business equipment). Residential and commercial real estate are most often a source of *local* tax revenue, while personal property taxes are often a source of *state* tax revenue.[95]

As the following map shows, property taxes are a significant contributor to state and local funds. Note that among all states, property taxes contribute the highest percentage to state and local coffers in New Hampshire (an impressive 64.6% of state and local revenue).

[94] DE, DC, FL, GA, IA, LA, NM, UT, WY.

[95] Joyce Errecart, Ed Gerrish, & Scott Drenkard, *States Moving Away from Taxes on Tangible Personal Property* (Tax Found. Oct. 4, 2012), http://taxfoundation.org/article/states-moving-away-taxes-tangible-personal-property.

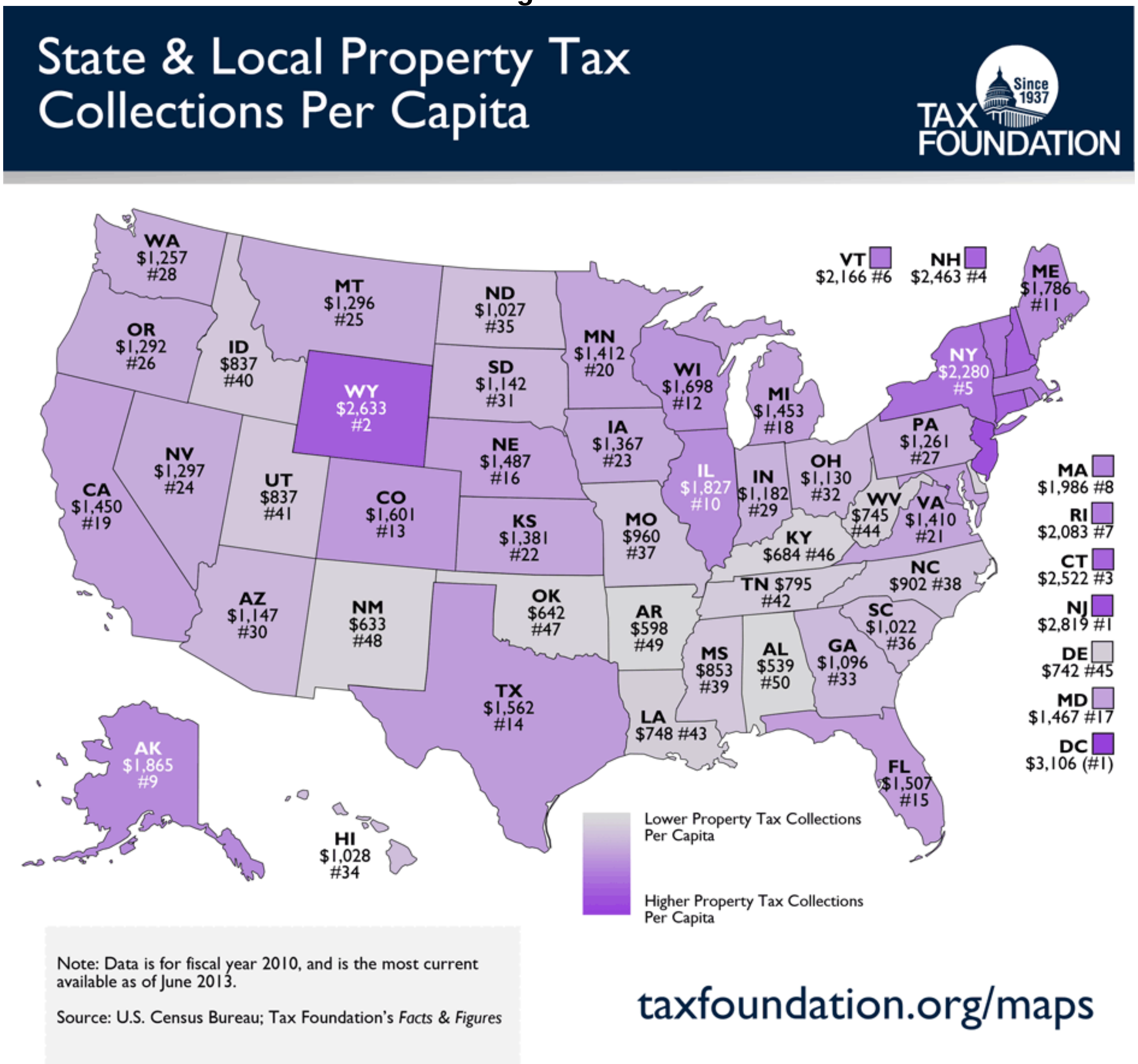
Figure 12.[96]



New Hampshire does not, however, rank first in terms of per-capita property tax collections, although it comes in near the top at fourth. The District of Columbia took the top spot in this comparative view. The next map shows that the per-capita property tax collection varies significantly from jurisdiction to jurisdiction.

[96] Tax Found. Weekly Map (Jan. 29, 2013), http://taxfoundation.org/blog/weekly-map-sources-state-and-local-tax-revenue-property-tax.

Figure 13.[97]



2. Personal Property Taxes

Tax revenues from tangible personal property comprised just 2.25% of state and local tax revenue in 2009 (the most recent year for which comparative data are available), which constitutes a 29% decrease in tangible personal property taxes levied

[97] Tax Found., Monday Map (June 10, 2013), (http://taxfoundation.org/blog/monday-map-state-local-property-tax-collections-capita).

over the past decade.[98] Personal property taxes have become a smaller portion of state revenues for a number of reasons. Ohio, for instance, has completely phased out tangible personal property taxation, and other states have eliminated entire categories of property from the tax (such as inventory). Still other states, such as Maine, have eliminated tangible personal property taxes for a broad category of new business property.[99]

Table 3 below shows the tangible personal property tax burden, per capita, for all states (from 2000 to 2009).

Table 3. Tangible Personal Property Tax Burden Per Capita (2000—2009)[100]

Jurisdiction	2000	2005	2009	% Change
Alabama	N/A	N/A	N/A	
Alaska	N/A	N/A	N/A	
Arizona	$172	$128	$105	-39%
Arkansas	N/A	$139	$157	12%
California	$54	$48	$53	-2%
Colorado	$166	$156	$167	0%
Connecticut	N/A	N/A	N/A	
Delaware	-	-	-	
Florida	$112	$121	$101	-10%
Georgia	N/A	$186	$186	0%
Hawaii	-	-	-	

[98] Errecart, Gerrish & Drenkard, *supra*, *States Moving Away from Taxes on Tangible Personal Property*, http://taxfoundation.org/article/states-moving-away-taxes-tangible-personal-property. Of the 41 states that levied personal property taxes in 2009, the Tax Foundation had data for only 33 states; for 8 states data were not available. As of 2012, only 40 states levied personal property taxes (Ohio has phased out such taxation).

[99] *Id.* (citing Me. Rev. Stat. Ann. tit. 36, §§ 692, 693).

[100] *Id.* Source: Tax Foundation & Foundation for Government Accountability calculations from U.S. Census Bureau data. *Notes:* A "-" entry indicates that tangible personal property taxes were not levied in that state, and thus collections were zero. "N/A" indicates that the state did not respond to requests or that the data they collected was insufficient to generate an estimate of personal property collections.

Jurisdiction	2000	2005	2009	% Change
Idaho	$111	$116	$80	-28%
Illinois	-	-	-	
Indiana	$327	$200	$100	-69%
Iowa	-	-	-	
Kansas	$158	$181	$161	2%
Kentucky	N/A	N/A	N/A	41%
Louisiana	$156	$165	$220	
Maine	N/A	$124	$94	-24%
Maryland	N/A	N/A	N/A	
Massachusetts	$69	$66	$71	3%
Michigan	N/A	N/A	N/A	
Minnesota	-	-	-	
Mississippi	N/A	$314	$325	3%
Missouri	N/A	$379	$333	-12%
Montana	$73	$79	$91	25%
Nebraska	$96	$89	$105	10%
Nevada	$93	$82	$91	-2%
New Hampshire	-	-	-	
New Jersey	N/A	N/A	N/A	
New Mexico	N/A	N/A	N/A	
New York	-	-	-	
North Carolina	$160	$143	$130	-19%
North Dakota	-	-	-	
Ohio	$189	$164	$5	-97%
Oklahoma	$93	$102	$129	39%
Oregon	$53	$51	$50	-6%
Pennsylvania	-	-	-	
Rhode Island	$317	$459	$374	18%
South Carolina	$232	$234	$167	-28%
South Dakota	-	-	-	
Tennessee	N/A	$104	$92	-12%
Texas	$163	$174	$165	1%

Jurisdiction	2000	2005	2009	% Change
Utah	$141	$133	$119	-16%
Vermont	$17	$8	$6	-64%
Virginia	$446	$398	$376	-16%
Washington	$70	$53	$48	-32%
West Virginia	$206	$210	$245	19%
Wisconsin	$53	$43	$47	-11%
Wyoming	$30	$33	$34	13%
District of Columbia	$181	$142	$116	-36%

Next, Table 4 below lists the tangible personal property tax collections for each state as a percentage of overall state revenue, for the same time period. Comparing these data with the map in Figure 12 on page 42, which shows the overall contribution of property taxes to state and local coffers, it is clear that the bulk of the contributions come from real, not personal, property taxes.

Table 4. Percent of State Revenue Comprised by Tangible Personal Property Taxes (2000—2009)[101]

Jurisdiction	2000	2005	2009	% Change
Alabama	N/A	N/A	N/A	
Alaska	N/A	N/A	N/A	
Arizona	3.86%	2.65%	2.18%	-43%
Arkansas	N/A	2.99%	3.27%	9%
California	0.87%	0.71%	0.77%	-11%
Colorado	2.92%	2.65%	2.70%	-7%
Connecticut	N/A	N/A	N/A	
Delaware	-	-	-	
Florida	2.25%	2.15%	1.70%	-24%
Georgia	N/A	3.77%	3.78%	0%
Hawaii	-	-	-	

[101] *Id.* Source: Tax Foundation & Foundation for Government Accountability calculations from U.S. Census Bureau data.

Jurisdiction	2000	2005	2009	% Change
Idaho	2.33%	2.32%	1.66%	-29%
Illinois	-	-	-	
Indiana	6.48%	3.50%	1.75%	-73%
Iowa	-	-	-	
Kansas	3.12%	3.30%	2.56%	-18%
Kentucky	N/A	N/A	N/A	
Louisiana	3.24%	3.09%	3.68%	14%
Maine	N/A	2.01%	1.57%	-22%
Maryland	N/A	N/A	N/A	
Massachusetts	1.09%	0.94%	0.99%	-10%
Michigan	N/A	N/A	N/A	
Minnesota	-	-	-	
Mississippi	N/A	6.98%	6.44%	-8%
Missouri	N/A	7.79%	6.80%	-13%
Montana	1.48%	1.57%	1.60%	8%
Nebraska	1.79%	1.47%	1.72%	-4%
Nevada	1.79%	1.37%	1.60%	-11%
New Hampshire	-	-	-	
New Jersey	N/A	N/A	N/A	
New Mexico	N/A	N/A	N/A	
New York	-	-	-	
North Carolina	3.23%	2.82%	2.50%	-23%
North Dakota	-	-	-	
Ohio	3.58%	2.83%	0.08%	-98%
Oklahoma	2.04%	2.14%	2.46%	20%
Oregon	0.93%	0.92%	0.90%	-3%
Pennsylvania	-	-	-	
Rhode Island	5.84%	7.32%	5.75%	-2%
South Carolina	4.86%	4.39%	3.10%	-36%
South Dakota	-	-	-	
Tennessee	N/A	2.18%	1.98%	-9%
Texas	3.55%	3.47%	3.14%	-11%
Utah	2.80%	2.49%	2.23%	-20%

Jurisdiction	2000	2005	2009	% Change
Vermont	0.31%	0.13%	0.09%	-71%
Virginia	8.32%	6.70%	6.22%	-25%
Washington	1.20%	0.88%	0.75%	-37%
West Virginia	4.53%	3.99%	4.47%	-1%
Wisconsin	0.89%	0.72%	0.76%	-15%
Wyoming	0.45%	0.36%	0.30%	-33%
District of Columbia	2.07%	1.32%	1.08%	-48%

As of late 2012, seven states (Kentucky, Maryland, Michigan, Montana, Rhode Island, Virginia, and West Virginia) and the District of Columbia imposed different tax rates, or permitted local jurisdictions to impose different tax rates, on tangible personal property than on other types of property. Montana is an extreme example of this phenomenon, with different tax rates applied to 14 different classes of property. The effect of these different tax rates is that electric utility property owners, for instance, end up paying four to six times as much property tax as owners of general business tangible personal property, for property of equal value.[102]

3. Real Property Taxes

Real property taxes are a fertile legislative area. Many jurisdictions make frequent revisions to their real property tax schemes. As discussed in more detail

[102] *Id.*, *States Moving Away from Taxes on Tangible Personal Property*, http://taxfoundation.org/article/states-moving-away-taxes-tangible-personal-property (citing Mont. Code Ann. §§ 15-6-131 to -159 (2012)).

below, from June 2012 to May 2013, 69% of the jurisdictions surveyed[103] by Legal Research Center revised their laws on real property taxes.

a. Assessment Rates

Each state's property tax is based on its property values. The most common valuation method is to use all or part of the property's fair cash or market value. Thirty-three jurisdictions[104] use this approach. Another common measure of value is a form of actual, true, or just value, which also frequently includes a market analysis. Seventeen jurisdictions[105] use this approach.

The percentage of a property's value that is taxed varies by jurisdiction. Eighteen jurisdictions[106] simply tax the total assessed value, in most cases. Thirteen states[107] apply a percentage of the actual value to obtain an assessed value in all or most cases. Another 18 states[108] divide their property into formal classes, each of which is assessed at a different percentage of its actual value. And still other jurisdictions, such as the Virgin Islands and West Virginia, use their formal property classification systems to specify different tax rates for each class.

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[103] Al, AK, AZ, CT, DE, DC, FL, GA, ID,IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MO, MT, NJ, NM, NY, NC, OH, OK, OR, PA, SC, SD, TN, UT, VT, VA, WA. More specific information for each jurisdiction is available in the State Issues Tracker Annual Report on Property Taxes.

[104] AL, AK, AZ, AR, CA, DC, FL, GA, HI, ID, IL, KS, KY, LA, MD, MA, MI, MN, MO, NH, NM, NY, OK, OR, RI, TN, TX, UT, VT, VI, VA, WI, WY.

[105] CO, CT, DE, IA, ME, MS, MO, NE, NJ, NC, ND, OH, PA, SC, SD, WA, WV.

[106] AK, CA, DE, FL, ID, IN, IA, KY, ME, NH, NC, OR, PA, PR, VT, VI, VA, WA.

[107] AR, CO, CT, GA, GU, HI, IL, MI, NV, NM, OH, OK, WV.

[108] AL, AZ, DC, KS, LA, MD, MA, MN, MS, MO, MT, NE, ND, SC, TN, UT, WI, WY.

From June 2012 to May 2013, 16 jurisdictions[109] changed their laws related to property tax assessments. The most significant changes were in Minnesota, which revised its property classes, and in Utah, which added assessment provisions for property containing threatened or endangered species.

b. Credits for Specified Classes

Many states provide property tax relief that directly reduces a resident's tax liability. This relief may be in the form of a credit against the property tax, a credit against personal income taxes, a rebate, or a refund. Some state-level jurisdictions also provide property tax deferrals that reduce the tax amounts currently due.

The most common tax reductions are some form of tax credit provided to the following specified classes:

- 24 jurisdictions[110] provide tax credits related to property taxes or property tax deferrals for qualified disabled residents.
- 31 jurisdictions[111] provide tax credits related to property taxes or property tax deferrals for qualified elderly residents.
- 12 jurisdictions[112] provide tax credits related to property taxes or property tax deferrals for qualified low-income residents (who are not included in other special categories).

[109] AZ, GA, ID, KS, ME, MD, MI, MN, MO, MT, NM, OH, OK, SC, UT, VT.

[110] CA, CO, CT, GU, ID, IL, IA, KS, MD, MA, MO, NH, NJ, NC, OK, OR, PA, RI, SD, TN, UT, VI, WA, WY.

[111] AZ, CA, CO, CT, GA, GU, ID, IL, IN, IA, KS, ME, MD, MA, MN, MO, MT, NH, NJ, NC, OK, OR, PA, RI, SD, TN, UT, VI, WA, WV, WY.

[112] AK, ID, IA, MD, MN, MT, RI, UT, VT, WA, WV, WI.

- 12 jurisdictions[113] provide tax credits related to property taxes or property tax deferrals for qualified veterans or their surviving spouses.
- 14 jurisdictions[114] provide general homestead credits reducing the property taxes payable on the homeowner's primary residence instead of, or in addition to, general homestead exemptions.[115]

Many state-level jurisdictions also provide credits to other specified classes of property owners. Rhode Island, for example, provides a credit for historic residences, and West Virginia provides a tax credit for solar energy systems. Some states provide property tax relief after a natural disaster, as Minnesota did for homes damaged by its May 26, 2011, tornadoes.

Between June 2012 and May 2013, 12 jurisdictions[116] revised their laws providing credits for specified classes, with the most significant changes occurring in Illinois, which eliminated the state Department on Aging's Circuit Breaker Program for senior citizens and disabled individuals due to lack of funding; Massachusetts, which provided that towns or cities may establish a volunteer program that results in a reduced property tax obligation for volunteering veterans; and Pennsylvania, which added tax abatements for property damaged by Hurricane Irene or Tropical Storm Lee.

[113] CO, FL, ID, IA, KS, MN, MO, NH, NJ, TN, VI, WI.

[114] AR, DC, GA, IA, ME, MD, MN, NE, NJ, OH, VT, VI, WI, WY.

[115] A homestead credit is a reduction in the amount of property taxes due on the taxpayer's primary residence, whereas an exemption is generally a reduction in the assessed value of the home on which property taxes are based (which has the effect of reducing the amount of taxes otherwise due). Homestead credits are designed to soften the impact of property taxes on lower-income persons. *See, e.g.*, Wis. Dep't of Revenue, *Homestead Credit FAQs*, http://www.revenue.wi.gov/faqs/ise/homedef.html. Homestead exemptions may limit the per-year increase in property value on which taxes are assessed. *E.g.,* Ill. Rev., Property Tax, *Property Tax Relief—Homestead Exemption,* http://tax.illinois.gov/localgovernment/PropertyTax/taxrelief.htm.

[116] AK, CT, FL, IL, KS, MD, MA, MT, OR, PA, TN, UT.

c. Homestead Exemptions

Homestead exemptions reduce the taxable value of the taxpayer's primary residence. The most common exemptions (provided either as a statewide law or as a local government option) are as follows:

- 27 jurisdictions[117] provide homestead exemptions for all or most homeowners' primary residences.
- 31 jurisdictions[118] provide homestead exemptions for qualified disabled residents.
- 30 jurisdictions[119] provide homestead exemptions for qualified elderly residents.
- nine jurisdictions[120] provide homestead exemptions for qualified low-income residents.
- 41 jurisdictions[121] provide homestead exemptions for qualified veterans or their surviving spouses.

State legislatures frequently revise their property tax exemption laws. Between June 2012 and May 2013, 19 jurisdictions[122] revised their relevant statutes. The most significant changes include the following:

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[117] AL, AK, CA, DC, FL, GA, GU, HI, ID, IL, IN, KS, LA, ME, MA, MI, MS, MT, NM, NY, OK, PR, RI, SC, SD, TX, UT.

[118] AL, AZ, AR, CA, CT, DC, FL, HI, IL, IN, KY, LA, ME, MD, MA, MS, NE, NV, NH, NY, NC, ND, OH, PA, RI, SC, TX, UT, VA, WA, WV.

[119] AL, AK, AR, CA, CO, DE, DC, FL, GA, HI, IL, IN, KY, LA, MA, MS, NE, NH, NY, NC, ND, OH, PA, RI, SC, TX, UT, VA, WA, WV.

[120] DC, IA, MD, MA, MI, OK, PA, RI, TX.

[121] AL, AK, AR, CA, CO, CT, FL, GA, HI, IL, IN, IA, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OK, OR, PA, PR, RI, SC, SD, UT, VT, VA, WA, WY.

[122] AL, AZ, CT, DE, DC, FL, ID, IL, IN, KS, LA, MD, MA, MI, NY, NC, UT, VA, WA.

- Alabama revised certain homestead exemption income levels.
- Florida passed amendments at its November 2012 election that revised several provisions related to the state's homestead exemption.
- Illinois revised some homestead exemption amounts and added a natural disaster homestead exemption.
- Indiana added statutory provisions that address its homestead deduction and circuit breaker credit when there is a delayed assessment date.
- North Dakota increased its veterans' exemption amount.
- Utah amended its constitution to provide an exemption for certain real property owned by a military person.

d. Limits on Tax Increases

Forty jurisdictions[123] at the state level employ some method to limit their property tax increases from year to year. Some methods are quite convoluted and involve elaborate formulas, while others simply place a straightforward percentage limit on the annual increase. Some jurisdictions limit assessment increases, some limit tax rate increases, some limit tax revenue increases, and some use more than one approach.

Between June 2012 and May 2013, 11 jurisdictions[124] revised their statutes limiting tax increases. The most significant changes were as follows:

[123] AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, ID, IL, IA, KS, KY, LA, MD, MA, MI, MN, MO, MT, NE, NV, NJ, NM, NY, ND, OK, OR, RI, SC, SD, TN, TX, UT, VI, VA, WA, WV.

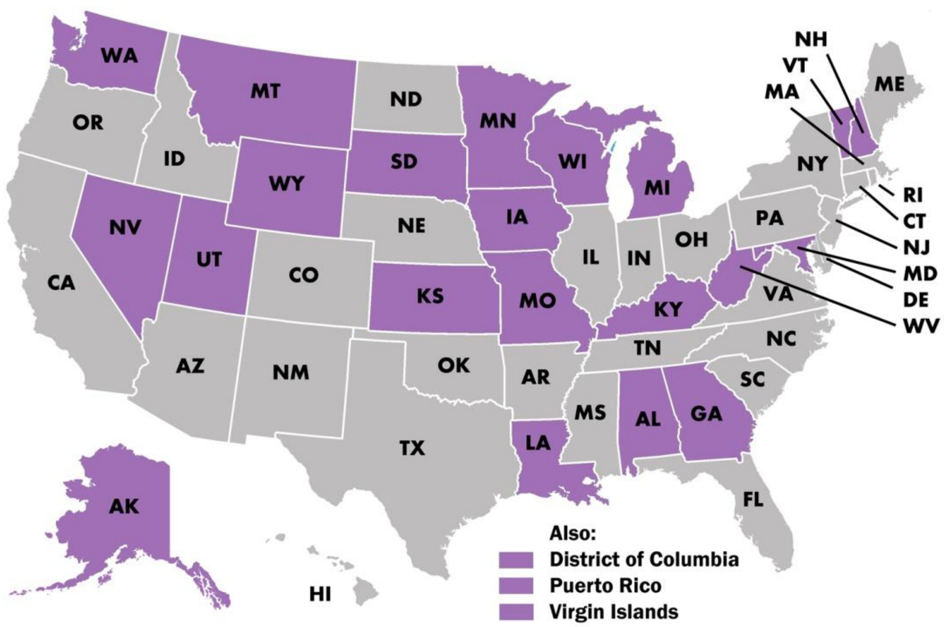
[124] AZ, CT, IL, KY, MI, MN, NJ, NM, OK, SD, TN.

- Arizona passed Proposition 117 at its 2012 general election, which capped at five percent the real property value annual increase, beginning with the 2015 tax year.
- Florida passed an amendment at its November 2012 election that provided that veterans disabled by combat injuries may receive a property tax discount, even if they were not Florida residents when they entered the service.
- Minnesota added a supplemental refund based on tax increases for the 2012 tax year.
- Oklahoma reduced to three percent the increase of the fair cash value of property that qualified for a homestead exemption or that is classified as agricultural land.

e. Statewide Property Taxes

Local governmental entities levy most property taxes. However, 24 jurisdictions also levy (or are permitted to levy) a statewide property tax, most frequently in addition to local property taxes. In some cases, this tax is fairly limited. For example, Minnesota imposes a statewide property tax only on commercial-industrial property and seasonal residential recreational property. The jurisdictions that impose a statewide tax are shown (in **purple**) in the following map.

Figure 14. Jurisdictions Imposing Statewide Property Tax[125]



Since June 2011, only two jurisdictions[126] amended their laws related to statewide property taxes, but none of the changes were significant or relevant to the present discussion.

D. Inheritance & Estate Taxes

Every state imposes some type of tax when property changes hands on the occasion of death.[127] These taxes fall into three basic categories: inheritance taxes, estate taxes, and "pick up" taxes. The most common form is inheritance taxes, which are imposed on the transfer of property upon the death of the property owner. Inheritance taxes are a tax on the privilege of succeeding to the property, rather than on

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[125] Based on research conducted by Legal Research Center, Inc. in May 2013.

[126] IA, KY.

[127] *See* Gelfand, *supra*, State and Local Taxation and Finance, ch. 2, sec. 4.

the property ownership itself. The recipient of the property is responsible for paying the tax, although there are numerous exemptions designed to cushion the impact.[128] Table 5 below shows the inheritance tax rates and exemptions for each state that imposes such taxes.

Table 5. Inheritance Tax Rates and Exemptions as of January 1, 2013[129]

State	Heir Type	Exemption	Rate (Min. to Max)
Indiana (a)	Spouse/Charity	100% Exempt	0%
	Class A	$100,000	1% - 10%
	Class B	$500	7% - 15%
	Class C	$100	10% - 20%
Iowa	Class A	100% Exempt	0%
	Class B	No exemption	5% - 10%
	Class C	No exemption	10% - 15%
Kentucky	Class A	100% Exempt	0%
	Class B	$1,000	4% - 16%
	Class C	$500	6% - 16%

128 *Id.,* State and Local Taxation and Finance, ch. 2, sec. 4.

129 *See* Tax Foundation, *Facts & Figures—How Does Your State Compare* (Scott Drenkard ed. Mar. 18 2013), http://taxfoundation.org/sites/taxfoundation.org/files/docs/ff2013.pdf. Sources: Schoening Strategies; state statutes; Tax Foundation.

Notes for table:

(a) Indiana's inheritance tax will be phased out between 2012 and 2022.

(b) These states have both inheritance and estate taxes.

(c) Nebraska's inheritance tax is levied at the county level.

(d) New Jersey's inheritance tax applies only to estates worth over $1 million.

(e) Parent-to-child transfers to children 21 years old and under and farming families are also exempt.

Note: Inheritance taxes are levied on the posthumous transfer of assets based on the transferee's relationship to the decedent. Generally, Class A beneficiaries are spouses, children, and often siblings. Class B beneficiaries are non-immediate family members. Class C beneficiaries are non-family members. Unlike estate taxes, the term "exemption" here applies not to the size of the estate, but to the size of the gift itself.

State	Heir Type	Exemption	Rate (Min. to Max)
Maryland (b)	Spouse/Lineal Heirs	100% Exempt	0%
	All others	No exemption	10%
Nebraska (c)	Immediate Relative	$40,000	1%
	Remote Relative	$15,000	13%
	All others	$10,000	18%
New Jersey (b, d)	Class A	100% Exempt	0%
	Class C	$25,000	11 - 16%
	Class D	$500	15 - 16%
Pennsylvania (e)	Spouses	100% Exempt	0%
	Lineal Heirs	$4,500	4.5%
	Siblings	No exemption	12%
	Others	No exemption	15%

Some states impose an estate tax rather than an inheritance tax. Estate taxes are levied on the estate of the decedent and constitute a debt due to the state. Generally, they must be paid prior to distribution of the estate, which usually occurs nine months to a year after death. Just as with inheritance taxes, numerous deductions and exemptions are applied before estate taxes are calculated.[130] See Table 6 below.

[130] Gelfand, *supra*, State and Local Taxation and Finance, ch. 2, sec. 4.

Table 6. Estate Tax Rates and Exemptions as of January 1, 2013[131]

State	Exemption	Rate (Min. to Max.)
Conn.	$2,000,000	7.2% - 12%
Del. (a)	$5,250,000	0.8% - 16%
Hawaii	$5,250,000	0.8% - 16%
Ill.	$4,000,000	0.8% - 16%
Maine	$2,000,000	8% - 12%
Md. (b)	$1,000,000	0.8% - 16%
Mass.	$1,000,000	0.8% - 16%
Minn.	$1,000,000	0.8% - 16%
N.J. (b)	$675,000	0.8% - 16%
N.Y.	$1,000,000	0.8% - 16%
N.C.	$5,250,000	0.8% - 16%
Ore.	$1,000,000	0.8% - 16%
R.I.	$910,725	0.8% - 16%
Tenn. (c)	$1,250,000	5.5% - 9.5%
Vt.	$2,750,000	0.8% - 16%
Wash.	$2,000,000	10% - 19%
D.C.	$1,000,000	0.8% - 16%

The map in Figure 15 consolidates the inheritance and estate tax information for each state and provides a national comparative view.

[131] *See* Tax Foundation, *Facts & Figures—How Does Your State Compare* (Scott Drenkard ed. Mar. 18 2013), http://taxfoundation.org/sites/taxfoundation.org/files/docs/ff2013.pdf. Sources: Schoening Strategies; state statutes; Tax Foundation.

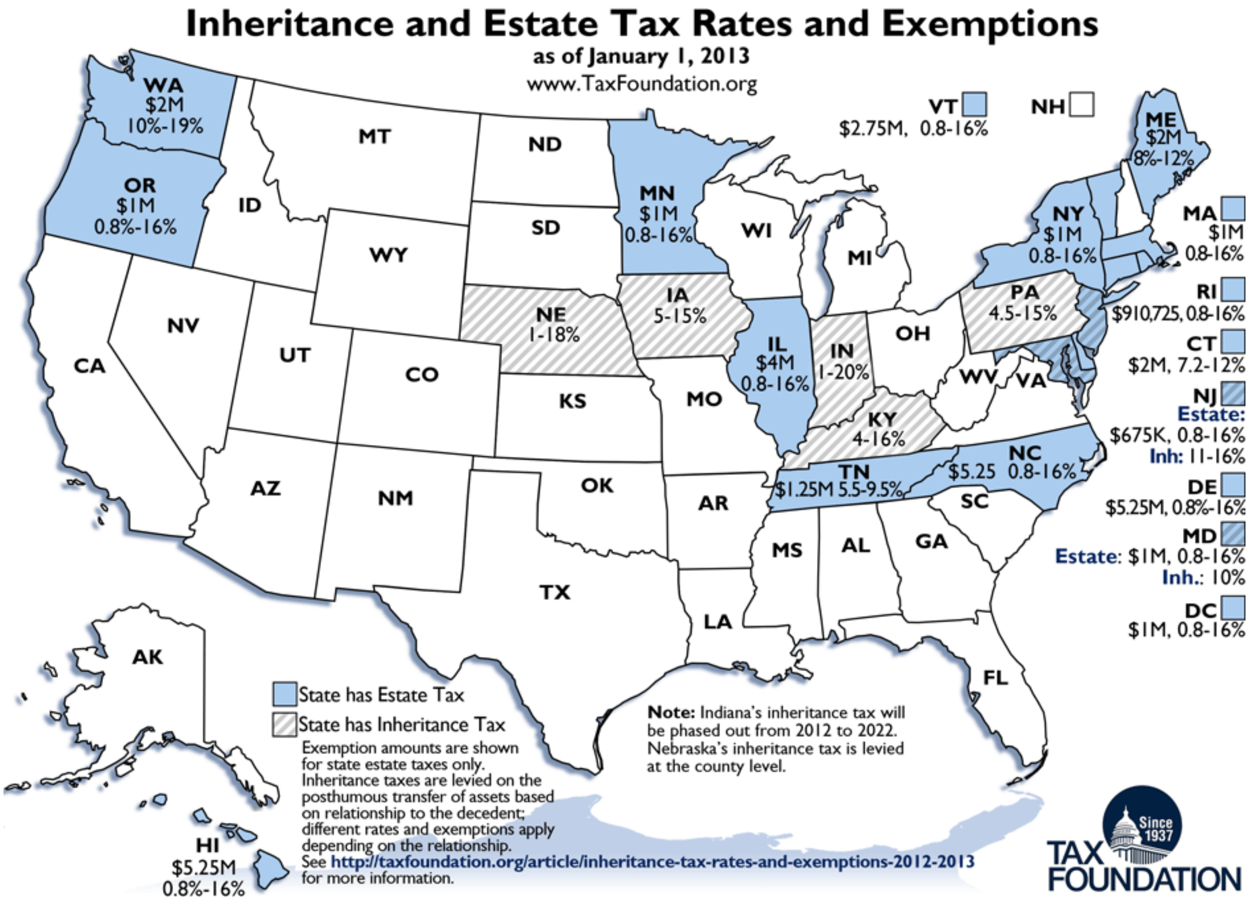
Notes for table:

a) Delaware's estate tax was set to expire on July 1, 2013, but the state's General Assembly could enact an extension.

(b) Maryland and New Jersey have both inheritance and estate taxes.

(c) Some sources (including the Tennessee Department of Revenue) list Tennessee's estate tax as an inheritance tax, but it functions as an estate tax.

Figure 15.[132]



"Pick up" taxes are levied by all states, either in conjunction with inheritance or estate taxes or by themselves. The "pick up" tax is related to the credit for state death taxes permitted by the federal estate tax laws. If a state inheritance or estate tax is not payable because of exemptions or is less than the maximum state tax credit that a federal taxpayer can claim, a special state tax is imposed to take advantage of the federal estate tax credit by "picking up" the difference between the inheritance or estate tax and the maximum tax credit.[133]

[132] Tax Found. Weekly Map (May 2, 2013), http://taxfoundation.org/blog/weekly-map-inheritance-and-estate-tax-rates-and-exemptions.

[133] Gelfand, *supra*, State and Local Taxation and Finance, ch. 2, sec. 4.

A few states also impose a gift tax that is designed to prevent the avoidance of death taxes through inter vivos transfers (transfers made between the living, as opposed to transfers from wills).[134]

E. Real Estate Transfer Taxes

Real estate transfer taxes are imposed by states, counties and municipalities on the transfer of the title of real property within the jurisdiction. Real estate transfer taxes can be used for specific purposes, such as to promote affordable housing and open space development, or can go to the general fund of the state or local government.

The vast majority of states impose real estate transfer taxes. See Table A-5 in the Appendix for a detailed listing.[135]

1. Current Research

According to recent research conducted by LRC,[136] real estate transfer and related taxes prove to be fertile legislative ground, with nearly 80% of surveyed jurisdictions possessing substantial legislative and regulatory regimes. Of those, approximately one quarter achieved their regulatory frameworks during the 1990s and another one quarter during the 2000s. Over 22% established their basic programs during the 1980s, 10% during the 1970s, and 15% prior to 1970, with some amendments.

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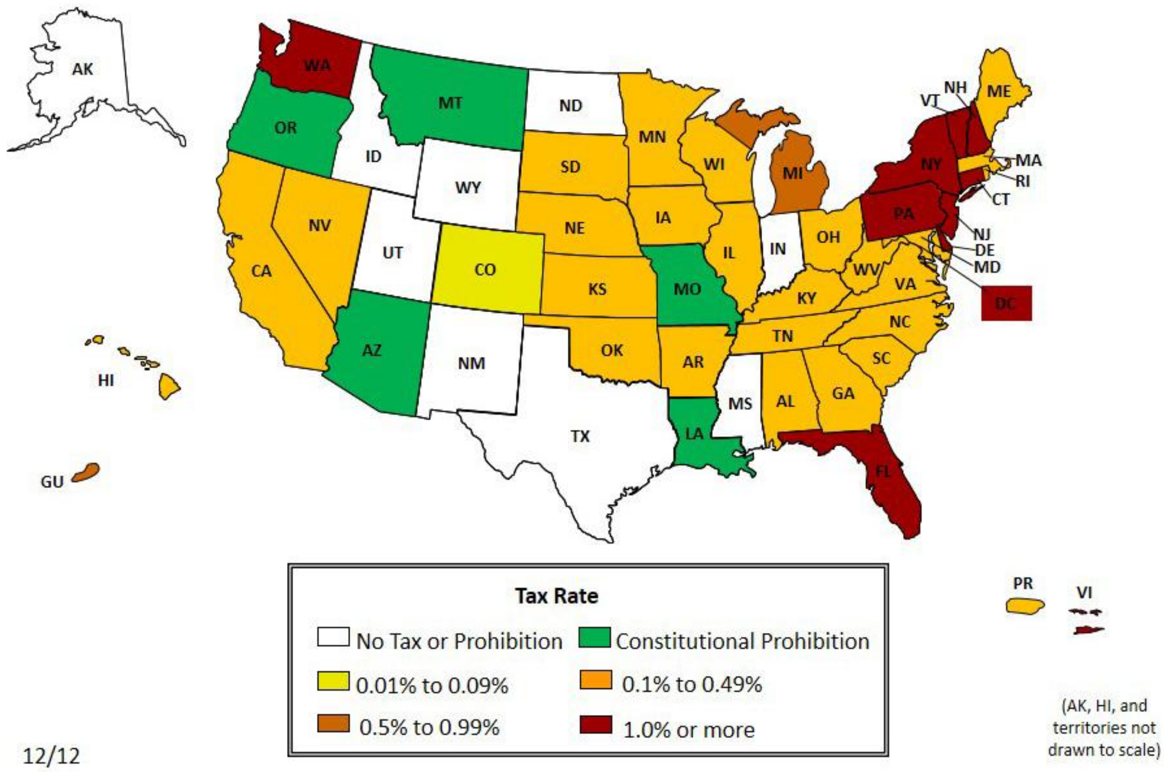
[134] *Id.* An inter vivos transfer is one made while the transferor is still alive.

[135] National Conference of State Legislatures, *Real Estate Transfer Taxes*, http://www.ncsl.org/issues-research/budget/real-estate-transfer-taxes.aspx.

[136] See NAR®'s State Issues Tracker Annual Report on Transfer Taxes.

As of late 2012, sixteen jurisdictions did not have specific statewide provisions regarding transfer taxes, although some of these have a state-level mandate to the local authority to collect recordation fees. Several of these jurisdictions, including Idaho, Indiana, New Mexico, and Wyoming, have introduced or have been considering transfer tax provisions since 2000. The map below illustrates the current real estate transfer tax rates for each jurisdiction.

Figure 16. Real Estate Transfer Taxes as of December 2012[137]



Forty-six percent[138] of the surveyed jurisdictions amended their transfer or mortgage registration tax provisions between December 2010 and November 2011. Another 39%[139] revised those provisions between December 2011 and November 2012. During both time periods, the most significant changes typically revised the statutes' applications, changed fund allocations, or increased the tax, although many changes were not substantive or specifically relevant to this discussion.

[137] Provided by National Association of Realtors®.

[138] AR, CO, CT, FL, GA, HI, LA, ME, MD, MN, MO, MT, NE, NV, NM, NY, NC, ND, OH, OR, TN, UT, VT, WA, WY.

[139] AL, AZ, CA, DC, FL, GA, KY, ME, MD, MS, MO, NE, NY, NC, PA, RI, SD, TN, VT, VA, WV.

2. Transfer Tax Amount

The transfer tax is generally a percentage of the consideration paid or a flat fee per unit of value. Of states levying the tax, approximately 20% use a percentage of the total transfer consideration. Of the remaining states, most still use a percentage model, but formulated as a fee paid on each $100 or $500 of value. Some states also apply a flat recording fee or de minimus charge before applying this mill-rate model.

Approximately one-quarter[140] of the jurisdictions surveyed have amended their transfer tax provisions since late 2010. The most significant amendments include:

- Connecticut increased its transfer tax percentages.[141]
- Louisiana's Constitution was amended to permanently ban real estate transfer taxes.[142]
- Missouri's Constitution was amended to prohibit transfer taxes.[143]
- North Carolina repealed its land transfer tax.[144]
- Oregon passed a constitutional amendment prohibiting transfer taxes.[145]

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[140] AR, CT, LA, MO, MT, NV, NY, NC, OH, OR, TN, VT, WA, WY. See LRC's ebook for state-specific information.

[141] *See* Active Rain, *Connecticut Real Estate Conveyance Tax Increase July 1st, 2011*, http://activerain.com/blogsview/2396807/connecticut-real-estate-conveyance-tax-increase-july-1st-2011-.

[142] *See* Steve Stanek, *Louisiana Bans Real Estate Transfer Taxes*, Heartland (Dec. 5, 2011), http://news.heartland.org/newspaper-article/2011/12/05/louisiana-bans-real-estate-transfer-taxes.

[143] *See* Missouri Real Estate Taxation, Amendment 3 (2010), http://ballotpedia.org/wiki/index.php/Missouri_Real_Estate_Taxation,_Amendment_3_(2010).

[144] N.C. Legis., Gen. Assembly N.C. Session 2011, Session Law 2011-18, House Bill 92, http://www.ncleg.net/Sessions/2011/Bills/House/PDF/H92v3.pdf.

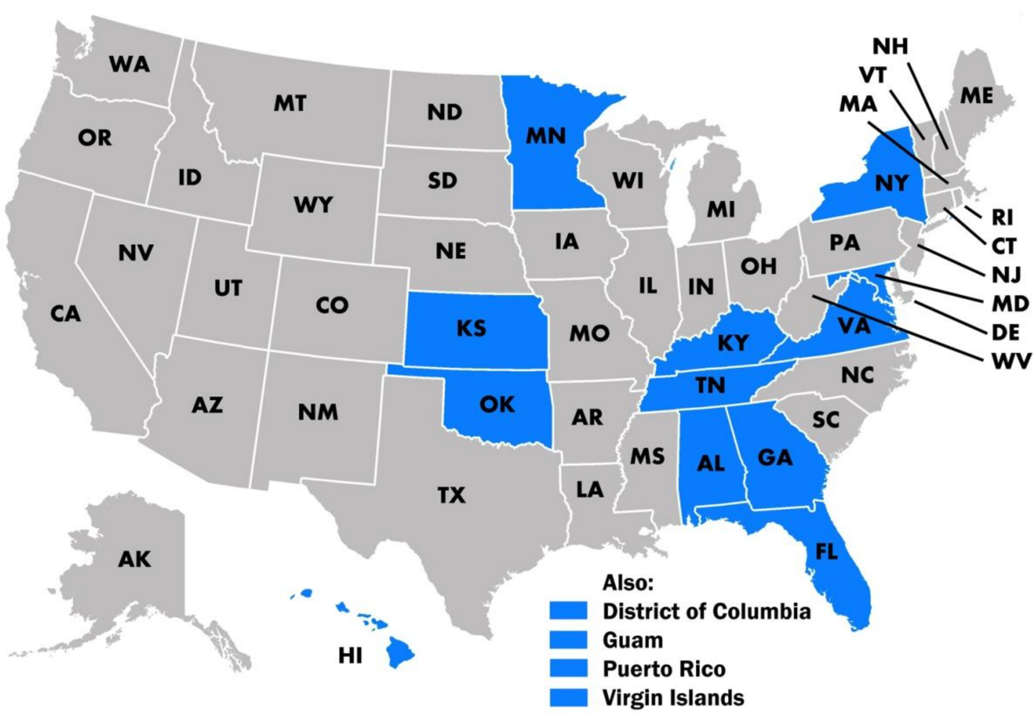
[145] *See* Oregon Real Estate Transfer Tax Amendment, Measure 79 (2012), http://ballotpedia.org/wiki/index.php/Oregon_Real_Estate_Transfer_Tax_Amendment,_Measure_79_(2012).

- Vermont repealed a statutory subsection that provided lower rates for working farms and other specified property.[146]

3. Mortgage Recordation Tax Amount

Thirty percent of the surveyed jurisdictions also levy a mortgage recordation tax (see Figure 17 below, showing these jurisdictions in **blue**). Of those, more than half use a flat fee per unit of debt as the basis for the tax. The remaining states use a flat fee for each mortgage regardless of the total amount secured. All states without a mortgage recordation tax charge recording or filing fees.

Figure 17. Jurisdictions Imposing Mortgage Recordation Taxes[147]



[146] Vermont Property Transfer Tax Law Change, http://www.state.vt.us/tax/pdf.word.excel/pvr/CurrentUsePT.pdf.

[147] Based on research conducted by Legal Research Center, Inc. in January 2013.

Ten jurisdictions[148] amended their mortgage recordation tax laws between the fall of 2010 and the fall of 2011. In the past year, 13 jurisdictions[149] revised their mortgage recordation tax laws. The most significant changes during the past 12 months were in New York, which extended authorized taxes in several counties, and Virginia, which added specific tax amounts for refinanced mortgages.

4. Party Required to Pay Tax

Sixty-six percent of surveyed jurisdictions specify which party is required to pay the transfer or other tax. About 18 percent of those mandate an even split of the transfer tax burden or specify a "joint and several" responsibility. Of the remaining legislating states, approximately nine percent allow the parties to agree between themselves who will be responsible, while the other almost 75% put the tax with the grantor, grantee, recorder, or party who "makes [or] signs" the instrument. Forty-one percent of the jurisdictions specifying the paying party place the obligation on the grantor.

Between December 2010 and November 2011, nine percent[150] of the surveyed jurisdictions amended their laws regarding the party required to pay the tax. In the past year, only six percent[151] revised their relevant laws. All of the most recent statutory amendments were either not specifically applicable to this topic or made merely technical or conforming revisions.

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[148] CT, ME, MD, MN, NM, NY, NC, ND, TN, UT.

[149] CA, ME, MD, MS, MO, NE, NY, NC, RI, SD, TN, VA, WV.

[150] AR, NC, OH, TN, WY.

[151] KY, TN, VA.

5. Exemptions

For every rule, there are exceptions, and transfer and mortgage recordation taxes are no exception to that rule. Over 72% of the surveyed jurisdictions have substantial exemption provisions. These exemptions include transfers ordered by a court, transfers via testamentary documents such as wills, transfers for low amounts of money, transfers of partial interests (such as gas or mineral rights), and transfers to the government, among others. Some jurisdictions also provide additional exemption grounds at the county or municipal level. Between the fall of 2010 and the fall of 2011, approximately 11%[152] of the surveyed jurisdictions revised their laws regarding exempt transactions. Since the fall of 2011, another 19%[153] revised those laws. The most significant changes during the past year were in Arizona, the District of Columbia, Nebraska, Pennsylvania, and Rhode Island, all of which added or revised exemptions.

6. Earmarked Uses

Between December 2010 and November 2011, 26%[154] of the jurisdictions surveyed revised their laws regarding the uses of transfer tax revenues. From late 2011 to late 2012, 24%[155] of the surveyed jurisdictions revised those laws. Although most of the revisions did not significantly affect the mandated use of the funds, Maine revised transfer tax allocations for the 2012-13 fiscal year and Missouri revised the allocation of its nominal recording fee.

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[152] GA, HI, MD, NV, OH, TN.

[153] AL, AZ, DC, KY, MD, NE, PA, RI, TN, VT.

[154] CT, FL, ME, MD, NE, NV, NM, NY, NC, OH, OR, TN, VT, WA.

[155] AL, FL, GA, KY, ME, MD, MO, NY, RI, TN, VT, VA, WV.

F. Excise Taxes

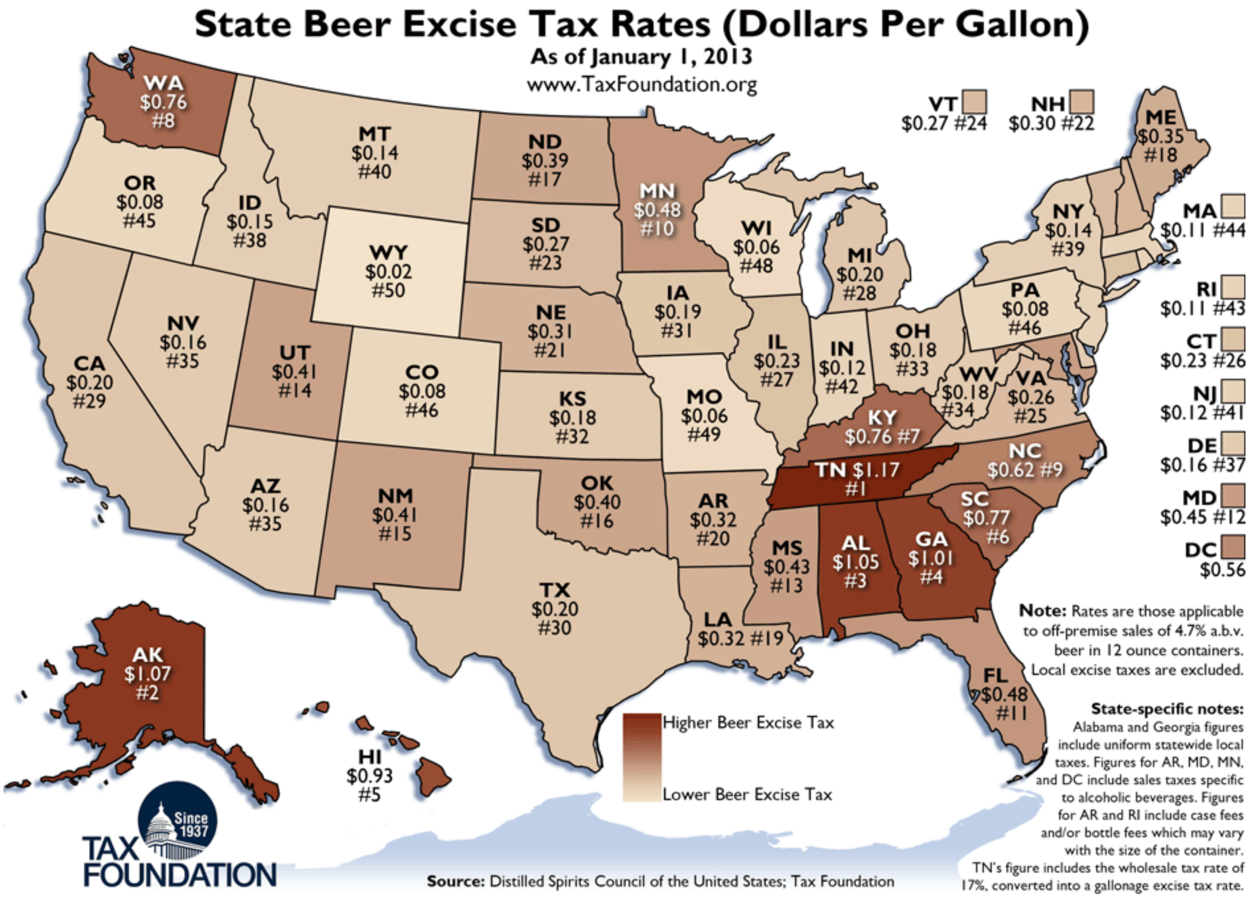
1. Alcohol Taxes

Alcohol taxes are a kind of excise tax, meaning that they are a specialized tax on specific goods rather than a general tax on a broad base like income or consumption. Excise taxes are often included in the final price of alcoholic beverages, so consumers may be unaware they are even paying them. All 50 states and many localities levy excise taxes of various kinds, including taxes on alcoholic beverages.[156]

Some states impose an excise tax specifically on beer purchases. As the following map shows, the rates vary fairly significantly across the country, from a mere two cents per gallon in Wyoming to $1.17 per gallon in Tennessee.

[156] Tax Found., *Excise Taxes*, http://taxfoundation.org/tax-topics/excise-taxes.

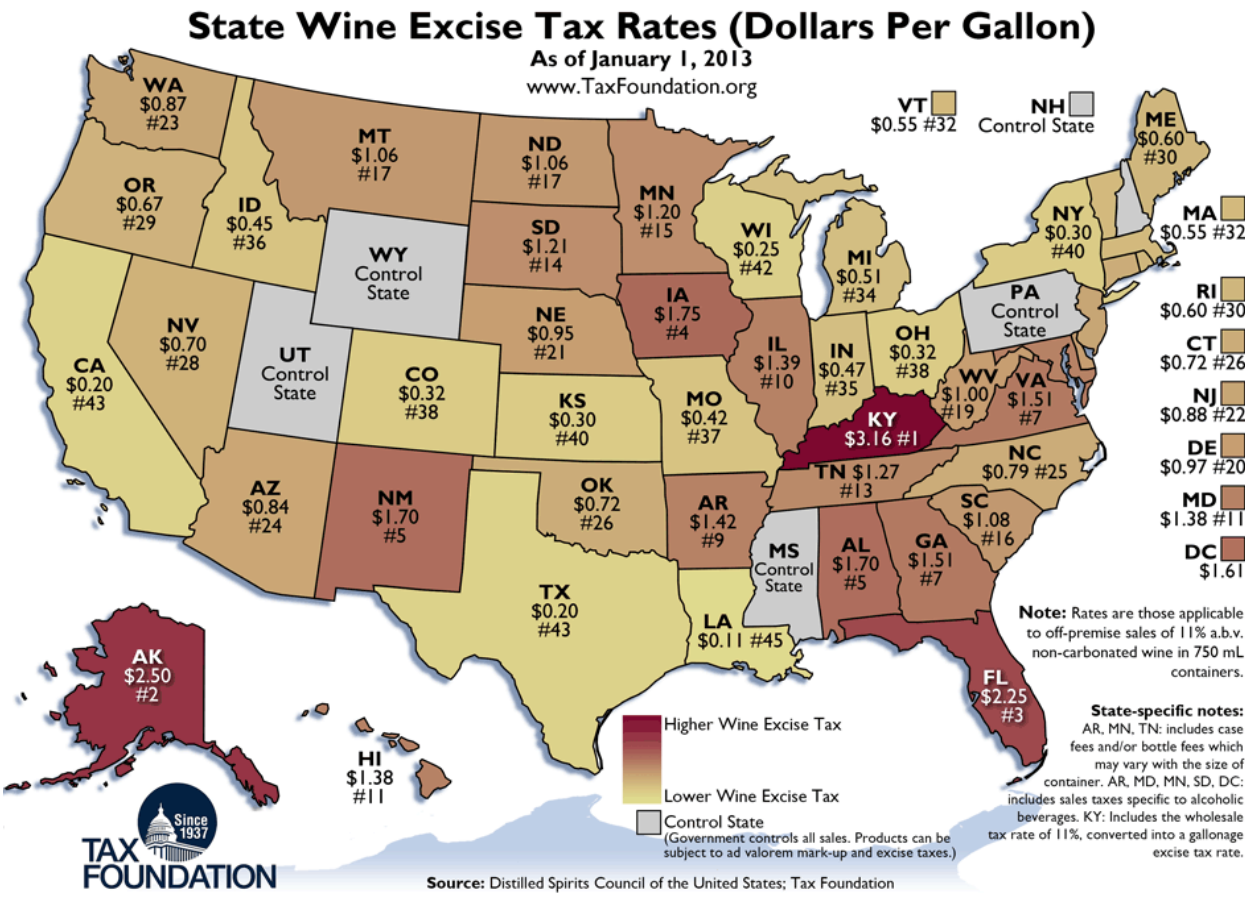
Figure 18.[157]



Comparable data for wine and spirits are shown in the next two maps. The top taxing wine state is Kentucky ($3.26 per gallon), while Louisiana comes in lowest at 11 cents. For spirits, Washington state tops the list, imposing a notable $35.22 per gallon, while Vermont and New Hampshire impose no spirits tax at all, and in Wyoming it is only 49 cents per gallon.

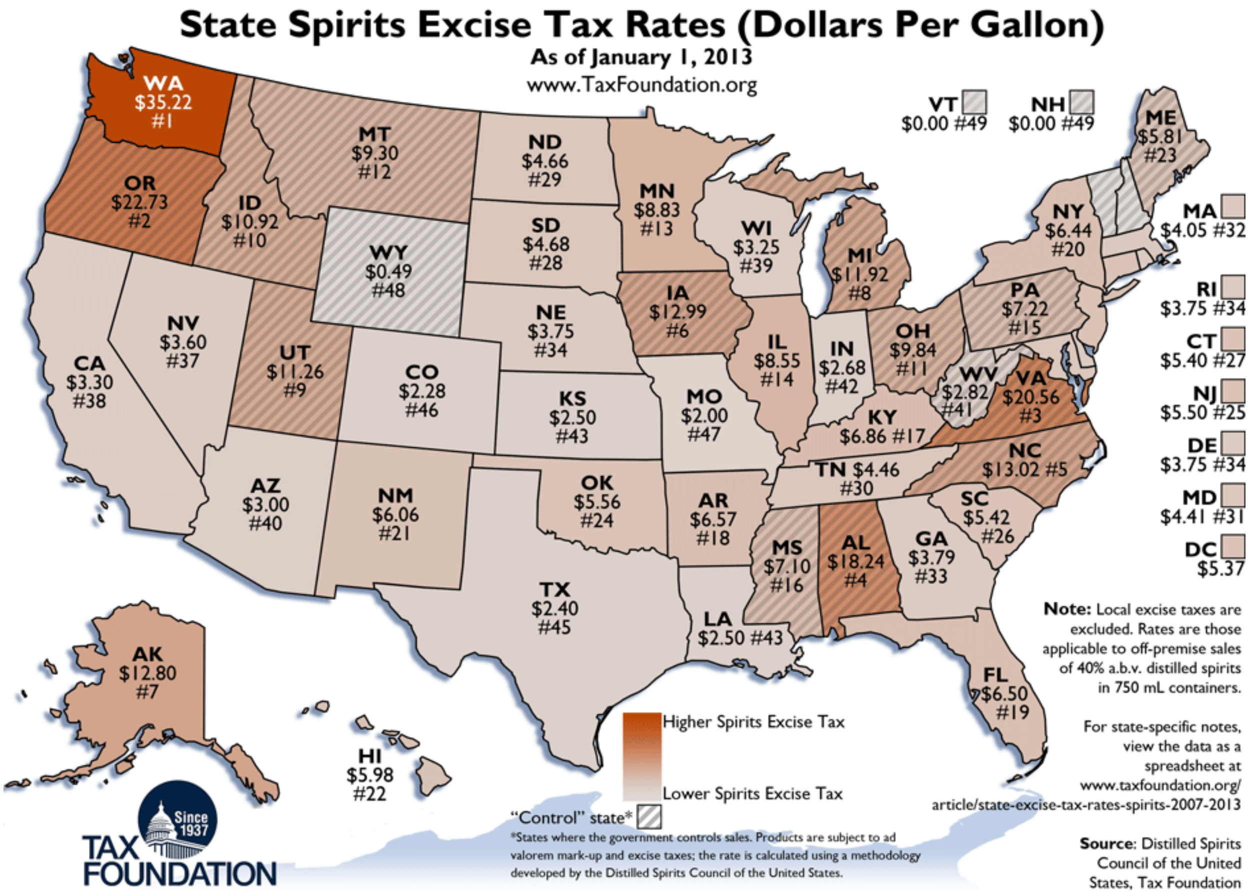
[157] Tax. Found. Weekly Map (May 9, 2013), http://taxfoundation.org/blog/weekly-map-state-beer-excise-tax-rates-2013.

Figure 19.[158]



[158] Tax Found., Weekly Map (May 20, 2013), http://taxfoundation.org/blog/weekly-map-state-wine-excise-tax-rates-2013.

Figure 20.[159]



Next, the Table below provides a side-by-side comparison of the alcohol-related excise tax rates in all three categories, ranking the states from highest to lowest rates imposed.

[159] Tax Found., Weekly Map (Apr. 18, 2013), http://taxfoundation.org/blog/weekly-map-state-spirits-excise-tax-rates.

Table 7. State Excise Tax Rates for Spirits, Wine, and Beer as of January 1, 2013 (Dollars Per Gallon)[160]

Spirits			**Wine**			**Beer**		
State	**Tax Rate**(a)	**Rank**	**State**	**Tax Rate**(b)	**Rank**	**State**	**Tax Rate**(a)	**Rank**
Ala. (b)	$18.24	4	Ala.	$1.70	5	Ala. (g)	$1.05	3
Alaska	$12.80	7	Alaska	$2.50	2	Alaska	$1.07	2
Ariz.	$3.00	40	Ariz.	$0.84	25	Ariz.	$0.16	35
Ark. (d, e)	$6.57	18	Ark. (e, d)	$1.42	9	Ark. (e, d)	$0.32	20
Calif.	$3.30	38	Calif.	$0.20	43	Calif.	$0.20	29
Colo.	$2.28	46	Colo.	$0.32	38	Colo.	$0.08	46
Conn.	$5.40	27	Conn.	$0.72	26	Conn.	$0.23	26
Del.	$3.75	34	Del.	$0.97	21	Del.	$0.16	37
Fla.	$6.50	19	Fla.	$2.25	3	Fla.	$0.48	11
Ga.	$3.79	33	Ga.	$1.51	7	Ga. (g)	$1.01	4
Hawaii	$5.98	22	Hawaii	$1.38	11	Hawaii	$0.93	5
Idaho (b)	$10.92	10	Idaho	$0.45	36	Idaho	$0.15	38
Ill.	$8.55	14	Ill.	$1.39	10	Ill.	$0.23	27
Ind.	$2.68	42	Ind.	$0.47	35	Ind.	$0.12	42
Iowa (b)	$12.99	6	Iowa	$1.75	4	Iowa	$0.19	31

[160] See Tax Found., *Facts & Figures—How Does Your State Compare* (Scott Drenkard ed. Mar. 18 2013), http://taxfoundation.org/sites/taxfoundation.org/files/docs/ff2013.pdf. Sources: Distilled Spirits Council of the United States; Tax Foundation.

Notes for table:

(a) Local excise taxes are not included.

(b) States in which the government controls sales. In these “control states,” products may be subject to ad valorem mark-up and excise taxes. The excise tax rate is calculated using a method developed by the Distilled Spirits Council of the United States.

(c) Includes the wholesale tax rate of 11%, converted to a gallonage excise tax rate.

(d) Includes case fees and/or bottle fees, which may vary with the size of the container

(e) Includes sales taxes specific to alcoholic beverages.

(f) Includes the retail (17%) and distributor (10%) license fees, converted into a gallonage excise tax rate.

(g) Includes statewide local tax in Alabama ($0.52) and Georgia ($0.53).

(h) Includes the wholesale tax rate of 17%, converted into a gallonage excise tax rate.

Note: For spirits, rates are those applicable to off-premise sales of 40% alcohol by volume (a.b.v.) distilled spirits in 750mL containers. For wine, rates are those applicable to off-premise sales of 11% alcohol by volume (a.b.v.) non-carbonated wine in 750mL containers. For beer, rates are those applicable to off-premise sales of 4.7% a.b.v. beer in 12 ounce containers.

Spirits			Wine			Beer		
State	Tax Rate(a)	Rank	State	Tax Rate(b)	Rank	State	Tax Rate(a)	Rank
Kans.	$2.50	43	Kans.	$0.30	40	Kans.	$0.18	32
Ky. (c)	$6.86	17	Ky.(c)	$3.16	1	Ky.	$0.76	7
La.	$2.50	43	La.	$0.11	45	La.	$0.32	19
Maine (b)	$5.81	23	Maine	$0.60	30	Maine	$0.35	18
Md. (e)	$4.41	31	Md. (e)	$1.38	11	Md. (e)	$0.45	12
Mass.	$4.05	32	Mass.	$0.55	32	Mass.	$0.11	44
Mich. (b)	$11.92	8	Mich.	$0.51	34	Mich.	$0.20	28
Minn. (d, e)	$8.83	13	Minn. (e, d)	$1.20	15	Minn. (e)	$0.48	10
Miss. (b)	$7.10	16	Miss. (b)	–	–	Miss.	$0.43	13
Mo.	$2.00	47	Mo.	$0.42	37	Mo.	$0.06	49
Mont. (b)	$9.30	12	Mont.	$1.06	17	Mont.	$0.14	40
Nebr.	$3.75	34	Nebr.	$0.95	22	Nebr.	$0.31	21
Nev.	$3.60	37	Nev.	$0.70	28	Nev.	$0.16	35
N.H. (b)	$0.00	49	N.H. (b)	–	–	N.H.	$0.30	22
N.J.	$5.50	25	N.J.	$0.88	23	N.J.	$0.12	41
N.M.	$6.06	21	N.M.	$1.70	5	N.M.	$0.41	15
N.Y.	$6.44	20	N.Y.	$0.30	40	N.Y.	$0.14	39
N.C. (b)	$13.02	5	N.C.	$1.00	19	N.C.	$0.62	9
N.D. (e)	$4.66	29	N.D.	$1.06	17	N.D.	$0.39	17
Ohio (b)	$9.84	11	Ohio	$0.32	38	Ohio	$0.18	33
Okla.	$5.56	24	Okla.	$0.72	26	Okla.	$0.40	16
Ore. (b)	$22.73	2	Ore.	$0.67	29	Ore.	$0.08	45
Pa. (b)	$7.22	15	Pa. (b)	–	–	Pa.	$0.08	46
R.I.	$3.75	34	R.I.	$0.60	30	R.I. (d)	$0.11	43
S.C. (d)	$5.42	26	S.C.	$1.08	16	S.C.	$0.77	6
S.D. (e)	$4.68	28	S.D. (e)	$1.21	14	S.D.	$0.27	23
Tenn. (d)	$4.46	30	Tenn. (b)	$1.27	13	Tenn. (h)	$1.17	1
Tex.	$2.40	45	Tex.	$0.20	43	Tex.	$0.20	30
Utah (b)	$11.26	9	Utah (b)	–	–	Utah	$0.41	14
Vt. (b)	$0.00	49	Vt.	$0.55	32	Vt.	$0.27	24
Va. (b)	$20.56	3	Va.	$1.51	7	Va.	$0.26	25
Wash.	$35.22	1	Wash.	$0.87	24	Wash.	$0.76	8
W.Va. (b)	$2.82	41	W.Va.	$1.00	19	W.Va.	$0.18	34
Wis.	$3.25	39	Wis.	$0.25	42	Wis.	$0.06	48
Wyo. (b)	$0.49	48	Wyo. (b)	–	–	Wyo.	$0.02	50

Spirits			Wine			Beer		
State	**Tax Rate**(a)	**Rank**	**State**	**Tax Rate**(b)	**Rank**	**State**	**Tax Rate**(a)	**Rank**
D.C. (e)	$5.37	(27)	D.C. (e)	$1.61	(7)	D.C. (e)	$0.56	(9)

2. Tobacco Taxes

Tobacco taxes are another form of excise tax. Some say that tobacco tax increases are a win-win-win solution for states facing fiscal crises and working to balance budgets, while at the same time preserving essential public services. Moreover, tobacco tax increases may be one of the most effective ways to reduce smoking and other tobacco use, especially among youth. Research indicates that every 10% increase in cigarette prices reduces youth smoking by about seven percent and overall cigarette consumption by about four percent.[161] In addition, every state that has significantly increased its cigarette tax has enjoyed substantial increases in revenue, even while reducing smoking. Higher tobacco taxes also save money by reducing tobacco-related health care costs, including Medicaid expenses. National and state polls have found consistent public support for tobacco tax increases, presumably because when it comes to balancing budgets, voters prefer raising tobacco taxes to other tax increases or cutting crucial programs, like education and public safety.[162]

In recent years, nearly every state and the federal government have increased their tobacco taxes. The average state cigarette tax is currently at $1.53 per pack, but, as the following table shows, rates vary widely, from a mere 17 cents per pack in Missouri to $4.35 per pack in New York state.

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[161] Campaign for Tobacco Free Kids, *State Tobacco Taxes*, http://www.tobaccofreekids.org/what_we_do/state_local/taxes/.

[162] *Id., State Tobacco Taxes*, http://www.tobaccofreekids.org/what_we_do/state_local/taxes/.

Table 8. State Cigarette Excise and Sales Taxes[163]

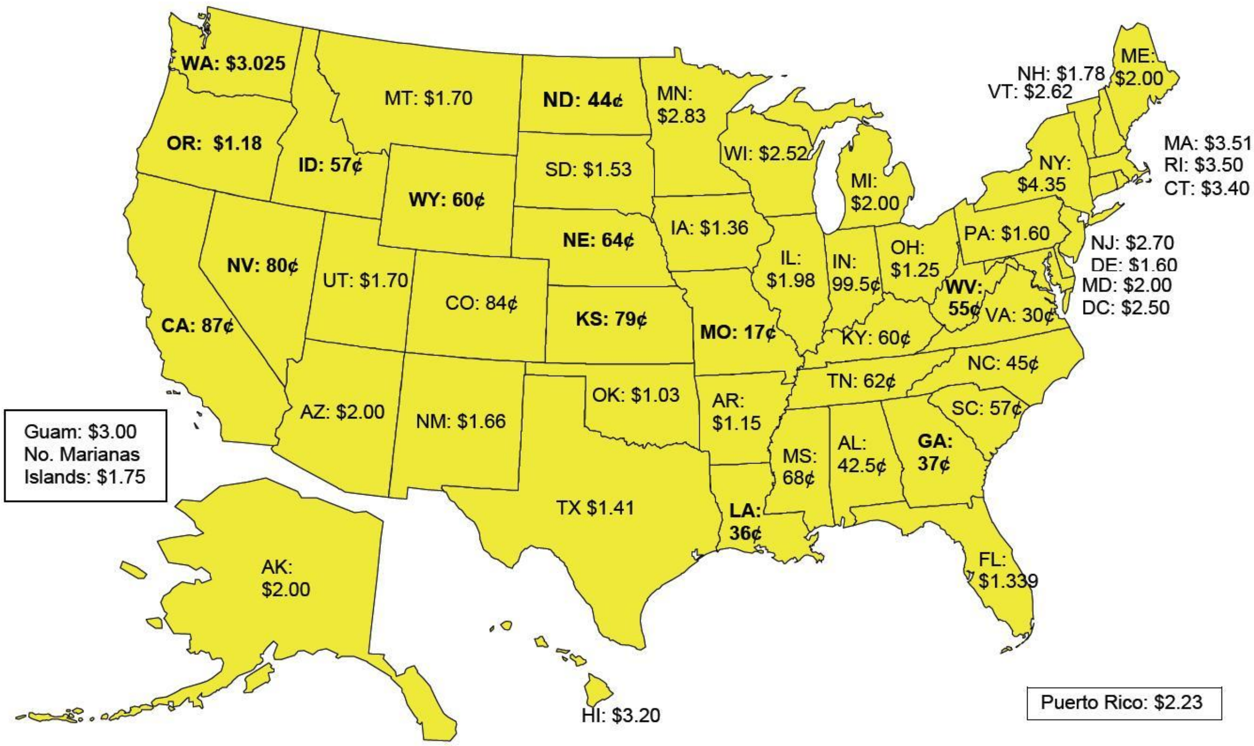
States	Average Retail Price Per Pack (with all taxes)	Cigarette Excise Tax Per Pack	Excise Tax Rank (Highest = 1)	State Sales Tax Rate	State Sales Tax Per Pack	Total State Tax Per Pack	Total Tax Rank (Highest = 1)
States' Average	***$6.03***	***$1.53***	--	***5.2%***	***$0.29***	***$1.76***	--
Alabama	$4.80	$0.425	47	4.0%	$0.17	$0.59	47
Alaska	$8.85	$2.00	12	0.0%	$0.00	$2.00	18
Arizona	$6.60	$2.00	12	6.6%	$0.42	$2.41	12
Arkansas	$5.61	$1.15	30	6.0%	$0.32	$1.47	29
California	**$5.44**	**$0.87**	**33**	7.25%	$0.39	$1.24	31
Colorado	$5.11	$0.84	34	2.9%	$0.14	$0.98	38
Connecticut	$8.23	$3.40	4	6.35%	$0.49	$3.89	4
Delaware	$5.32	$1.60	22	0.0%	$0.00	$1.60	27
DC	$7.11	$2.50	11	6.00%	$0.36	$2.86	11
Florida	$5.49	$1.339	27	6.0%	$0.32	$1.65	26
Georgia	**$4.54**	**$0.37**	**48**	5.0%	$0.20	$0.57	48
Hawaii	$8.91	$3.20	5	4.0%	$0.36	$3.54	5
Idaho	**$4.88**	**$0.57**	**42**	6.0%	$0.27	$0.84	41
Illinois	$6.94	$1.98	17	6.25%	$0.43	$2.39	13
Indiana	$5.24	$0.995	32	7.0%	$0.36	$1.34	30
Iowa	$5.80	$1.36	26	6.0%	$0.35	$1.69	25
Kansas	**$5.16**	**$0.79**	**36**	6.3%	$0.31	$1.09	34
Kentucky	$4.78	$0.60	40	6.0%	$0.26	$0.87	40
Louisiana	**$4.54**	**$0.36**	**49**	4.0%	$0.17	$0.53	49
Maine	$6.51	$2.00	12	5.0%	$0.32	$2.31	16
Maryland	$6.35	$2.00	12	6.0%	$0.36	$2.36	15
Massachusetts	$8.68	$3.51	2	6.25%	$0.51	$4.02	3
Michigan	$6.47	$2.00	12	6.0%	$0.36	$2.36	14
Minnesota	$6.56	$2.83	7	6.875%	$0.495	$3.33	7
Mississippi	$5.04	$0.68	37	7.0%	$0.33	$1.01	37
Missouri	**$4.81**	**$0.17**	**51**	4.725%	$0.17	$0.38	51
Montana	$5.91	$1.70	19	0.0%	$0.00	$1.70	24
Nebraska	**$5.13**	**$0.64**	**38**	5.5%	$0.27	$0.91	39
Nevada	**$5.40**	**$0.80**	**35**	6.85%	$0.31	$1.14	33
New Hampshire	$5.76	$1.78	18	0.0%	$0.00	$1.78	21
New Jersey	$7.61	$2.70	8	7.0%	$0.50	$3.20	8
New Mexico	$6.19	$1.66	21	5.5%	$0.31	$1.98	19
New York	$10.08	$4.35	1	4.00%	$0.39	$4.74	1

[163] *State Cigarette Excise Taxes and Rankings* (Aug. 1, 2013) (Copyright© by Campaign for Tobacco Free Kids), www.tobaccofreekids.org; http://www.tobaccofreekids.org/research/factsheets/pdf/0097.pdf. Sources: Orzechowski & Walker, *Tax Burden on Tobacco*, 2012; media reports; state tax officials; U.S. Department of Agriculture, Economic Research Service. The table shows state cigarette tax rates in effect as of mid-2013. The states that have not initiated new cigarette increases since 2003 or earlier are in **red type**. Additional information on state cigarette taxes and the effects of increasing them is available at http://www.tobaccofreekids.org/facts_issues/fact_sheets/policies/tax/us_state_local/ and http://www.tobaccofreekids.org/what_we_do/state_local/taxes/.

States	Average Retail Price Per Pack (with all taxes)	Cigarette Excise Tax Per Pack	Excise Tax Rank (Highest = 1)	State Sales Tax Rate	State Sales Tax Per Pack	Total State Tax Per Pack	Total Tax Rank (Highest = 1)
North Carolina	$4.62	$0.45	45	6.75%	$0.29	$0.74	45
North Dakota	**$4.44**	**$0.44**	**46**	5.0%	$0.21	$0.65	46
Ohio	$5.68	$1.25	28	6.0%	$0.32	$1.57	28
Oklahoma	$5.38	$1.03	31	4.5%	$0.00	$1.03	35
Oregon	**$5.25**	**$1.18**	**29**	0.0%	$0.00	$1.18	32
Pennsylvania	$5.85	$1.60	22	6.0%	$0.33	$1.93	20
Rhode Island	$8.16	$3.50	3	7.0%	$0.53	$4.03	2
South Carolina	$4.88	$0.57	42	6.0%	$0.28	$0.84	42
South Dakota	$5.69	$1.53	24	4.0%	$0.24	$1.75	23
Tennessee	$5.09	$0.62	39	8.5%	$0.39	$1.02	36
Texas	$5.81	$1.41	25	6.25%	$0.34	$1.75	22
Utah	$6.09	$1.70	19	5.95%	$0.34	$2.04	17
Vermont	$7.70	$2.62	9	6.0%	$0.42	$3.05	9
Virginia	$4.56	$0.30	50	5.0%	$0.22	$0.52	50
Washington	$7.82	$3.025	6	6.5%	$0.48	$3.50	6
West Virginia	**$4.58**	**$0.55**	**44**	6.0%	$0.26	$0.81	43
Wisconsin	$7.23	$2.52	10	5.0%	$0.34	$2.86	10
Wyoming	**$4.67**	**$0.60**	**40**	4.0%	$0.19	$0.78	44

The cigarette excise tax amounts for each state are also presented in graphic form in the map below.

Figure 21. Cigarette Excise Taxes by Jurisdiction[164]



Note that the average cigarette tax rate in major tobacco states[165] is 48.5 cents per pack, whereas in non-tobacco states it is $1.67 per pack. As of August 1, 2013, 30 states, the District of Columbia, Puerto Rico, the Northern Mariana Islands, and Guam imposed cigarette tax rates of $1.00 per pack or higher; 15 states, the District of Columbia, Puerto Rico, and Guam had cigarette taxes of $2.00 per pack or higher; six states and Guam had cigarette tax rates of $3.00 per pack or higher; and one state—New York—had a cigarette tax of more than $4.00 per pack.[166]

[164] *Map of Cigarette Tax Rates* (Aug. 1, 2013) (Copyright© by Campaign for Tobacco Free Kids), http://www.tobaccofreekids.org/research/factsheets/pdf/0222.pdf. The states that have not increased their cigarette tax rate since 2003 or earlier are marked in bold.

[165] The major tobacco states with extensive tobacco farming and, most often, cigarette manufacturing as well include NC, KY, VA, SC, TN, and GA. *Id.,* Campaign for Tobacco Free Kids, http://www.tobaccofreekids.org/research/factsheets/pdf/0222.pdf.

[166] *Id.,* Campaign for Tobacco Free Kids, http://www.tobaccofreekids.org/research/factsheets/pdf/0222.pdf.

Some local governments also impose their own cigarette taxes, including Chicago, Illinois (68 cents per pack); Cook County, Illinois ($3.00 per pack); New York City ($1.50); and Anchorage, Alaska ($2.206).[167]

G. Lotteries and Gambling

1. State-run Lotteries

In 1964, the New Hampshire Legislature created the first legal state lottery of the 20th century.[168] In recent years more states have turned to lotteries to pay their expenses. Forty-three states, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands currently have lotteries.[169] Billions of dollars in state revenue come from these lotteries, with states retaining about one-third of the money spent by lottery participants. Some states designate how the money should be spent, such as on education, the arts, or building projects. Lotteries can be controversial, however, because some people believe that lotteries hurt lower-income people, who buy most of the tickets.[170]

State-run lotteries are the most popular form of commercial gambling in the U.S., with half or more of all Americans participating in any given year.[171] The average American spends more money on lotteries than on reading materials or movie

[167] *Id.,* Campaign for Tobacco Free Kids, http://www.tobaccofreekids.org/research/factsheets/pdf/0222.pdf.

[168] *Financing State and Local Government*, American Government Online (2013), http://www.ushistory.org/gov/12b.asp.

[169] USA.gov, *Lottery Results*, http://www.usa.gov/Topics/Lottery-Results.shtml.

[170] *Financing State and Local Government*, *supra*, http://www.ushistory.org/gov/12b.asp; Gelfand, *supra*, State and Local Taxation and Finance, ch. 2, pt. I.

[171] Tax Found., *Lottery and Gambling Taxes*, http://taxfoundation.org/tax-topics/lottery-and-gambling-taxes.

admissions.[172] When the Mega Millions jackpot reaches record highs like $540 million, Americans line up in droves to buy tickets for Friday's drawing.[173] Everyone knows that the winners must choose between a lump-sum and installment payments, and that the IRS takes its share first, but few may realize that where you purchase your winning ticket also matters, due to *state* income and withholding taxes. Lottery winnings are subject to state income tax in most states, but withholding tax varies from zero (in California, Delaware, Pennsylvania, and the states with no state income tax) to over 12% in New York City (see Table 9 below). Arizona and Maryland have withholding rates even for non-residents, so an out-of-state winner who bought a ticket in either of those states could be subject to double withholding.[174]

Table 9. State Lottery Withholding Tax Rates[175]

State	Withholding Tax Rate (%)	State	Withholding Tax Rate (%)
Alabama	No lottery	**Nebraska**	5.00%
Alaska	No lottery	**Nevada**	No lottery
Arizona	5.0% (residents); 6.0% (non-residents)	**New Hampshire**	No income tax
Arkansas	7.00%	**New Jersey**	10.80%
California	None	**New Mexico**	6.00%
Colorado	4.00%	**New York**	8.97% (plus 3.648% for New York City or 0.897% for Yonkers)
Connecticut	6.70%	**North Carolina**	7.00%
Delaware	None	**North Dakota**	5.54%
Florida	No income tax	**Ohio**	6.00%
Georgia	6.00%	**Oklahoma**	4.00%
Hawaii	No lottery	**Oregon**	8.00%

[172] *Id., Lottery and Gambling Taxes*, http://taxfoundation.org/tax-topics/lottery-and-gambling-taxes.

[173] Kevin Duncan, Alex Raut, & Joseph Henchman, *Fiscal Fact No. 295: Lottery Tax Rates Vary Greatly by State* (Tax Found. Mar. 29, 2012), http://taxfoundation.org/article/lottery-tax-rates-vary-greatly-state.

[174] *Id., Fiscal Fact No. 295: Lottery Tax Rates Vary Greatly by State*, http://taxfoundation.org/article/lottery-tax-rates-vary-greatly-state.

[175] *Id., Fiscal Fact No. 295: Lottery Tax Rates Vary Greatly by State*, http://taxfoundation.org/article/lottery-tax-rates-vary-greatly-state. Source: USA Mega.

State	Withholding Tax Rate (%)	State	Withholding Tax Rate (%)
Idaho	7.80%	**Pennsylvania**	None
Illinois	5.00%	**Rhode Island**	7.00%
Indiana	3.40%	**South Carolina**	7.00%
Iowa	5.00%	**South Dakota**	No income tax
Kansas	5.00%	**Tennessee**	No income tax
Kentucky	6.00%	**Texas**	No income tax
Louisiana	5.00%	**Utah**	No lottery
Maine	5.00%	**Vermont**	6.00%
Maryland	9.25% residents; 7.5% non-residents	**Virginia**	4.00%
Massachusetts	5.00%	**Washington**	No income tax
Michigan	4.35%	**West Virginia**	6.50%
Minnesota	7.25%	**Wisconsin**	7.75%
Mississippi	No lottery	**Wyoming**	No lottery
Missouri	4.00%	**DC**	8.50%
Montana	6.90%		

States rely heavily on lottery revenue, collecting an average of $58 per person in "profit" aside from any income tax collections.[176] (*See* Table 10 below.) Some governments prefer, however, not to label their lottery income as taxes. In reality, lottery "profits" are an implicit tax, because after prizes are awarded and operating costs are covered, the remaining money is transferred to state coffers. To the extent this revenue is used for general government purposes, it operates, for all practical purposes, like a tax.[177]

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[176] *Id., Fiscal Fact No. 295: Lottery Tax Rates Vary Greatly by State*, http://taxfoundation.org/article/lottery-tax-rates-vary-greatly-state.

[177] *Id., Fiscal Fact No. 295: Lottery Tax Rates Vary Greatly by State*, http://taxfoundation.org/article/lottery-tax-rates-vary-greatly-state.

Table 10. State Lottery "Tax" Revenue per Capita (FY 2010)[178]

State	Implicit Tax Revenue Per Capita	Rank	State	Implicit Tax Revenue Per Capita	Rank
U.S. Average	$58	N/A	Montana	$11	42
Alabama	No lottery	N/A	Nebraska	N/A	N/A
Alaska	No lottery	N/A	Nevada	No lottery	N/A
Arizona	$81	13	New Hampshire	$50	22
Arkansas	$124	8	New Jersey	$105	9
California	$28	32	New Mexico	$21	38
Colorado	$22	37	New York	$138	6
Connecticut	$83	12	North Carolina	$45	24
Delaware	$370	1	North Dakota	$9	43
Florida	$$67	15	Ohio	$64	17
Georgia	$92	10	Oklahoma	$25	33
Hawaii	No lottery	N/A	Oregon	$142	5
Idaho	$25	34	Pennsylvania	$64	16
Illinois	$50	21	Rhode Island	$324	2
Indiana	$28	31	South Carolina	$54	18
Iowa	$23	36	South Dakota	$145	4
Kansas	$24	35	Tennessee	$51	20
Kentucky	$50	23	Texas	$42	25
Louisiana	$29	30	Utah	No lottery	N/A
Maine	$40	27	Vermont	$33	28
Maryland	$87	11	Virginia	$54	19
Massachusetts	$137	7	Washington	$19	39
Michigan	$68	14	West Virginia	$314	3
Minnesota	$17	41	Wisconsin	$31	29
Mississippi	No lottery	N/A	Wyoming	No lottery	N/A
Missouri	$42	26			

2. Other Forms of Legalized Gambling

Casinos and other forms of legalized gambling or gaming, such as video poker machines in bars and restaurants, provide another source of revenue in some states. Many states have long allowed legalized gambling at specified sporting events, such as

[178] *Id., Fiscal Fact No. 295: Lottery Tax Rates Vary Greatly by State*, http://taxfoundation.org/article/lottery-tax-rates-vary-greatly-state. *Note*: The "Implicit Tax Revenue" is the portion of lottery revenue kept by the state, or the "profit." It does not include federal or state income tax on winnings. Source: U.S. Census Bureau, Tax Foundation calculations. Information for Nebraska not provided.

horse racing, but Nevada is the only state with a long history of large-scale casino gambling and gaming. Atlantic City, New Jersey is second with more than 20 years' experience with casino gambling.[179]

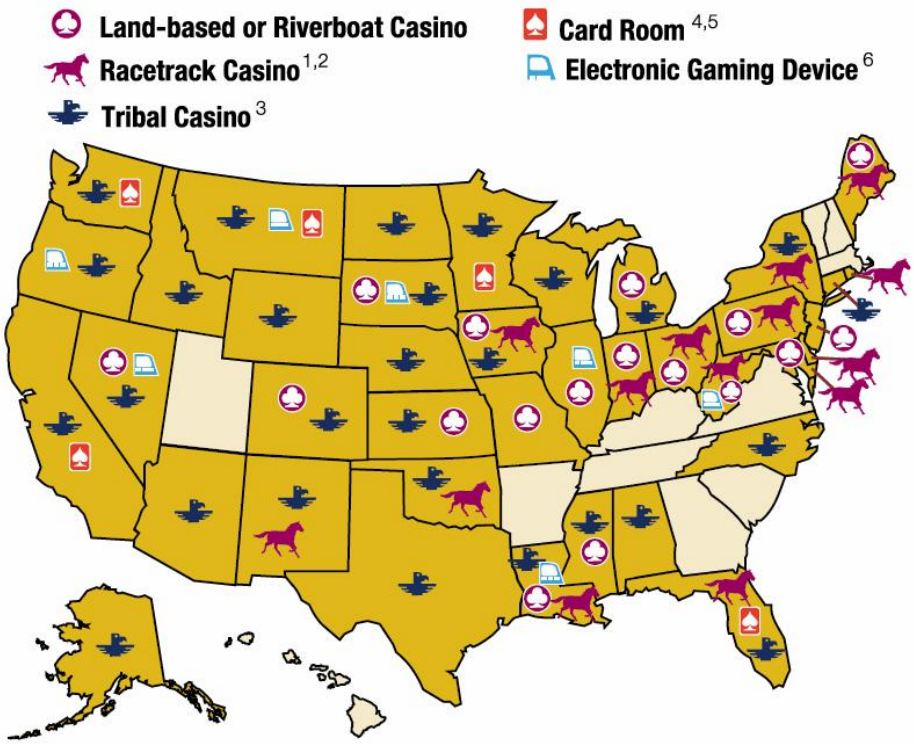
Some states have legalized riverboat casinos, particularly along the Mississippi River. Since then, land-based casino operations have expanded. Casino proponents argue that they raise a lot of revenue for the state, but naysayers remain wary of the possible dark side of legalized gambling, including the potential for increased crime, law enforcement costs, and addiction.[180]

The map in Figure 22 below shows the various types of casino gambling in each state.

[179] Gelfand, *supra*, State and Local Taxation and Finance, ch. 2, pt. I.

[180] *Id.*, State and Local Taxation and Finance, ch. 2, pt. I.

Figure 22. Casino Locations Across the U.S., by Category as of 2012[181]



[1] In Rhode Island, there are video lottery terminals operating at a closed jai alai fronton, not considered a racetrack casino, but a pari-mutuel facility.

[2] The states with racetrack casinos operate Class III gaming machines. There are two racinos in Alabama — not indicated on this map — that have Class II machines only, which are legal only in the counties where they operate.

[3] Native American casinos noted here include both Class II and Class III facilities. States with Class II gaming are Alabama, Alaska, Nebraska and Texas.

[4] The states with card rooms indicated here do not include states that have commercial casinos with poker facilities.

[5] The card rooms in Washington operate blackjack and other house- or player-banked card games in addition to poker.

[6] The electronic gaming devices operating in the states indicated on this map are recognized as legal operations. There are some states with similar facilities, but the machines may not be authorized.

Sources: American Gaming Association, National Indian Gaming Commission, State Gaming Regulatory Agencies

[181] American Gaming Ass'n, *2013 State of the States* at 4, http://www.americangaming.org/sites/default/files/uploads/docs/aga_sos2013_fnl.pdf.

H. Transportation-related Fees and Taxes

1. Income vs. Spending

Transportation-related taxes and fees are myriad. They include fuel taxes, airline passenger taxes, motor-vehicle registration tax, driver's license fees, toll road fees, HOV-lane charges, and various other fees and charges. Transportation funding was a key issue for many state legislatures in 2013.[182] Maryland Governor Martin O'Malley (D) and Virginia Governor Bob McDonnell (R) successfully proposed sales tax increases to cover transportation expenses, Wyoming Governor Matt Mead (R) put through a proposal raising his state's second-lowest-in-the-nation gasoline tax, and others proposed new toll roads or the adoption of a "vehicle mileage tax" (VMT) system.[183] State and local governments raised $37 billion in motor fuel taxes and $12 billion in tolls and non-fuel taxes in 2010, but they *spent* $155 billion on highways.[184] In other words, highway user taxes and fees made up just under a third of state and local

[182] Joseph Henchman, *Gasoline Taxes and Tolls Pay for Only a Third of State & Local Road Spending* (Tax Found. Jan. 17, 2013), http://taxfoundation.org/article/gasoline-taxes-and-tolls-pay-only-third-state-local-road-spending.

[183] *Id*. (citing, *e.g.*, Andy Brownfield, *O'Malley: Road funds may need gas or sales tax hike*, Washington Examiner, Jan. 9, 2013, http://bit.ly/W0pFax; Joseph Henchman & Scott Drenkard, *Virginia Governor Proposes Smoke & Mirrors Transportation Financing Plan*, Tax Foundation Tax Policy Blog, Jan. 8, 2013, http://bit.ly/Ximk5b; Joan Barron, *Wyoming House committee advances fuel tax bill*, Casper Star-Tribune, Jan. 14, 2013, http://bit.ly/W0pGLt; Michelle Boudin, *Controversial toll road planned to widen I-77*, NBC Charlotte, Jan. 14, 2013, http://bit.ly/W0pEDs; Becky Orr, *I-80 tolls run over*, Wyoming News, Feb. 1, 2011, http://bit.ly/W77eyE; WKBN, *Lawmakers Criticize Kasich's Turnpike Plan*, Dec. 18, 2012, http://bit.ly/W77duH; Associated Press, *State officials propose mileage tax for fuel-efficient vehicles in Oregon*, Jan 2, 2013, http://bit.ly/UAlM8G; Susan Fleming, *Highway Trust Fund: Pilot Program Could Help Determine the Viability of Mileage Fees for Certain Vehicles*, U.S. Government Accountability Office Report (Dec. 2012), http://www.gao.gov/assets/660/650863.pdf).

[184] *Id.* (citing U.S. Census Bureau, *State and Local Government Finances by Level of Government and by State, 2009-10*, http://www.census.gov/govs/estimate/).

expenses for roads. The rest was financed out of general revenues, including federal aid.[185]

These ratios are not significantly altered by adding in *all* transportation modes. In 2010, state and local governments spent $60 billion on mass transit, $23 billion on air transportation facilities, $1.6 billion on parking facilities, and $5.3 billion on ports and water transportation. However, they raised only $13 billion through mass transit fares, $18 billion in air transportation fees, $3.2 billion in parking fees and fines, and $3.8 billion in water transportation taxes and fees. Altogether, states raised about 36% of their transportation costs through user taxes, fees, and other charges.[186]

Table 11 below lists, for each state, the proportion of highway spending covered by user taxes and fees, as well as the proportion of all transportation spending covered by user taxes and fees. Delaware, Florida, New Jersey, North Carolina, New York, and New Hampshire fared the best, raising about half of their transportation spending through user taxes and fees. By contrast, Wyoming, Alaska, South Dakota, Vermont, and Iowa cover little of their transportation spending through user taxes and fees, instead subsidizing it heavily with general revenues. While commuters and visitors may gripe about high tolls and gasoline taxes, there is a certain inherent fairness in requiring transportation users to help pay for the services that they are themselves using.

[185] *Id., Gasoline Taxes and Tolls Pay for Only a Third of State & Local Road Spending*, http://taxfoundation.org/article/gasoline-taxes-and-tolls-pay-only-third-state-local-road-spending. *See also* Part III.K below, discussing federal transfers.

[186] *Id., Gasoline Taxes and Tolls Pay for Only a Third of State & Local Road Spending*, http://taxfoundation.org/article/gasoline-taxes-and-tolls-pay-only-third-state-local-road-spending.

Table 11. State & Local Transportation Spending Covered by User Taxes & Fees (2010)[187]

Jurisdiction	Share of Road Spending Covered by Fuel Taxes, Tolls, and Other User Taxes and Fees	Rank	Share of All Transportation Spending Covered by User Taxes and Fees	Rank
U.S. Average	32.0%		35.8%	
Alabama	30.6%	24	33.6%	27
Alaska	5.2%	50	13.7%	49
Arizona	31.0%	22	32.8%	30
Arkansas	38.3%	12	39.2%	17
California	22.7%	39	30.3%	33
Colorado	30.6%	24	41.9%	11
Connecticut	31.2%	21	27.7%	37
Delaware	59.3%	1	54.7%	1
Florida	49.7%	2	50.4%	2
Georgia	25.6%	34	36.3%	21
Hawaii	21.2%	42	42.2%	10
Idaho	26.0%	32	27.1%	39
Illinois	26.8%	30	39.1%	18
Indiana	28.2%	29	30.7%	31
Iowa	19.4%	46	21.5%	44
Kansas	29.8%	27	30.3%	32
Kentucky	29.2%	28	34.2%	25
Louisiana	22.0%	40	26.0%	41
Maine	42.7%	6	43.9%	6
Maryland	34.6%	16	34.5%	24

[187] *Id.* Source: Tax Foundation calculations from U.S. Census Bureau, *State and Local Government Finance*. Road spending is motor fuel tax revenue and highway revenue divided by highway spending. Transportation spending is motor fuel tax revenue, highway revenue, air transportation revenue, parking facility revenue, sea and inland port facility revenue, and transit revenue divided by highway spending, air transportation spending, parking facility spending, sea and inland port facility spending, and mass transit spending. The calculations exclude federal aid from the numerator but include state and local spending financed by federal aid in the denominator. A table including federal gas tax revenue is located at http://taxfoundation.org/blog/road-spending-state-funded-user-taxes-and-fees-including-federal-gas-tax-revenues.

Jurisdiction	Share of Road Spending Covered by Fuel Taxes, Tolls, and Other User Taxes and Fees	Rank	Share of All Transportation Spending Covered by User Taxes and Fees	Rank
Massachusetts	41.5%	8	44.2%	5
Michigan	29.9%	26	33.6%	28
Minnesota	23.6%	36	29.9%	34
Mississippi	23.6%	36	26.4%	40
Missouri	22.9%	38	28.0%	36
Montana	23.7%	35	24.8%	42
Nebraska	31.8%	19	43.1%	7
Nevada	26.4%	31	41.7%	12
New Hampshire	42.0%	7	45.1%	4
New Jersey	49.5%	3	42.9%	8
New Mexico	19.6%	45	22.7%	43
New York	43.8%	5	39.3%	16
North Carolina	46.0%	4	45.6%	3
North Dakota	20.0%	44	21.1%	45
Ohio	41.2%	9	39.7%	14
Oklahoma	25.7%	33	28.5%	35
Oregon	21.8%	41	27.6%	38
Pennsylvania	33.0%	18	34.6%	23
Rhode Island	35.7%	15	33.8%	26
South Carolina	36.5%	14	42.3%	9
South Dakota	16.4%	48	16.9%	48
Tennessee	36.7%	13	38.9%	19
Texas	38.9%	11	39.4%	15
Utah	20.2%	43	20.2%	46
Vermont	19.2%	47	19.8%	47
Virginia	31.5%	20	39.8%	13
Washington	33.5%	17	36.0%	22
West Virginia	39.1%	10	38.9%	20
Wisconsin	30.7%	23	33.0%	29

Jurisdiction	Share of Road Spending Covered by Fuel Taxes, Tolls, and Other User Taxes and Fees	Rank	Share of All Transportation Spending Covered by User Taxes and Fees	Rank
Wyoming	5.3%	49	6.6%	50
District of Columbia	4.0%	(51)	31.1%	(31)

The next table breaks down the information in Table 11 (above) between gasoline taxes and tolls and user fees.

Table 12. State & Local Road Spending Covered by Tolls + User Fees and Gasoline Taxes (FY 2010)[188]

State	Tolls & User Fees	Rank	Gasoline Taxes	Total, Tolls, User Fees & Gas Taxes	Rank	State	Tolls & User Fees	Rank	Gasoline Taxes	Total, Tolls, User Fees & Gas Taxes	Rank
U.S.	7.8%	–	24.3%	32.1%	–	**Mont.**	1.5%	32	22.2%	23.7%	35
Ala.	0.4%	40	30.2%	30.6%	24	**Nebr.**	2.5%	25	24.2%	26.7%	19
Alaska	3.6%	22	1.7%	5.2%	50	**Nev.**	0.7%	38	25.6%	26.4%	31
Ariz.	0.9%	36	30.2%	31.0%	22	**N.H.**	22.0%	4	20.0%	42.0%	7
Ark.	1.6%	30	36.7%	38.3%	12	**N.J.**	36.1%	2	13.3%	49.5%	3
Calif.	3.6%	22	19.1%	22.7%	39	**N.M.**	1.1%	34	18.5%	19.6%	45
Colo.	6.6%	14	24.1%	30.6%	24	**N.Y.**	28.7%	3	15.1%	43.8%	5
Conn.	0.1%	48	31.1%	31.2%	21	**N.C.**	0.3%	43	45.8%	46.0%	4
Del.	41.4%	1	17.8%	59.3%	1	**N.D.**	1.5%	32	18.6%	20.0%	44
Fla.	14.1%	6	35.6%	49.7%	2	**Ohio**	5.0%	16	36.2%	41.2%	9
Ga.	0.8%	37	24.8%	25.6%	34	**Okla.**	8.5%	11	17.2%	25.7%	33
Hawaii	0.5%	39	20.6%	21.2%	42	**Ore.**	2.2%	27	19.6%	21.8%	41
Idaho	2.3%	26	23.7%	26.0%	32	**Pa.**	9.4%	10	23.6%	33.0%	18
Ill.	8.3%	12	18.4%	26.8%	30	**R.I.**	4.4%	19	31.3%	35.7%	15
Ind.	0.3%	43	27.8%	28.2%	29	**S.C.**	4.6%	18	31.9%	36.5%	14
Iowa	0.4%	40	19.0%	19.4%	46	**S.D.**	0.4%	40	16.0%	16.4%	48
Kans.	5.0%	16	24.8%	29.8%	27	**Tenn.**	0.1%	48	36.6%	36.7%	13
Ky.	0.3%	43	28.9%	29.2%	28	**Tex.**	9.6%	9	29.3%	38.9%	11

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188 *See* Tax Found., *Facts & Figures—How Does Your State Compare* (Scott Drenkard ed. Mar. 18 2013), http://taxfoundation.org/sites/taxfoundation.org/files/docs/ff2013.pdf. Source: Tax Foundation calculations from U.S. Census Bureau, State and Local Government Finance and Federal Highway Administration data. Gasoline Taxes include all state and local fuel tax collections but do not include federal intergovernmental aid funded from federal gasoline tax receipts. A table including federal aid linked to federal gas tax revenues is located at http://taxfoundation.org/blog/road-spending-state-funded-user-taxes-and-fees-including-federal-gas-tax-revenues.

State	Tolls & User Fees	Rank	Gasoline Taxes	Total, Tolls, User Fees & Gas Taxes	Rank	State	Tolls & User Fees	Rank	Gasoline Taxes	Total, Tolls, User Fees & Gas Taxes	Rank
La.	1.6%	30	20.3%	22.0%	40	**Utah**	1.7%	29	18.5%	20.2%	43
Maine	13.8%	7	28.8%	42.7%	6	**Vt.**	0.3%	43	18.9%	19.2%	47
Md.	11.4%	8	23.2%	34.6%	16	**Va.**	4.1%	20	27.5%	31.5%	20
Mass.	15.7%	5	25.8%	41.5%	8	**Wash.**	5.7%	15	27.8%	33.5%	17
Mich.	3.2%	24	26.7%	29.9%	26	**W.Va.**	7.5%	13	31.6%	39.1%	10
Minn.	1.1%	34	22.5%	23.6%	36	**Wis.**	3.7%	21	27.0%	30.7%	23
Miss.	0.1%	48	23.6%	23.6%	36	**Wyo.**	1.9%	28	3.4%	5.3%	49
Mo.	0.3%	43	22.6%	22.9%	38	**D.C.**	0.0%	(51)	4.0%	4.0%	(51)

Expanding tolls and raising gasoline taxes may not be politically popular, but transportation facilities and services *are* highly popular. Subsidizing highway spending from general revenues, however, creates pressure to increase income or sales taxes, which some see as unfair to non-users, and could ultimately undermine economic growth for the state as a whole.[189] Whatever viewpoint is taken, it is certain that transportation funding is integrally interrelated with real estate concerns. Transportation policy and planning decisions often have significant economic development impacts by affecting government and consumer expenditures, employment opportunities, resource consumption, productivity, local environmental quality, property values, affordability and wealth accumulation.[190] Proximity to public transportation, for instance, makes certain neighborhoods more desirable to businesses and homeowners alike. Creation of

[189] Henchman, *supra*, *Gasoline Taxes and Tolls Pay for Only a Third of State & Local Road Spending*, http://taxfoundation.org/article/gasoline-taxes-and-tolls-pay-only-third-state-local-road-spending.

[190] *See, e.g.*, *Evaluating Transportation Economic Development Impacts* (Victoria Transport Policy Inst., Aug. 18, 2010), http://www.vtpi.org/econ_dev.pdf.

freeways or expressways allows for new development in areas farther from central cities. Areas once considered rural become suburban when transportation systems are enhanced, whether by mass transit systems or highways. Property values may then go up, but affordability may go down. But with increased employment opportunities from businesses that are drawn in by the transportation improvements, affordability may not be so affected after all.

LOCATION EQUATION INCLUDES TRANSPORTATION

The old maxim still stands: location, location, location.

Location in good school districts. Location in safe neighborhoods. And location near public transportation. Transit's influence on the real estate market makes government investment in public transportation a significant issue to follow.

A 2013 study entitled "The New Real Estate Mantra – Location Near Public Transportation" found that residential properties within a half-mile of heavy rail, light rail, and bus rapid transit retained more of their value during the bubble burst when compared to other properties in a given region.

The study – commissioned by the National Association of Realtors® and American Public Transportation Association and conducted by the Center for Neighborhood Technology – analyzed the Boston, Chicago, Minneapolis-St. Paul, Phoenix, and San Francisco regions. Across the study regions, the so-called "transit shed" outperformed the region as a whole by 41.6% between 2006 and 2011.

A patchwork of tax dollars provides most of the funding to build and operate transit systems. State and local government contributions combined supply about 55% of the money, and the federal government supplies 19%, according to the 2010 National Transit Database. The remaining 26% comes from system revenues.

While federal funding hovers around $10 billion a year, state funding rose to nearly $14 billion in fiscal year 2011 (from $13.3 billion in 2007), according to a 2013 Survey of State Funding for Public Transportation by the American Association of State Highway and Transportation Officials (AASHTO). States generate transit funding from a variety of sources. General funds, gas taxes, bond proceeds vehicle fees/licenses, vehicle/rental car sales taxes, and general sales taxes are the most commonly used funding mechanisms, according to the AASHTO survey.

New York spent the most on transit in 2011 at $4.2 billion, according to the survey. California was next at $1.7 billion, followed by Illinois at $1.3 billion. Washington, D.C., spent the most per capita at $627, followed by Alaska at $234 and New York at $218.

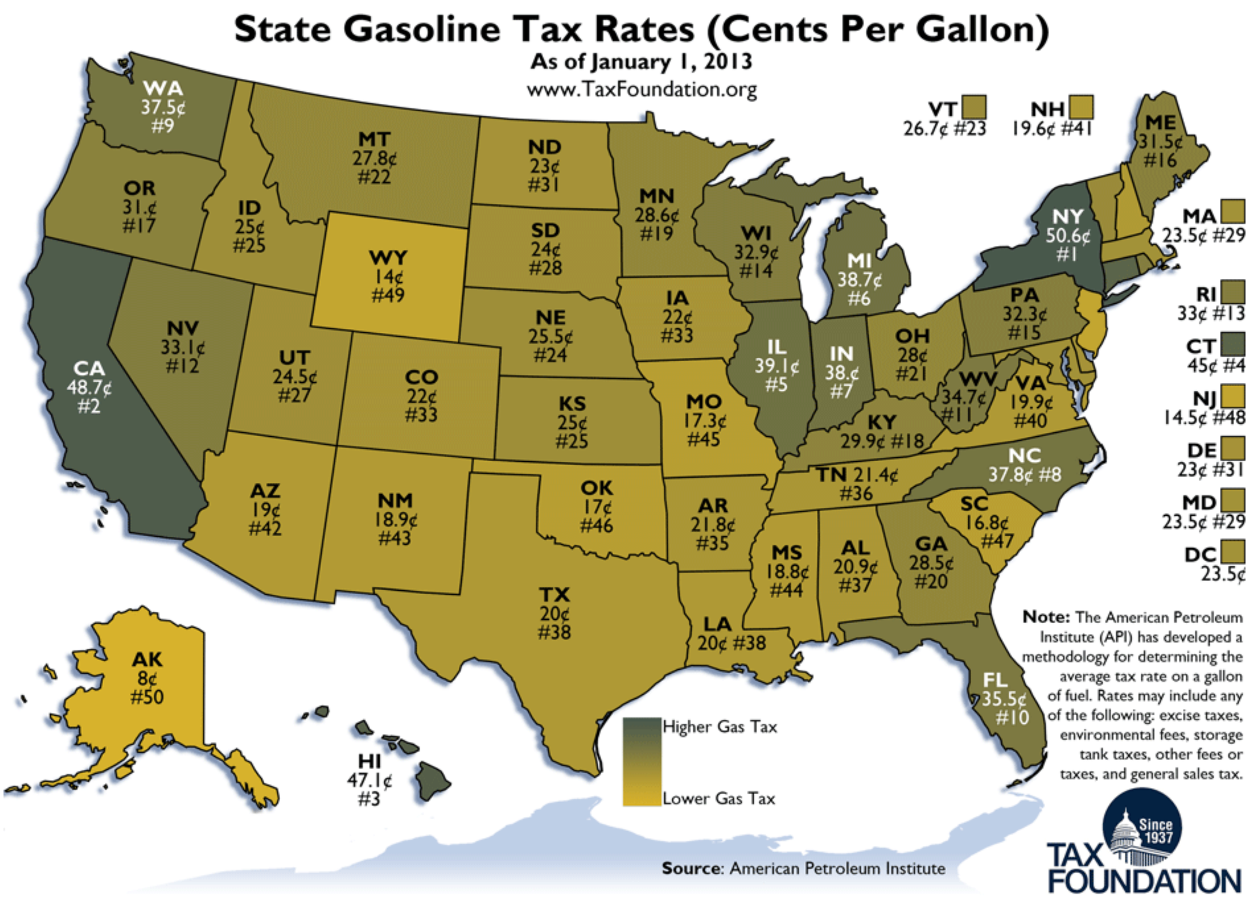
Transit spending accounts for an average of 19.8% of each state's overall transportation budget behind maintaining roads and bridges (38.5%) and expanding road and bridge capacity (22.5%), according to "Tracking State Transportation," a state-by-state analysis by the Tri-State Transportation Campaign of New York, New Jersey, and Connecticut. The analysis uses federally funded projects as a proxy for how states prioritize transportation spending.

Voters are often willing to tax themselves to pay for transit. Between 2000 and 2012, more than 72% of 457 transit ballot measures passed nationwide, according to the American Public Transportation Association.

2. Gasoline Taxes

Gasoline taxes are one significant source of state transportation funding, but the taxes imposed vary significantly by state, as the following map demonstrates. Alaska imposes the lowest per-gallon tax at 14 cents, and New York tops the list at 50.6 cents per gallon.

Figure 23.[191]



This information is presented in tabular form in Table 13 below.

[191] http://taxfoundation.org/blog/weekly-map-state-gasoline-tax-rates.

Table 13. State Gasoline Tax Rates as of January 1, 2013 (Cents per Gallon)[192]

State	Excise Tax	Other Taxes and Fees	Total	Rank	State	Excise Tax	Other Taxes and Fees	Total	Rank
Ala.	16.0	4.9	20.9	37	**Nebr.**	24.6	0.9	25.5	24
Alaska	8.0	0.0	8.0	50	**Nev.**	23.0	10.1	33.1	12
Ariz.	18.0	1.0	19.0	42	**N.H.**	18.0	1.6	19.6	41
Ark.	21.5	0.3	21.8	35	**N.J.**	10.5	4.0	14.5	48
Calif.	36.0	12.7	48.7	2	**N.M.**	17.0	1.9	18.9	43
Colo.	22.0	0.0	22.0	33	**N.Y.**	8.1	42.6	50.6	1
Conn.	25.0	20.0	45.0	4	**N.C.**	37.5	0.3	37.8	8
Del.	23.0	0.0	23.0	31	**N.D.**	23.0	0.0	23.0	31
Fla.	4.0	31.5	35.5	10	**Ohio**	28.0	0.0	28.0	21
Ga.	7.5	21.0	28.5	20	**Okla.**	16.0	1.0	17.0	46
Hawaii	17.0	30.1	47.1	3	**Ore.**	30.0	1.0	31.0	17
Idaho	25.0	0.0	25.0	25	**Pa.**	12.0	20.3	32.3	15
Ill.	19.0	20.1	39.1	5	**R.I.**	32.0	1.0	33.0	13
Ind.	18.0	20.0	38.0	7	**S.C.**	16.0	0.8	16.8	47
Iowa	21.0	1.0	22.0	33	**S.D.**	22.0	2.0	24.0	28
Kans.	24.0	1.0	25.0	25	**Tenn.**	20.0	1.4	21.4	36
Ky.	28.5	1.4	29.9	18	**Tex.**	20.0	0.0	20.0	38
La.	20.0	0.0	20.0	38	**Utah**	24.5	0.0	24.5	27
Maine	30.0	1.5	31.5	16	**Vt.**	19.0	7.7	26.7	23
Md.	23.5	0.0	23.5	29	**Va.**	17.5	2.4	19.9	40

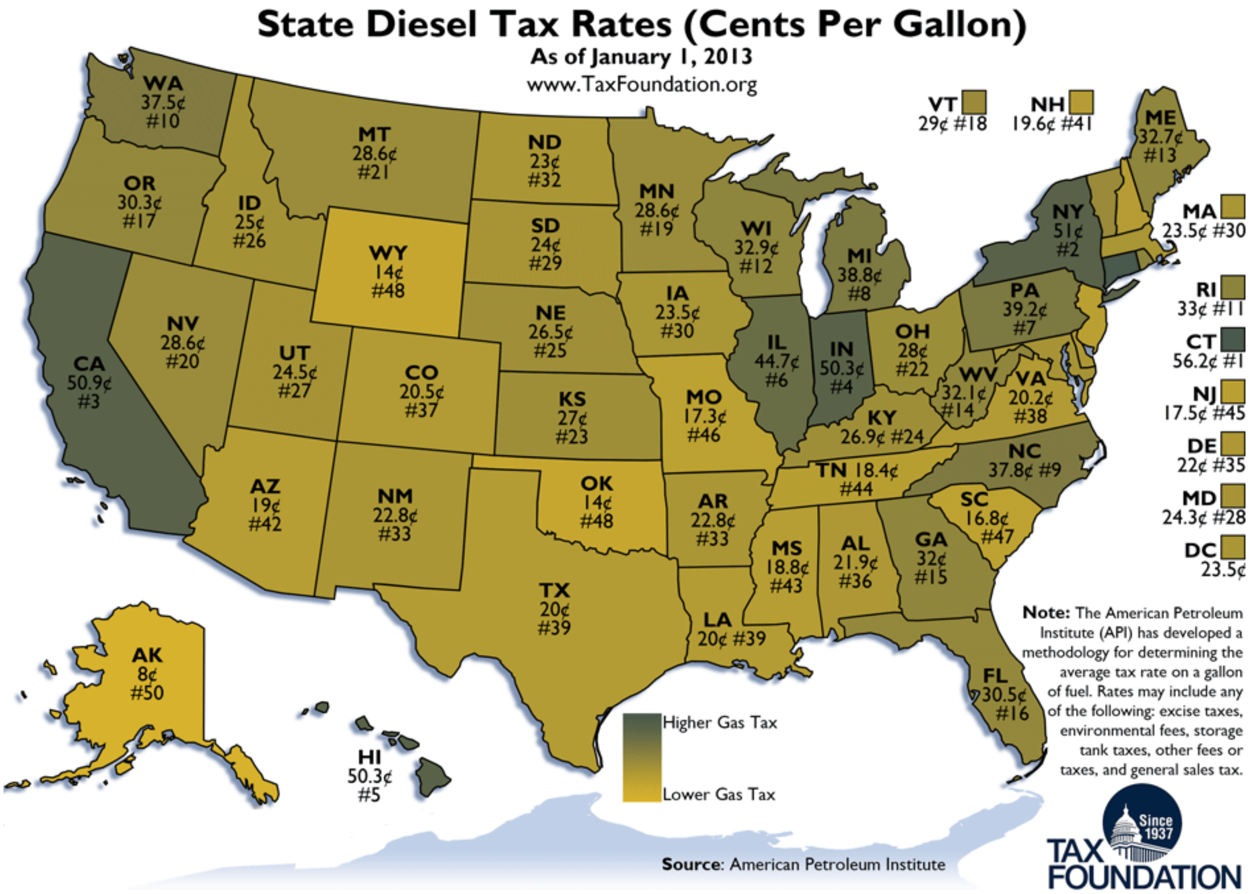
[192] *See* Tax Foundation, *Facts & Figures—How Does Your State Compare* (Scott Drenkard ed. Mar. 18 2013), http://taxfoundation.org/sites/taxfoundation.org/files/docs/ff2013.pdf. *Note*: The American Petroleum Institute (API) has developed a methodology for determining the average tax rate on a gallon of fuel. Rates may include any of the following: excise taxes, environ- mental fees, storage tank taxes, general sales tax, and other fees or taxes. In states where gasoline is subject to the general sales tax, or where the fuel tax is based on the average sale price, the average rate determined by API is sensitive to changes in the price of gasoline. States that fully or partially apply general sales taxes to gasoline: CA, CT, GA, IL, IN, MI, NY. Source: American Petroleum Institute.

State	Excise Tax	Other Taxes and Fees	Total	Rank	State	Excise Tax	Other Taxes and Fees	Total	Rank
Mass.	21.0	2.5	23.5	29	**Wash.**	37.5	0.0	37.5	9
Mich.	19.0	19.7	38.7	6	**W.Va.**	21.8	12.9	34.7	11
Minn.	28.5	0.1	28.6	19	**Wis.**	30.9	2.0	32.9	14
Miss.	18.0	0.8	18.8	44	**Wyo.**	13.0	1.0	14.0	49
Mo.	17.0	0.3	17.3	45	**D.C.**	23.5	0.0	23.5	(29)
Mont.	27.0	0.8	27.8	22					

3. Diesel Fuel Taxes

The cost of diesel fuel, which is frequently borne by commercial entities that rely on trucking, may ultimately be passed on to the consumer in the form of higher prices. Public entities like school districts, with their large fleets of buses, are also directly impacted by diesel fuel taxes—but again, in this context the cost is often passed on to area residents in the form of higher taxes. Figure 24 below compares the diesel tax rates across the United States. The tax amount is roughly comparable to gasoline taxes, ranging from 8 cents per gallon in Alaska to 56.2 cents per gallon in Connecticut.

Figure 24.[193]



4. Licenses and Fees

Motor vehicle license fees also help fund transportation costs, and also vary by state. The [National Conference of State Legislatures](http://www.ncsl.org) (NCSL) publishes a list of the registration and title fees in each state.[194] Other contributors to state transportation coffers include driver's license fees, toll road fees,[195] and High Occupancy Vehicle (HOV) lane or express lane fees. Even with all of these various contributors,

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[193] Tax Found. Weekly Map (Jan. 22, 2013), http://taxfoundation.org/blog/weekly-map-state-gasoline-tax-rates.

[194] *See* NCSL, Registration and Title Fees by State (2012), http://www.ncsl.org/issues-research/transport/registration-and-title-fees-by-state.aspx.

[195] *See* U.S. Dep't of Transp., Fed. Highway Admin., at http://www.fhwa.dot.gov/ for more information.

transportation cost output exceeds the input, and general state revenues are tapped to make up the difference.

J. Telecommunications-related Taxes

Both wireless and landline phone service is subject not only to a federal tax, but depending on where the service is provided, it may also be subject to state, county, municipal, and possibly even school-district taxes.

These taxes may appear as "gross receipts" taxes on the phone bill,[196] or they may have fancier names, like "Telecommunications Services Excise Tax Surcharge," or "State Translation Privilege Tax Surcharge." These taxes can really add up, in some states more than others, as Table 14 below shows.

Table 14. Taxes and Fees on Wireless Service, July 2012[197]

State	State-Local Rate	Combined Federal-State-Local Rate	Rank
Alabama	7.49%	13.31%	39
Alaska	12.09%	17.91%	15
Arizona	12.98%	18.80%	11
Arkansas	11.54%	17.36%	17
California	10.95%	16.77%	21
Colorado	10.82%	16.64%	23
Connecticut	7.41%	13.23%	40
Delaware	6.28%	12.10%	46

[196] Federal Communications Comm'n, *Understanding Your Telephone Bill*, http://www.fcc.gov/guides/understanding-your-telephone-bill.

[197] Joseph Henchman & Scot Drenkard, *State and Local Governments Impose Hefty Taxes on Cell Phone Consumers* (Tax Found. Jan. 30, 2013), http://taxfoundation.org/article/state-and-local-governments-impose-hefty-taxes-cell-phone-consumers. Source: Scott Mackey, KSE Partners, LLP, based on Methodology from Council on State Taxation, 50-State Study and Report on Telecommunications Taxation, May 2005. *Notes:* The federal rate on wireless service is 5.82%. D.C. rank given for informational purposes only; does not affect other ranks.

State	State-Local Rate	Combined Federal-State-Local Rate	Rank
Florida	16.59%	22.41%	4
Georgia	8.78%	14.60%	29
Hawaii	7.53%	13.35%	38
Idaho	2.28%	8.10%	48
Illinois	15.94%	21.76%	5
Indiana	10.86%	16.68%	22
Iowa	7.95%	13.77%	34
Kansas	13.11%	18.93%	10
Kentucky	10.54%	16.36%	24
Louisiana	7.21%	13.03%	43
Maine	7.27%	13.09%	41
Maryland	12.77%	18.59%	12
Massachusetts	7.85%	13.67%	35
Michigan	7.69%	13.51%	37
Minnesota	9.53%	15.35%	26
Mississippi	9.23%	15.05%	27
Missouri	14.29%	20.11%	7
Montana	6.09%	11.91%	47
Nebraska	18.67%	24.49%	1
Nevada	2.13%	7.95%	49
New Hampshire	8.21%	14.03%	31
New Jersey	8.91%	14.73%	28
New Mexico	11.08%	16.90%	19
New York	17.85%	23.67%	3
North Carolina	8.51%	14.33%	30
North Dakota	10.96%	16.78%	20
Ohio	8.04%	13.86%	33
Oklahoma	11.48%	17.30%	18

State	State-Local Rate	Combined Federal-State-Local Rate	Rank
Oregon	1.85%	7.67%	50
Pennsylvania	14.13%	19.95%	8
Rhode Island	14.68%	20.50%	6
South Carolina	10.07%	15.89%	25
South Dakota	13.13%	18.95%	9
Tennessee	11.63%	17.45%	16
Texas	12.15%	17.97%	14
Utah	12.67%	18.49%	13
Vermont	8.10%	13.92%	32
Virginia	6.60%	12.42%	44
Washington	18.62%	24.44%	2
West Virginia	6.38%	12.20%	45
Wisconsin	7.24%	13.06%	42
Wyoming	7.79%	13.61%	36
District of Columbia	11.62%	17.44%	(17)
U.S. Simple Average	10.15%	15.97%	
U.S. Weighted Average	11.36%	17.18%	

ESSENTIAL GADGET BECOMES TAX MAGNET

Teresa Boardman's cell phone is a digital Swiss Army knife.

Boardman, a Realtor® in Minneapolis-St. Paul, scans documents, calculates mortgage payments, computes commissions, and surfs the MLS—all with her Galaxy S4. She once used her phone to write an addendum to a real estate contract while away on vacation.

"Being an urban Realtor, I could probably get by more easily without an automobile than I could get by without my cell phone," Boardman said.

The cell phone is a go-to business tool for Realtors® and anyone else with an occupation that keeps them on the move. But it's also a go-to revenue stream for all levels of government, making wireless carriers reluctant accomplices in levying an estimated $38.4 billion a year in various taxes, fees, and surcharges, according to CTIA-The Wireless Association.

"Wireless carriers are good tax collectors because they send out a monthly bill and collect monthly payments," said Jim Schuler, the association's assistant vice president for external and state affairs.

Cell phone taxes generate revenue in a stealthy way, because they're buried among numerous billing details—death by a thousand cuts. The bill for a wireless customer who lives in New York City, for example, includes 11 different taxes, fees, and surcharges, according to a 2012 study entitled "Wireless Taxes and Fees: A Tragedy of the Anticommons," by Matthew Mitchell and Thomas Stratmann of George Mason University.

The average U.S. cell phone user pays 17.18% in taxes, fees, and surcharges on their monthly bill – 5.82% to the federal government and 11.36% to local and state governments – based on a 2012 report entitled "Wireless Taxes and Fees Continue Growth Trend," written by Scott Mackey of KSE Partners LLP. That's up from 14.13% in 2007.

Cell phone taxes support communications-related services such as E-911, but state and local governments also count on them to bolster their general fund. That's been especially true in recent years, as local governments scramble to cope with shrinking revenues from other sources, Schuler said.

Seven states have combined cell phone tax rates exceeding 20%, led by Nebraska at 24.49%. Oregon's combined rate is lowest at 7.67%. In Boardman's home state, Minnesota, the average rate is 15.53%. "You don't question it, because you need it for business," she said. "If they charged me three times as much, I'd probably still pay it."

The wireless industry is fighting back. CTIA-The Wireless Association continues to push the Wireless Tax Fairness Act, which would freeze local and state taxes targeting cell phones for five years. The bill cleared the house in 2013, but stalled in the Senate. "People are starting to realize taxes on wireless consumers are excessive and burdensome," Schuler said. "We'll never give up on this one."

The industry may soon have another fight on its hands. President Obama is floating the idea of a $5-a-year federal fee hike – lasting three years – to expand high-speed Internet connections in schools.

K. Other Sources of State Revenue: Federal Transfers

Although taxes make up the lion's share of state revenues, most states get more than a quarter of their income from federal grants. These grants usually come with restrictions as to how the money can be spent. Federal grants often go toward building projects, such as roads, bridges, and dams, or for education, health care, and welfare.[198] Table 15 below shows how much federal aid contributes to each state's revenues.

Table 15. Federal Aid as a Percentage State General Revenue (FY 2011)[199]

State	Fed. Aid as% of State Gen. Rev.	Rank	State	Fed. Aid as% of State Gen. Rev.	Rank
U.S.	35.9%	–	Mont.	41.9%	8
Ala.	38.2%	19	Nebr.	36.2%	26
Alaska	24.0%	50	Nev.	27.1%	46
Ariz.	45.7%	3	N.H.	34.5%	30
Ark.	36.2%	26	N.J.	28.6%	43
Calif.	32.4%	37	N.M.	42.6%	7
Colo.	32.1%	38	N.Y.	40.4%	10
Conn.	27.9%	45	N.C.	35.0%	29
Del.	25.9%	49	N.D.	26.0%	48
Fla.	36.9%	23	Ohio	38.9%	15
Ga.	41.1%	9	Okla.	39.0%	14
Hawaii	28.6%	43	Ore.	36.6%	24
Idaho	38.2%	19	Pa.	34.3%	33
Ill.	33.7%	34	R.I.	38.3%	17
Ind.	34.5%	30	S.C.	38.1%	21
Iowa	38.9%	15	S.D.	45.6%	4
Kans.	32.9%	35	Tenn.	44.0%	6

198 *Financing State and Local Government*, *supra*, http://www.ushistory.org/gov/12b.asp.

199 *See* Tax Found., *Facts & Figures—How Does Your State Compare* (Scott Drenkard ed. Mar. 18 2013), http://taxfoundation.org/sites/taxfoundation.org/files/docs/ff2013.pdf. *Notes*: Figures are calculated by dividing each state's "Intergovernmental Revenue" into its "General Revenue." "General Revenue" includes all tax revenue but excludes utility revenue, liquor store revenue, and investment income from state pension funds. The D.C. figure is for Fiscal Year 2010. Source: U.S. Census Bureau, Tax Foundation calculations.

State	Fed. Aid as% of State Gen. Rev.	Rank	State	Fed. Aid as% of State Gen. Rev.	Rank
Ky.	38.3%	17	Tex.	40.0%	11
La.	46.5%	2	Utah	31.6%	39
Maine	39.3%	13	Vt.	36.2%	26
Md.	34.4%	32	Va.	26.8%	47
Mass.	31.5%	40	Wash.	31.3%	41
Mich.	36.4%	25	W.Va.	37.5%	22
Minn.	29.4%	42	Wis.	32.8%	36
Miss.	49.0%	1	Wyo.	39.6%	12
Mo.	44.4%	5	D.C.	38.0%	(22)

IV. Treatment of Real Estate by State and Local Tax Systems

State and local tax structures can have a direct impact on the real estate industry. The following discussion takes a look at just a few examples of how the realms of taxes and real estate intersect.

A. Mortgage Interest Deduction on Income Tax

The ability to take a Mortgage Interest Deduction (MID) on state and federal income taxes can make home ownership affordable, or at least offer a financial incentive toward home ownership. Introduced along with the Income Tax itself in 1913, the federal MID allows homeowners who itemize deductions on their taxes to deduct mortgage interest attributable to primary residence and second-home debt totaling $1 million, and interest paid on home equity debt up to $100,000.[200] Though the MID is a popular tax deduction for millions of U.S. homeowners, it has become a controversial and oft-debated topic in recent years.[201] Some tax reform proponents advocate eliminating the deduction as a means of generating greater tax revenues. But doing so would come at a cost, which is why NAR President Gary Thomas testified before Congress in support of maintaining the MID.[202]

NAR® takes the position that the MID helps many families become homeowners, which is the foundation for a healthy middle class and is vital to the health and stability of housing markets. The MID primarily benefits middle- and lower-income families.

[200] National Ass'n of REALTORS®, *Field Guide to Mortgage Interest Deduction* (June 2013), http://www.realtor.org/field-guides/field-guide-to-mortgage-interest-deduction. Much additional information on the MID is available on this website and through the links provided.

[201] *Id., Field Guide to Mortgage Interest Deduction* (June 2013), http://www.realtor.org/field-guides/field-guide-to-mortgage-interest-deduction.

[202] National Ass'n of REALTORS®, *Realtors® Urge Preserving of Homeownership Tax Policies* (Apr. 25, 2013), http://www.realtor.org/news-releases/2013/04/realtors-urge-preserving-of-homeownership-tax-policies.

Sixty-five percent of families who claim the deduction earn less than $100,000 per year. “The Mortgage Interest Deduction makes sustainable homeownership more affordable for millions of middle-class families; these families are the nation’s backbone,” says Thomas. “Protecting these hard-working Americans should be Congress’ top priority as it pursues comprehensive tax reform.”[203]

[203] *Id.*

TAX REFORM RAISES RED FLAG FOR REAL ESTATE

Realtors® in North Carolina knew the tax reform train was coming down the track, but they didn't expect it to run them over. They ultimately dodged most of the blow, but their experience shows the risks for real estate whenever tax reform is on the table.

Four proposed revisions to the state tax code – including eliminating the mortgage interest/property tax deduction – put the bite on real estate during the 2013 legislative session as lawmakers sought to keep campaign promises and provide relief from corporate and personal income taxes.

"They said it was a billion dollar tax cut for North Carolina, but they were doing it on the backs of property owners," said Cady Thomas, director of government affairs for the North Carolina Association of Realtors (NCAR).[†]

Besides eliminating the mortgage-interest/property tax deduction, lawmakers considered:

- Creating a new 1.25% business license tax based on a company's assets -- including real estate held for development.
- Increasing the real estate transfer tax currently paid by sellers to 1% from .2% -- with who would pay for the increase not specified.
- Creating a 8.05% tax on services that would have included all of the services itemized in HUD settlement statements – increasing the cost to buy a home.

With strong support from the National Association of Realtors®, NCAR waged political war against all four revisions. Fierce lobbying and a $2.5 million media campaign resulted in near total success. The only setback came when the previously uncapped mortgage-interest/property tax deduction was capped at a combined $20,000.

The cap currently hits relatively few people, but as interest rates and property values climb, more and more homebuyers will be denied a full deduction, essentially driving up the cost of homeownership, Thomas said.[†]

NCAR wants the cap repealed. In the meantime, it's exploring ways to ease future pain – such as allowing the cap to float with interest rates. It's also preparing for more showdowns over tax reform after corporate and personal income taxes were pared but not eliminated in 2013.

"The tax reform discussion is not over in North Carolina," said Mark Zimmerman, NCAR's legislative chair. "If there's one take away from our experience this year, it's this: The mantra you've been hearing for years is true. Housing and the real estate industry are always a target."[††]

[†]Telephone Interview with Cady Thomas, Dir. of Gov't Affairs, NCAR (Sept. 13, 2013).
[††] Telephone Interview with Mark Zimmerman, Legis. Chair, NCAR (Sept. 13, 2013).

1. Overview of State Laws

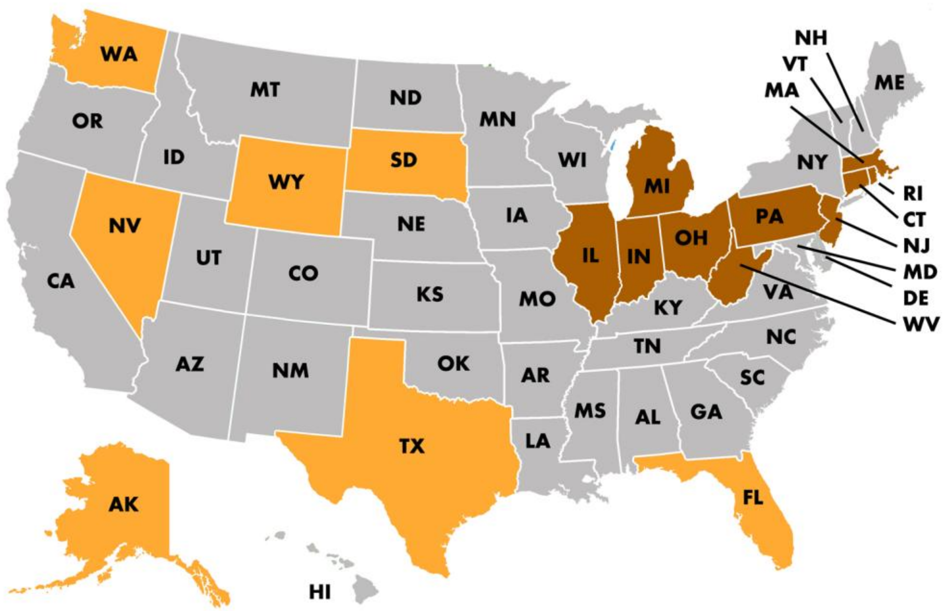
According to research conducted by LRC,[204] of the 45 jurisdictions that have a personal income tax, ten[205] do not recognize a Mortgage Interest Deduction. These states are shown (in **brown**) in the map in Figure 25 below. (The states with no income

[204] Research completed in Feb. 2013.

[205] CT, IL, IN, MA, MI, NJ, OH, PA, RI, WV.

tax—-Alaska, Florida, Nevada, South Dakota, Texas, Washington, and Wyoming--, and thus no MID, are shown in **orange**.)

Figure 25. Jurisdictions Without Mortgage Interest Deduction[206]



Twenty-two (39%)[207] of the remaining jurisdictions allow a copy-over of the MID amount from the taxpayer's federal return to their state return without modification or exceptions. Eleven other states (20%)[208] require adjustments of the amount copied over to the state return or use that amount as a credit. And just three jurisdictions (5%)[209] have jurisdiction-specific Mortgage Interest Deductions that do not look to the amount of the federal itemized deduction in calculating their deduction. *See* Table 16 below.

[206] Based on research conducted by Legal Research Center, Inc. in February 2013.

[207] AL, AR, CO, ID, KS, KY, ME, MD, MS, MO, MT, NE, NH, NM, NC, ND, OK, OR, TN, VT, VI, VA

[208] AZ, CA, DE, GA, HI, IA, MN, NY, SC, UT, WI.

[209] DC, LA, PR.

Table 16. State Handling of Mortgage Interest Deduction (as of February 2013)[210]

Jurisdiction	No MID	Copy-Over of Federal MID	Adjusted Federal MID	Jurisdiction-Specific MID
Alabama		X		
Alaska	Alaska has no state income tax.			
Arizona			X	
Arkansas		X		
California			X	
Colorado		X		
Connecticut	X			
Delaware			X	
D.C.				X
Florida	Florida has no state income tax.			
Georgia			X	
Hawaii			X	
Idaho		X		
Illinois	X			
Indiana	X			
Iowa			X	
Kansas		X		
Kentucky		X		
Louisiana				X
Maine		X		
Maryland		X		
Massachusetts	X			

[210] The states in the shaded rows impose no state income tax. Based on research conducted by Legal Research Center, Inc. in February 2013.

Jurisdiction	No MID	Copy-Over of Federal MID	Adjusted Federal MID	Jurisdiction-Specific MID
Michigan	X			
Minnesota			X	
Mississippi		X		
Missouri		X		
Montana		X		
Nebraska		X		
Nevada	Nevada has no state income tax.			
New Hampshire		X		
New Jersey	X			
New Mexico		X		
New York			X	
North Carolina		X		
North Dakota		X		
Ohio	X			
Oklahoma		X		
Oregon		X		
Pennsylvania	X			
Puerto Rico				X
Rhode Island	X			
South Carolina			X	
South Dakota	South Dakota has no state income tax.			
Tennessee		X		
Texas	Texas has no state income tax.			
Utah			X	
Vermont		X		

Jurisdiction	No MID	Copy-Over of Federal MID	Adjusted Federal MID	Jurisdiction-Specific MID
Virgin Islands		X		
Virginia		X		
Washington	Washington has no state income tax.			
West Virginia	X			
Wisconsin			X	
Wyoming	Wyoming has no state income tax.			

2. Modifications and Exceptions

The states that modify the amount or use of the federal Mortgage Interest Deduction do so in several different ways. For instance, Utah and Wisconsin use the federal deduction amount in calculating a credit against the individual's tax liability rather than as a deduction from adjusted gross income. Delaware, Minnesota, and New York cap or reduce by a percentage the total amount of itemized deductions, thereby proportionately reducing the MID in some, if not all circumstances. Arizona, Georgia, Iowa, and South Carolina increase the amount of the federal deduction by adding back in any federal mortgage credit reduction.

3. State-Specific Deductions

The effects of state-specific Mortgage Interest Deductions are both more and less favorable than the federal deduction. The District of Columbia's deduction is comparable to the federal one, but the amount is limited for high-earning taxpayers. Louisiana's tax law defines "interest" more broadly, but places circumstantial limitations on deductibility that do not apply to the federal deduction. Puerto Rico's law is more liberal in that it allows the deduction for personal loans not secured by the residence and does not cap the amount of indebtedness on which interest may be deducted.

4. Impact of MID on State Revenues

While the availability of a mortgage interest deduction saves the taxpayer money, it also potentially reduces the income tax revenues collected by the states—which may be why the MID is frequently the subject of tax reform proposals (*see* Part V.B below). Table 17 shows the average deduction taken by MID claimants in each state. The data in the table is based on federal MID averages, but the table notes where state-level adjustments would be made to the federal deduction to arrive at the MID amount claimed on the individual's state income tax return. Next, the average personal income tax rate in each state is applied to the average MID to estimate the potential per-claimant impact on state revenue collections.

Table 17. Average Per-Claimant MID and Projected Impact on State Revenues (Using 2010 Data)[211]

A Jurisdiction	B Avg. MID Claimed (using fed. data)	C State Allows Copy-Over of Federal MID	D State Uses Federal MID with Adjustments[212]	E State Has Jurisdiction-Specific MID[213]	F Average State Income Tax Rate (lowest rate + highest rate / 2)	G Estimated Impact of MID on State Revenues (Col. B x Col. F)
Alabama	$8,610	X			3.5%	-$301.35
Alaska	N/A (0)				No state income tax	0
Arizona	$11,282		X [allows adding back in any reduction in federal credit based on mortgage credit certificate][214]		3.565%	-$402.20
Arkansas	$7,764	X			4.0%	-$310.56
California	$15,755		X [mortgage insurance premiums are not considered interest, but payments made to the Cal. Housing Fin. Agency pursuant to its buy-down mortgage payment		5.4%	-$850.77

[211] The most recent year for which comprehensive data is available. The Federal MID data, by state, for the 2010 tax year (in interactive map form) is available at CNNMoney, *How Does Your Mortgage Deduction Compare?*, http://money.cnn.com/interactive/economy/mortgage-deduction/index.html?iid=EL. (No data was provided for Puerto Rico.) For comprehensive comparative data on the federal MID, see The Pew Charitable Trusts, *The Geographic Distribution of the Mortgage Interest Deduction* (Pew Center on the States, Apr. 30, 2013), http://www.pewstates.org/research/reports/the-geographic-distribution-of-the-mortgage-interest-deduction-85899471375?p=3, © 2013 The Pew Charitable Trusts. Individual income tax rates for each state, current and historical, are available from the Tax Policy Center at http://www.taxpolicycenter.org/taxfacts/displayafact.cfm?Docid=406.

[212] Based on statutes in effect in 2010, unless otherwise noted.

[213] Based on statutes in effect in 2010, unless otherwise noted.

[214] Based on a 2012 statute; no legislative history available.

A Jurisdiction	B Avg. MID Claimed (using fed. data)	C State Allows Copy-Over of Federal MID	D State Uses Federal MID with Adjustments[212]	E State Has Jurisdiction-Specific MID[213]	F Average State Income Tax Rate (lowest rate + highest rate / 2)	G Estimated Impact of MID on State Revenues (Col. B x Col. F)
			program are deductible]			
Colorado	$11,746	X			4.63%	-$543.84
Connecticut	N/A (0) No state MID				4.75%	0
Delaware	$10,811		X [total of all itemized deductions claimed must be reduced by 12%, so number here would be reduced to $9,513.68]		4.575%	-$435.25
D.C.	$14,976			X [fed. MID reduced by 5% if income limits exceeded][215]	6.25%	-$936.00
Florida	N/A (0)				No state income tax	0
Georgia	$9,590		X [allows adding back in any reduction in federal credit based on mortgage credit certificate]		3.5%	-$335.65
Hawaii	$14,955		X [may not apply to property outside the state]		6.2%	-$927.21
Idaho	$9,461	X			4.7%	-$444.67
Illinois	N/A (0) No state MID				3.0%	0

[215] Statute last amended in 2011.

A Jurisdiction	B Avg. MID Claimed (using fed. data)	C State Allows Copy-Over of Federal MID	D State Uses Federal MID with Adjustments[212]	E State Has Jurisdiction-Specific MID[213]	F Average State Income Tax Rate (lowest rate + highest rate / 2)	G Estimated Impact of MID on State Revenues (Col. B x Col. F)
Indiana	N/A (0) No state MID				3.4%	0
Iowa	$7,177		X [allows adding back in any reduction in federal credit based on mortgage credit certificate]		4.67%	-$335.17
Kansas	$7,846	X			4.975%	-$390.34
Kentucky	$7,553	X			4.0%	-$302.12
Louisiana	$9,009			X [allowable interest subject to certain exclusions]	4.0%	-$360.36
Maine	$8,297	X			5.25%	-$435.59
Maryland	$12,448	X			4.125%	-$513.48
Massachusetts	N/A (0) No state MID				5.3%	0
Michigan	N/A (0) No state MID				4.35%	0
Minnesota	$9,757		X [certain income limitations may apply]		6.6%	-$643.96
Mississippi	$7,649	X			4.0%	-$305.96
Missouri	$8,332	X			3.75%	-$312.45
Montana	$8,973	X			3.95%	-$354.43
Nebraska	$7,479	X			4.7%	-$351.51

A Jurisdiction	B Avg. MID Claimed (using fed. data)	C State Allows Copy-Over of Federal MID	D State Uses Federal MID with Adjustments[212]	E State Has Jurisdiction-Specific MID[213]	F Average State Income Tax Rate (lowest rate + highest rate / 2)	G Estimated Impact of MID on State Revenues (Col. B x Col. F)
Nevada	N/A (0)				No state income tax	0
New Hampshire	$10,206	X			State income tax ltd. to div. & int. inc. only; no rate info. provided	N/A
New Jersey	N/A (0) No state MID				6.075%	0
New Mexico	$9,858	X			3.3%	-$325.31
New York	$10,639		X [taxpayer may elect between federal and state deduction which are both subject to certain reductions][216]		6.485%	-$689.94
North Carolina	$9,050	X			6.875%	-$622.19
North Dakota	$7,920	X			3.35%	-$265.32
Ohio	N/A (0)				3.429%	0
Oklahoma	$7,645	X			3.0%	-$229.35
Oregon	$10,533	X			8.0%	-$842.64
Pennsylvania	N/A (0) No state MID				3.07%	0
Rhode Island	N/A (0) No state MID				6.85%	0
South Carolina	$9,021		X [allows adding back in any		3.5%	-$315.74

[216] Based on a 2011 statute; no legislative history available.

A Jurisdiction	B Avg. MID Claimed (using fed. data)	C State Allows Copy-Over of Federal MID	D State Uses Federal MID with Adjustments[212]	E State Has Jurisdiction-Specific MID[213]	F Average State Income Tax Rate (lowest rate + highest rate / 2)	G Estimated Impact of MID on State Revenues (Col. B x Col. F)
			reduction in federal credit based on mortgage credit certificate]			
South Dakota	N/A (0)				No state income tax	0
Tennessee	$9,419	X			State inc. tax. ltd. to div. & int. inc. only; no rate info provided	N/A
Texas	N/A (0)				No state income tax	0
Utah	$10,204		X [subject to certain income limitations][217]		5.0%	-$510.20
Vermont	$8,502	X			6.25%	-$531.38
Virginia	$12,591	X			3.875%	-$487.90
Washington	N/A (0)				No state income tax	0
West Virginia	N/A (0) No state MID				4.75%	0
Wisconsin	$7,793		X [n/a to interest on second homes outside of Wis.][218]		6.175%	-$481.22
Wyoming	N/A (0)				No state income tax	0

[217] Based on a statute last amended in 2012.

[218] Based on 2010 filing instructions for individual income tax from the Wis. Dep't of Rev., http://www.revenue.wi.gov/forms/2010/10i-111.pdf, at p. 23.

CNN Money reports that the average federal MID claimed in 2010, taking the nation as a whole, was $10,640,[219] but as Table 17 shows the deduction varied quite significantly across state lines. The lowest average deduction--$7,177—was claimed in Iowa, and the highest claimed was more than double that, at $15,755, in California. The per-claimant projected impact on state revenues, based on the application of the average state tax rate to the federal MID—ranged from about -$230 in Oklahoma to more than four times that amount—about -$930—in Hawaii.

But these figures may not tell the true story. Another way to look at the data is *by filer* as opposed to *by claimant*. The per-filer averages take into account all taxpayers in the state, including those who do not claim the MID. Table 18 below compares the 2010 per-filer average MID to the per-claimant averages.

Table 18. Comparison of Average (Federal) MID Per-Filer and Per-Claimant[220]

State	Average Deduction per Tax Filer[221]	Average Deduction per Claimant[222]	State	Average Deduction per Tax Filer	Average Deduction per Claimant
Alabama	$ 1,927	$ 8,610	**Montana**	$ 2,104	$ 8,973
Alaska	$ 2,145	$ 11,120	**Nebraska**	$ 1,780	$ 7,479
Arizona	$ 3,164	$ 11,282	**Nevada**	$ 3,001	$ 12,192
Arkansas	$ 1,456	$ 7,764	**New Hampshire**	$ 3,095	$ 10,206
California	$ 4,311	$ 15,755	**New Jersey**	$ 3,667	$ 11,411
Colorado	$ 3,850	$ 11,746	**New Mexico**	$ 2,067	$ 9,858

[219] CNNMoney, *How Does Your Mortgage Deduction Compare?*, *supra*, http://money.cnn.com/interactive/economy/mortgage-deduction/index.html?iid=EL (based on data from the Pew Center on the States).

[220] The Pew Charitable Trusts, *The Geographic Distribution of the Mortgage Interest Deduction* (Pew Center on the States, Apr. 30, 2013), Data Appendix, Table 2, http://www.pewstates.org/uploadedFiles/PCS_Assets/2013/MID-Appendix-Tables.pdf, © 2013 The Pew Charitable Trusts.

[221] Average deduction per tax filer is the total amount of mortgage interest deducted in a state divided by the number of tax filers (that is, tax returns) in that state.

[222] Average deduction per claimant is the total amount of mortgage interest deducted in a state divided by the number of tax filers (that is, tax returns) claiming the deduction in that state.

State	Average Deduction per Tax Filer[221]	Average Deduction per Claimant[222]	State	Average Deduction per Tax Filer	Average Deduction per Claimant
Connecticut	$ 3,761	$ 10,970	**New York**	$ 2,451	$ 10,639
Delaware	$.3,312	$ 10,811	**North Carolina**	$ 2,549	$ 9,050
DC	$ 3,784	$ 14,976	**North Dakota**	$ 1,192	$ 7,920
Florida	$ 2,169	$ 11,163	**Ohio**	$ 1,933	$ 7,551
Georgia	$ 2,610	$ 9,590	**Oklahoma**	$ 1,539	$ 7,645
Hawaii	$ 3,491	$ 14,955	**Oregon**	$ 3,311	$ 10,533
Idaho	$ 2,591	$ 9,461	**Pennsylvania**	$ 2,188	$ 8,835
Illinois	$ 2,742	$ 9,969	**Rhode Island**	$ 2,860	$ 9,626
Indiana	$ 1,767	$ 7,757	**South Carolina**	$ 2,236	$ 9,021
Iowa	$ 1,752	$ 7,177	**South Dakota**	$ 1,334	$ 8,580
Kansas	$ 1,890	$ 7,846	**Tennessee**	$ 1,837	$ 9,419
Kentucky	$ 1,806	$ 7,553	**Texas**	$ 1,808	$ 9,109
Louisiana	$ 1,601	$ 9,009	**Utah**	$ 3,324	$ 10,204
Maine	$ 2,129	$ 8,297	**Vermont**	$ 2,075	$ 8,502
Maryland	$ 4,580	$ 12,448	**Virginia**	$ 4,179	$ 12,591
Massachusetts	$ 3,571	$ 11,366	**Washington**	$ 3,811	$ 12,615
Michigan	$ 2,166	$ 8,324	**West Virginia**	$ 1,220	$ 8,132
Minnesota	$ 3,195	$ 9,757	**Wisconsin**	$ 2,283	$ 7,793
Mississippi	$ 1,314	$ 7,649	**Wyoming**	$ 2,102	$ 10,392
Missouri	$ 2,074	$ 8,332	**U. S. TOTAL**	**$ 2,713**	**$ 10,640**

Obviously, when viewed from the perspective of all income tax filers, the average impact of the MID is markedly reduced. This is because nationally, on average, only about a quarter of all filers claimed the federal MID in 2010.[223] Assuming a similar claim rate on state returns, it is clear that the per-taxpayer impact of the state MID is far less than the per-claimant impact.

Moreover, elimination of the deduction, as reformists urge, would not result in a dollar-for-dollar increase in state revenues, because it would likely lead to a behavioral response—homeowners would attempt to pay off their home loans sooner, for instance,

[223] *See The Geographic Distribution of the Mortgage Interest Deduction* (Pew Center on the States), *supra*, *Claim Rates Across States 2010* (map), http://www.pewstates.org/research/reports/the-geographic-distribution-of-the-mortgage-interest-deduction-85899471375?p=2, © 2013 The Pew Charitable Trusts.

or not even be able to buy a home in the first place.[224] Less government investment in taxable assets would offset the revenue gains arising from the elimination of the MID.[225] Some estimates put the actual government savings from eliminating the federal MID as low as 35% of the total amount deducted[226]; it is likely that a similar phenomenon would occur at the state level.

B. Deductions on Income Tax for State and Local Taxes Paid

State and local taxes that may be included as itemized deductions on a federal tax return include:

- State, local, and foreign income taxes.
- State, local, and foreign real estate taxes.
- State and local personal property taxes.
- State and local general sales taxes.

To be deductible, the tax must have been paid during the relevant tax year.[227]

Deductible real estate taxes generally include any state, local, or foreign taxes on real property. They must be charged uniformly against all property in the jurisdiction at a like rate. Obviously, the deductibility of state and local real estate taxes makes real estate ownership more affordable. Many states and counties also impose local benefit

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[224] *See, e.g.*, Richard Green, *How Much Money Would Dropping the Mortgage Interest Deduction Raise? Less Than People Think* (Forbes Mar. 19, 2013), *available at* http://www.forbes.com/sites/richardgreen/2013/03/19/how-much-money-would-dropping-the-mortgage-interest-deduction-raise-less-than-people-think/.

[225] *Id.* (citing Martin Gervais & Manish Pandey, *Who Cares About Mortgage Interest Deductibility?* (Univ. of Toronto Press 2008), http://ideas.repec.org/p/uwo/epuwoc/20059.html).

[226] *Id.*

[227] Internal Revenue Service, *Topic 503—Deductible Taxes*, http://www.irs.gov/taxtopics/tc503.html.

taxes for improvements to property, such as assessments for streets, sidewalks, and sewer lines. These taxes *cannot* be deducted.[228] Deductible personal property taxes are those based only on the value of personal property such as a boat or car. The tax must be charged on a yearly basis, even if it is collected more than once a year or less than once a year.[229]

The federal deduction for state and local taxes is often called the Salt (or SALT) deduction.[230] It is among the largest deductions in the tax code, reducing federal revenues by $77 billion in 2013: $25 billion for property taxes on owner-occupied homes and $52 billion for state income and other taxes. Conservatives have taken issue with this deduction, and it is one that Republicans reportedly are likely to include in their tax reform plans.[231]

The Salt deduction is also among the oldest in the tax code. The first income tax law enacted 100 years ago provided a deduction for all state, county, school and municipal taxes paid within the last year. It is not known why it was adopted, but lawmakers may have believed that it was fundamentally unfair to tax a tax.[232] One reason that the Salt deduction is on the tax reform radar is that Congressional leaders have promised to maintain the current progressivity of the tax code while reducing the

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[228] *Id., Topic 503—Deductible Taxes*, http://www.irs.gov/taxtopics/tc503.html.

[229] *Id., Topic 503—Deductible Taxes*, http://www.irs.gov/taxtopics/tc503.html.

[230] Bruce Bartlett, *The Deduction for State and Local Taxes*, N.Y. Times Aug. 13, 2013, http://economix.blogs.nytimes.com/2013/08/13/the-deduction-for-state-and-local-taxes/?_r=0.

[231] *Id., The Deduction for State and Local Taxes*, http://economix.blogs.nytimes.com/2013/08/13/the-deduction-for-state-and-local-taxes/?_r=0.

[232] *Id., The Deduction for State and Local Taxes*, http://economix.blogs.nytimes.com/2013/08/13/the-deduction-for-state-and-local-taxes/?_r=0.

top income tax rate to 25%, which means they will have to go after those deductions that primarily benefit the wealthy.[233]

The following table from Congress's Joint Committee on Taxation shows that the bulk of returns claiming the Salt deduction and the greatest proportion of the dollars deducted are from those taxpayers with higher incomes. Almost half the dollar amount of the deduction is claimed by those with incomes above $200,000. This stands to reason, because taxpayers with incomes under $30,000 are largely exempt from federal income taxes; the value of all deductions increases the higher one's tax bracket; tax rates rise with income; and the wealthy are more likely to be homeowners.[234]

Table 19. Percentage Distribution of Federal Tax Deductions for State and Local Income, Sales and Personal Property Taxes, 2010 [235]

Income Class	Returns	Amount
Below $10,000	0	0
$10,000 - $20,000	0.4	0
$20,000 - $30,000	1.7	0
$30,000 - $40,000	3.6	0.4
$40,000 - $50,000	6.0	0.9
$50,000 - $75,000	19.3	5.2
$75,000 - $100,000	19.4	7.9
$100,000 - $200,000	40.1	36.3
$200,000 and above	9.4	49.3

[233] *Id., The Deduction for State and Local Taxes*, http://economix.blogs.nytimes.com/2013/08/13/the-deduction-for-state-and-local-taxes/?_r=0.

[234] *Id., The Deduction for State and Local Taxes*, http://economix.blogs.nytimes.com/2013/08/13/the-deduction-for-state-and-local-taxes/?_r=0.

[235] *Id.* Source: Joint Committee on Taxation.

Another important factor is that the wealthy are more likely to live in the so-called "blue" states, those generally governed by Democrats, with bigger governments and higher taxes. The following table from the Tax Policy Center lists the top 10 states in terms of claiming the Salt deduction. Texas is the only "red" state on the list; the rest are blue except for Ohio and Virginia, which are now considered "purple"—partly red and partly blue.[236]

Table 20. Top 10 States for Claiming Federal Deductions for State and Local Taxes, 2011[237]

State	Percentage of All Returns in State Claiming Salt Deduction	Average Salt Deduction Per Return
Maryland	47.7	$11,374
New Jersey	42.7	$15,342
Virginia	39.7	$9,538
Massachusetts	39.2	$12,719
New York	35.8	$18,157
California	35.2	$13,506
Illinois	34.6	$11,047
Pennsylvania	30.7	$9,496
Ohio	30.4	$9,105
Texas	24.1	$6,772

C. Real Estate Transfer Taxes

Real estate transfer taxes are state and local taxes that are assessed on real property when ownership of the property is transferred between parties. Although proponents say real estate transfer taxes are necessary to help fund state services, opponents view them as an unwarranted tax on home sales. More information on transfer taxes is available in the NAR® Field Guide to Real Estate Transfer Taxes and

236 *Id., The Deduction for State and Local Taxes*, http://economix.blogs.nytimes.com/2013/08/13/the-deduction-for-state-and-local-taxes/?_r=0.

237 *Id., The Deduction for State and Local Taxes*, http://economix.blogs.nytimes.com/2013/08/13/the-deduction-for-state-and-local-taxes/?_r=0.

the links therein provided,[238] in the discussion in Part III.E above, and in the State Issues Tracker Annual Report on Transfer Taxes prepared by LRC for NAR®.

D. Tax Cuts and Economic Growth

Some commentators assert that a consensus exists that state tax cuts boost state economies and that state tax increases harm them, but not everyone agrees. Some academic studies apparently find no correlation between state tax levels and various measures of state economic performance (for example, income growth, firm formation, job creation, and net household migration).[239] Other studies conclude that higher taxes are actually associated with *better* economic performance when they finance higher-quality education and the better infrastructure desired by businesses and households alike. And yet other studies find that taxes have no effect in one time period and a negative effect in another, or a positive effect on one measure of state economic performance and a negative effect on a different measure, or different effects depending on how tax levels are measured and the timeframes under consideration. Similarly, there are no consistent findings as to which taxes matter most for economic growth. Some studies find that state corporate income taxes do not affect economic growth, while state personal income taxes do. Others conclude just the opposite.[240]

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[238] *See* National Ass'n of REALTORS®, *Field Guide to Real Estate Transfer Taxes* (Oct. 2012), http://www.realtor.org/field-guides/field-guide-to-real-estate-transfer-taxes.

[239] Michael Maxerov, *Academic Research Lacks Consensus on the Impact of State Tax Cuts on Economic Growth—A Reply to the Tax Foundation* (Center on Budget and Policy Priorities (CBPP) June 17, 2013), http://www.cbpp.org/cms/?fa=view&id=3975.

[240] *Id., Academic Research Lacks Consensus on the Impact of State Tax Cuts on Economic Growth—A Reply to the Tax Foundation*, http://www.cbpp.org/cms/?fa=view&id=3975

The Tax Foundation's analysis reached a different result, finding that nearly *every* empirical study of taxes and economic growth finds that tax increases harm economic growth.[241] It is obvious from these two conflicting viewpoints that the impact of tax cuts and increases, whether a benefit or detriment, is in the eye of the beholder. This discrepancy in findings brings to light an important point: When it comes to subjective findings as opposed to objective data, the Tax Foundation, while a great source of tax-related information, is not without its detractors. Differing tax philosophies and viewpoints do indeed exist, and all merit consideration.

[241] *See* William McBride, *What is the Evidence on Taxes and Growth?* (Tax Found. Special Report No. 207, Dec. 18, 2012), http://taxfoundation.org/article/what-evidence-taxes-and-growth.

V. Recent Trends in Changing State Tax Systems

A. Extending the Reach of Sales Taxes

In recent legislative sessions, many states looked at ways to increase the scope of their sales taxes as a way of holding the line on income tax increases. Sales taxes have long been criticized as regressive, imposing a disproportional impact on lower- and middle-income tax payers.[242] On the other hand, proponents of the shift argue that sales taxes—or "consumption taxes"—foster growth by encouraging savings and investment versus spending.

Extending sales taxes, or shifting state revenues from income taxes to sales taxes, is a recurring idea among tax policy makers. The current proposals are similar in many ways to the "fair tax" proposals that have circulated in recent years.[243] Despite the fundamental unpopularity of the idea,[244] proposals for expanded sales tax are a recurring theme. The National Council of State Legislatures reported in 2013 that 16 states considered legislation to implement an increased or expanded sales tax to lower or limit increases in income tax rates.[245] While this type of legislation had some success, there were some notable failures. In Louisiana, for instance, Governor Bobby Jindal made a strong push to abolish the state's personal and business income taxes

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[242] *See, e.g., Who Pays? A Distributional Analysis of the Tax Systems in All 50 States* (Inst. for Tax & Econ. Policy, 4th ed. Feb. 2013), *available at* http://www.itep.org/whopays/.

[243] *See* Elizabeth McNichol and Nicholas Johnson, *"Fair Tax" Proposals to Replace State Income and Business Taxes With Expanded Sales Tax Would Create Serious Problems (*Center on Budget and Policy Priorities, Sept. 7, 2010), http://www.cbpp.org/cms/index.cfm?fa=view&id=3285.

[244] Rasmussen Reports, *31% Favor Eliminating a State's Income Tax in Exchange for Higher Sales Taxes,* Jan. 23, 2013, http://www.rasmussenreports.com/public_content/business/taxes/january_2013/31_favor_eliminating_a_state_s_income_tax_in_exchange_for_higher_sales_taxes.

[245] Elaine S. Povich, *As Revenues Rebounded, Many States Cut Taxes* (June 12, 2013), http://www.pewstates.org/projects/stateline/headlines/as-revenues-rebounded-many-states-cut-taxes-85899482175.

and the franchise tax and replace them with increased sales tax rates, a new tax on cigarettes, and a sales tax on business services. The Governor's plan, which was never considered by the Legislature in the form proposed by the Governor, would have increased the general sales tax from four percent to 6.25%.[246] The Governor's goal was to keep taxes as low as possible, while making a switch that would be revenue neutral.[247]

The original proposal placed professional services under the sales tax.[248] Norman Morris, Senior Vice President of Governmental Affairs with Louisiana REALTORS®, met with the Governor's staff at an early stage to discuss the professional services tax. "We made the point that we could identify ten to twelve professionals in a real estate transaction who would be subject to such a tax," Morris said. "Real estate helps keep the state afloat, and it's important not to do any harm" to that sector. Following these conversations, all real estate references (except for rental storage units) were redacted from the proposal.[249]

Governor Jindal's plan met with strong opposition for many reasons. Some opponents doubted that the plan would raise as much money as the Governor claimed, leading them to question whether the plan would in fact be revenue neutral. Others—

[246] Initially, the Governor proposed increasing the sales tax to 5.88%, but closer analysis showed that that rate would not generate sufficient revenue to replace the income tax. *See* Michelle Millhollon, *Jindal Scraps His Tax Plan,* The Advocate (Baton Rouge, La.), April 15, 2013, *available at* http://theadvocate.com/home/5651908-125/jindal-scraps-his-tax-plan.

[247] *Gov. Jindal: Eliminating Income Tax Will Create Jobs,* Governor's Press Release (Mar. 14, 2013), *available at* http://www.gov.state.la.us/index.cfm?md=newsroom&tmp=detail&articleID=3950.

[248] Telephone interview with Norman Morris, Louisiana REALTORS® (Oct. 10, 2013).

[249] *Id.*

including business groups,[250] as well as advocates for low- and moderate-income taxpayers[251]—questioned the fundamental fairness of the shift. Ultimately, the opposition proved to be too strong, and the Governor abandoned his plan. Instead, he called on legislators to develop a tax overhaul plan of their own.[252] Legislators did in fact propose several bills that would have called for a gradual phase-out of state income taxes,[253] but none of those bills met with any success.

Minnesota is another state that considered broadening the sales tax base as a way of augmenting state taxes. Governor Mark Dayton's proposed budget would have extended the state's sales tax to services. The Governor's proposal did not identify the services that would be subject to taxation, but it was noted that legal, accounting, and advertising services would be taxed. Christine Berger of the Minnesota Association of Realtors® said that the Association took the proposal to mean that *all* services would be taxed.[254] The augmented sales tax revenues would have been used to lower the overall

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[250] Jeff Adelson, *Louisiana Association of Business and Industry to Oppose Jindal's Tax Plan if It Raises Taxes on Business,* Times Picayune, Mar. 27, 2013, *available at* http://www.nola.com/politics/index.ssf/2013/03/louisiana_association_of_busin_1.html.

[251] Jeff Adelson, *Louisiana Religious Leaders Speak Out Against Jindal Tax Plan,* Times Picayune, Mar. 18, 2013, *available at* http://www.nola.com/politics/index.ssf/2013/03/louisiana_religious_leaders_sp.html.

[252] Millhollon, *supra, Jindal Scraps His Tax Plan*, http://theadvocate.com/home/5651908-125/jindal-scraps-his-tax-plan.

[253] For example, HB 271 would have phased out income taxes over a ten-year period beginning in 2014. HB 505 and HB 507 would also have phased out income taxes over ten years, but the phase-out in those bills would have begun in 2016. HB 632 called for a five-year phase out, beginning in 2015. All of these bills were considered by the House Ways and Means Committee, but did not advance beyond the committee stage.

[254] Telephone interview with Christine Berger, Minn. Ass'n of Realtors® (Sept. 13, 2013).

sales tax rate, the property tax rate, and the corporate income tax.[255] The Governor's tax proposals were poorly received. The Minnesota Association of Realtors®, with assistance from the National Association of Realtors®, mobilized against the tax. Association members lobbied legislators to better define the services that would be subject to taxation, or to defeat the proposed tax. In addition, advertising agencies and law firms, especially those without out-of-state clientele, were concerned about losing business to competitors in other states.[256] The Legislature did finally agree to extend the sales tax to some business-to-business services, such as services related to the purchase of telecom equipment, equipment repairs[257], farm repair services, and warehousing.[258] These taxes are controversial, and, according to Berger, are likely to be repealed.[259]

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[255] *Governor Dayton's Budget Proposal Part 2: Tax Reform (*Minn. Budget Project Jan. 31, 2013), http://minnesotabudgetbites.org/2013/01/31/governor-daytons-budget-proposal-part-2-tax-reform/#.Uj-Y5Ib6Meo.

[256] John Welbes, *Dayton's Service Sales Tax Plan lands with a Thud,* St. Paul Pioneer Press, Jan. 24, 2013, *available at* http://www.twincities.com/business/ci_22443108/executives-say-minnesota-tax-proposal-could-mean-loss.

[257] Minnesota Department of Revenue Fact Sheet, *Labor – Repair and Maintenance for Business* (July 2013), http://www.revenue.state.mn.us/businesses/sut/factsheets/FS152B.pdf.

[258] Minnesota Department of Revenue, *Warehouse and Storage Services: 2013 Tax Law Changes,* http://www.revenue.state.mn.us/businesses/sut/Pages/2013_WarehouseStorageServices.aspx.

[259] Berger interview, *supra*.

In North Carolina, the Senate and House Finance Committees held pre-session discussions about tax reform. One proposal that received much attention was a proposal to expand the sales tax to services, and also expand the real estate transfer tax.[260] The North Carolina Association of Realtors® mounted a strong campaign against the sales tax extension and presented the public and legislators with detailed reasons why

TAX REFORM REMAINS UNFINISHED BUSINESS

The Institute on Taxation and Economic Policy (ITEP) predicted in its annual State Tax Reform Prospects report that 2013 would be a watershed year for extreme tax makeovers. The report listed 15 states with major changes on the table – many of them centered around income tax cuts offset by expanded sales taxes and decreased itemized deductions.[†]

Fast forward to the final gavels of 2013 legislative sessions around the country. While a number of states reduced their income taxes, none of the most extreme tax shifts went very far, said Meg Wiebe, state tax policy director with ITEP.

That doesn't mean there weren't any nervous moments for advocates of housing and real estate. The mortgage interest/property tax deduction was in play in at least five states – North Carolina, Vermont, Maryland, Kansas and Maine – before surviving mostly intact with the exception of modest caps in Kansas and North Carolina. An extension of the sales tax to services was proposed in at least four states -- Louisiana, Maine, Minnesota and North Carolina – before either flaming out or being modified to exclude real estate. And an increase in the real estate transfer tax was considered in North Carolina before being quashed

What happened – or more importantly didn't happen – in 2013 is not the end of the story, though, because the fervor to overhaul state tax codes persists. "Nothing has really calmed down," said Wiebe. In Nebraska, for example, legislators created a Tax Modernization Commission to develop a comprehensive tax reform proposal for consideration in 2014 after tax reform stalled during the 2013 session. Gov. Dave Heineman began 2013 by pushing for total repeal of the state's personal and corporate income taxes. Heineman ultimately took two bills to the state legislature that would have reduced income tax rates in favor of eliminating business-to-business sales tax exemptions, but later withdrew them in the face of strong opposition from business, agriculture, and other sectors.

Wiebe noted that as the Tax Modernization Commission began gathering public comment, a growing interest in property tax reform emerged – one more example of the many directions tax reform can lead once open season is declared on tax codes.

[†] *The 15 states are California, Iowa, Kansas, Kentucky, Louisiana, Minnesota, Missouri, New York, North Carolina, Nebraska, Ohio, Oklahoma, Oregon, Virginia, and Wisconsin. Other jurisdictions to watch include Arkansas, Colorado, District of Columbia, Idaho, Illinois, Indiana, Maine, Massachusetts, Michigan, New Jersey, New Mexico, North Dakota, Rhode Island, Pennsylvania, Texas, Utah, Washington, and Wyoming .*

[260] Anna Oakes, *No NC Income Tax, Higher Sales Tax?,* Wautauga Democrat, Jan. 17, 2013, *available at* http://www2.wataugademocrat.com/News/story/No-NC-income-tax-higher-sales-tax-id-010201.

the sales tax and transfer tax extensions were bad policy.[261] Ultimately, the broad sales tax extension was not adopted. The tax legislation that did pass included a switch to a flat-rate income tax, an increase in the sales taxes on electricity, and extending the sales tax on admissions charges to movies and live entertainment events.[262]

In Maine, legislators considered a broad tax reform proposal.[263] The proposal would have extended the state sales tax to all services. The Maine Association of Realtors® mobilized in opposition to the proposal, and when a hearing on the bill was held 61 witnesses appeared to testify. Most of the witnesses opposed the measure.[264] According to Megan Sanborn, Communications and Government Affairs Manager for the Maine Association of Realtors®, the bill died in the Taxation Committee by a unanimous vote. Sanborn notes that the tax reform issue is certain to be revisited. A tax expenditure working group is scheduled to meet six times before the 2014 legislative session to try to figure out a way to cut $40 million from the state budget.[265]

Legislators in other states have proposed less dramatic sales-tax-for-income-tax swaps. These swaps have met with mixed success. In Kansas, legislators funded income tax cuts in part by setting the sales tax rate at a higher rate than scheduled.[266] The sales tax base was not expanded to tax any products that were not previously

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[261] *See* http://www.taxreformfacts.org/ (NCAR®-sponsored site).

[262] Eric Frazier, *Key Changes in N.C. Tax Policy,* Charlotte Observer, Aug. 10, 2013, *available at* http://www.charlotteobserver.com/2013/08/10/4228533/key-changes-in-nc-tax-policy.html#.Uj9v2Yb6Meo.

[263] Me. LD 1496 (2013). The bill was never formally drafted, but was presented as a concept draft.

[264] *Recap of the Maine Association Tax Reform Issue Campaign* (Maine Ass'n of Realtors® 2013).

[265] Email from Megan Sanborn, Communications and Government Affairs Manager, Maine Association of Realtors®, to Stacey Supina, Director of Research, Legal Research Center, Inc. (Sept. 24, 2013).

[266] The sales tax will decrease from 6.3% to 6.15%, but the rate was scheduled to decrease to 5.7% on July 1, 2013. *See* Kan. HB 2059, § 3 (2013).

subject to the tax. In Missouri, a bill to dramatically cut income tax rates was passed by the legislature, but vetoed by the Governor. The veto was sustained.[267] The Missouri bill originally would have funded the income tax cuts with a small sales tax increase, but that increase was removed over objections that it would impose an undue burden on those living on a fixed income.

[267] *See Following Vote to Sustain Veto of House Bill 253, Gov. Nixon Releases Funds for Education, Mental Health and Other Priorities in Fiscal Year 2014 Budget,* Governor's Press Release (Sept. 12, 2013), http://governor.mo.gov/newsroom/2013/Gov_Nixon_releases_funds_for_education_mental_health_and_other_priorities_in_FY_2014_budget.

None of the enacted tax reform laws that were passed in 2013 extend the sales tax to real estate services. Nevertheless, the proposal is not likely to go away. Proponents of taxing services note that consumers are spending more of their income on services than they spend on tangible goods. Consumer spending on goods subject to sales taxes has declined as a percentage of the economy.[268] This shift in expenditures decreases sales tax revenue.[269] In addition, many consumers are shifting their spending to online retailers,

MARKETPLACE FAIRNESS ACT APPLIES SALES TAXES TO INTERNET SALES

On March 18, 2013, NAR, in coalition with other industry groups, sent a letter to the United States Senate in support of a proposed amendment to the fiscal year 2014 Senate Budget Resolution that would implement S. 336, the Marketplace Fairness Act. This bipartisan bill, introduced by Senators Enzi (R-WY), Alexander (R-TN), Heitkamp (D-ND), and Durbin (D-IL), would assist states in collecting state sales and use taxes due on internet and other remote purchases. This new tax will level the playing field for traditional "brick-and-mortar" businesses, which have faced an unfair price disadvantage against online sellers due to sales taxes.

The Senate Budget Resolution passed the Senate on March 22, and the Marketplace Fairness Act amendment was approved by voice vote. Because budget resolutions are nonbinding, the Marketplace Fairness Act still needs to go through the normal legislative process before it becomes law, so NAR will continue to monitor and support it as it progresses. Although the measure is likely to make some headway, if opponents can capitalize on recent polling showing that a majority of voters believe the Act constitutes a tax increase, some legislators could get cold feet and it could fall by the wayside.

In the meantime, internet retailer Amazon.com continues to add to the list of states for which it has voluntarily agreed to collect sales tax. After years of aggressively fighting efforts to *make it* collect sales taxes—with hardball threats to close warehouses and kill jobs in sales-tax states—Seattle-based Amazon has surrendered the sales-tax fight in favor of a new strategy—building distribution centers in various states that will enable same-day delivery in most of the country. The theory is that customers won't mind paying the sales tax when they realize how quickly their merchandise can be delivered. As of July 2013, the list of Amazon sales-tax states included Arizona, California, Kansas, Kentucky, New Jersey, New York, North Dakota, Pennsylvania, Texas, and Washington, and more states were expected to require tax collection in the coming years.

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268 California Legislative Analyst, *Why Have Sales Taxes Grown Slower than the Economy?,* Aug. 5, 2013, http://www.lao.ca.gov/reports/2013/tax/Sales-tax/Sales-tax-080513.aspx.

269 *See, e.g.,* Editorial, *California Should Extend Sales Tax to Services,* San Jose Mercury News, Aug. 9, 2013, *available at* http://www.mercurynews.com/opinion/ci_23833234/mercury-news-editorial-california-should-extend-sales-tax.

such as Amazon.com. In many cases, these retailers do not collect sales tax for the state in which the consumer lives, unless they have a physical presence in the state.[270] But broadening the sales tax base to include all services is not a painless solution to state revenue issues. As Berger points out, "A sales tax on real estate services is detrimental to real estate transactions in that it increases cost to the parties and can impact Realtors' commissions."[271] Lobbying efforts by Realtor® associations help remind policymakers of the real consequences of the taxation shift. Extending the tax to just a few business-related services, as happened in Minnesota, could be as far as the public and business community are willing to let the idea go. As noted above, the public is generally unenthusiastic about the idea of more sales taxes, even if income taxes are lowered.[272] On the other hand, business-to-business sales taxes could be the "thin end of the wedge" and presage a growing public acceptance of the idea. For example, lawmakers in North Carolina say that the tax package that passed this year is just the "first step" towards changing the state's tax structure.[273] The issue is certain to be revisited in the coming years.

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[270] Amazon.com has voluntarily agreed to collect sales tax in states that subject online purchases to the sales tax, if the company has or plans to build a physical facility in the state. Arielle Kass, *Amazon to Start Collecting Sales Tax in Georgia on Sept. 1,* Atlanta Journal Constitution, Aug. 9, 2013, http://www.ajc.com/news/news/breaking-news/amazon-to-start-collecting-sales-tax-in-georgia-on/nZKTf/. Note that Amazon currently has no facility in Georgia, but there is speculation that it will build one in the future. Arielle Kass, *Georgia, Amazon Face Off Over Sales Tax*, Atlanta Journal Constitution, Feb. 8, 2013 , http://www.ajc.com/news/news/georgia-amazon-face-off-over-sales-tax/nWJzW/.

[271] Berger interview, *supra*.

[272] Rasmussen Report, *supra.*

[273] Mark Binker, *Breaking Down the 2013 Tax Package* (July 18, 2013), http://www.wral.com/breaking-down-the-2013-tax-package/12678653/.

B. Eliminating or Capping Deductions for Mortgage Interest or State or Local Taxes to Lower Income Tax Rates

The greatest challenge to policymakers who would cut income tax rates is also the most obvious one: how to continue to fund government with less money coming in. A common response to this problem is to advocate increasing revenue by eliminating or capping deductions,[274] or as proponents often prefer to call it, "eliminating loopholes and deductions."[275] Two of the deductions that are frequent targets are the deductions for mortgage interest and for state or local taxes. Proposals to eliminate or cap these deductions were made in several states in 2012 and 2013.

During the 2013 session, the Oregon legislature brought *ten* different proposals to reduce or eliminate the mortgage interest deduction.[276] Two of those proposals are of particular interest. In April, the House Committee on Revenue passed out a bill that phased out itemized deductions on incomes over $125,000 for single filers and twice that for joint filers.[277] Oregon Association of REALTORS® membership worked with the business community and local constituents to defeat the bill, which ultimately was defeated on the House floor. A later proposal amended a House bill to eliminate the

[274] Richard Feldstein, *Limit Tax Deductions for Lower Rates, Not Just Deficit* (Tax Found. Apr. 30, 2013), http://taxfoundation.org/article/limit-tax-deductions-lower-rates-not-just-deficits.

[275] Proposals are often framed as being designed to eliminate "loopholes and deductions." *See* Brendan Greeley, *Eliminating Tax Loopholes is the New Waste, Fraud, and Abuse,* Bloomberg Businessweek, Aug. 8, 2012, *available at* http://www.businessweek.com/articles/2012-08-08/eliminating-tax-loopholes-is-the-new-waste-fraud-and-abuse.

[276] HB 2001, HB 2456-A, HB 2491, HB 2503, HB 3365, HB 3366, HB 3367-7, HB 3370, HB 3373, HB 3374, and SB 305.

[277] House Bill 2456-A.

mortgage interest deduction and property tax deductions for higher-income Oregonians.[278] Again, the bill did not have adequate votes and was abandoned.

In 2012, Maryland Governor Martin O'Malley presented a sweeping tax revision proposal to the Legislature. One part of his proposal would have limited the dollar amount of itemized deductions taxpayers could take. Individuals or families who earned more than $100,000 would be allowed to take only 90% of their deductions. Those who earned $200,000 or more per year would be allowed to use 80% of their deductions.[279] This cap on deductions would have had an especially strong impact on taxpayers taking the mortgage interest deduction. Over 50% of the itemized deductions in Maryland were for mortgage interest. The proposal to cap the MID drew strong opposition from taxpayers and from the Maryland Association of Realtors®. Mary Antoun, CEO of the Maryland Association, called the deduction "part of the value of owning a home." The housing sector remains fragile and needs to recover. Capping the deduction as proposed by the Governor would have been a "sucker punch to the [real estate] industry at exactly a time when we don't need it."[280]

A strong lobbying campaign by the Maryland Association, with financial and logistical assistance from the National Association of Realtors®, defeated the deduction

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[278] Amendments to House Bill 3367.

[279] Annie Linskey, *O'Malley's Proposal to Raise Taxes on "High Earners" Draws Protests in Annapolis and Beyond,* Baltimore Sun, Jan. 28, 2012, *available at* http://articles.baltimoresun.com/2012-01-28/news/bs-md-middle-class-taxes-20120125_1_income-taxes-federal-taxes-mortgage-interest.

[280] *Id.*, *O'Malley's Proposal to Raise Taxes on "High Earners" Draws Protests in Annapolis and Beyond,* http://articles.baltimoresun.com/2012-01-28/news/bs-md-middle-class-taxes-20120125_1_income-taxes-federal-taxes-mortgage-interest.

cap. The lobbying targeted both legislators and taxpayers.[281] A rally outside the Governor's office by hundreds of real estate professionals and other citizens opposed to the cap on deductions showed the depth of opposition to the proposal.[282] Realtors® in Washington, D.C., also joined the opposition, fearing that the idea of taking away the deduction would spread to neighboring jurisdictions.[283] The campaign was very successful, as the proposal "failed to launch."[284]

An unsuccessful proposal in Vermont would have limited the MID to $10,000 per year.[285] The deduction cap was described by Speaker of the House Shap Smith as falling primarily on wealthier homeowners and owners of second homes.[286] As in Maryland, strong opposition from the state Realtor®'s association was a major factor in the defeat of the proposal. The original proposal, which would have eliminated the MID altogether, was defeated in the House. As Chris MacDonald, Government Affairs Director of VermontRealtors®, put it, the proposal "zombied back up" and "grew some

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[281] *Maryland Association Saves Mortgage Interest Deduction (*Maryland Ass'n of Realtors® Nov. 2012), http://www.realtoractioncenter.com/realtor-party/tools-and-resources/mrp/assets/MarylandAORMIDVictory.pdf.

[282] Jennifer Teates, *Saving Maryland Taxpayer Deductions–the Rally is On!,* (Mar. 3, 2012), http://www.examiner.com/article/saving-maryland-taxpayer-deductions-the-rally-is-on.

[283] *Id.*, *Saving Maryland Taxpayer Deductions–the Rally is On!,* http://www.examiner.com/article/saving-maryland-taxpayer-deductions-the-rally-is-on.

[284] *Maryland Association Saves Mortgage Interest Deduction*, *supra*, http://www.realtoractioncenter.com/realtor-party/tools-and-resources/mrp/assets/MarylandAORMIDVictory.pdf.

[285] Dave Gram, *Vt. Senate Committee Zeroes in on Tax Changes,* Bloomberg Businessweek, Apr. 24, 2013, *available at* http://www.businessweek.com/ap/2013-04-24/vt-dot-senate-committee-zeroes-in-on-tax-changes.

[286] Anne Galloway, *Lawmakers to Make Hobson's Choice on Tax Increases this Week* (Mar. 19, 2013), http://vtdigger.org/2013/03/19/lawmakers-to-make-hobsons-choice-on-tax-increases-this-week/.

pretty big legs in the Senate" where it took the form of a cap on the deduction.[287] The Senate passed the cap as an amendment. The tax bill then went to conference committee, where there was a lot of political willpower from the Speaker and the President Pro Tem to pass the cap. VermontRealtors® went directly to the Governor with a set of talking points, and the Governor used those talking points to kill the bill in committee.[288]

MacDonald stated, in contrast to Speaker Smith, that middle-class homeowners would be the ones hit hardest by the limit on the deduction. He estimated that 51% of the taxpayers who would be affected by the proposal have household incomes below $100,000.[289] Capping the tax deduction for mortgage interest would be “a direct assault on the middle-class homeowner in Vermont," he said. "It's not a discretionary tax—with a 30-year mortgage you're locked in."[290] The Vermont Association now expects a 2014 legislative effort to reduce the MID through an overall cap on all itemized deductions, which the association will oppose. In the next year, MacDonald’s association also intends to work to reform the state education finance system (currently funded through property taxes) to make it more simple and equitable.

In Kansas, Governor Sam Brownback also made proposals in 2012 and 2013 to eliminate the Mortgage Interest Deduction. While Realtors® in the state voiced their

[287] Telephone interview of Chris MacDonald, Government Affairs Director, VermontRealtors®, Sept. 16, 2013.

[288] *Id.*

[289] Gram, *supra*, *Vt. Senate Committee Zeroes in on Tax Changes,* http://www.businessweek.com/ap/2013-04-24/vt-dot-senate-committee-zeroes-in-on-tax-changes.

[290] Andrew McKeever, *A Day at the Statehouse,* Manchester Journal, May 2, 2013, *available at* http://www.manchesterjournal.com/headlines/ci_23157359/day-at-statehouse.

opposition to the proposed elimination,[291] they were not completely successful in protecting the MID. A compromise measure proposed by the Kansas Association of Realtors®, adopted in large part by the Legislature, capped the total amount of itemized deductions that may be taken.[292] In 2013, the deduction will be capped at 70%, and the allowable deduction will continue downward until 2017, when it is scheduled to be permanently capped at 50%.[293]

The modification of the mortgage interest deduction was a part of a bill that also lowered income tax rates; therefore, the cap on the interest deduction is expected to have a relatively small impact. Luke Bell, Vice President of Governmental Affairs for the Kansas Association of Realtors®, has said that the mortgage interest rate deduction should be offset by the income tax deductions in the law. The top income tax rate in the state will be lowered in stages from the current rate of 4.9% to 3.9% by 2018. Mr. Bell states that impact of limiting the mortgage interest deduction would be small because the federal mortgage interest deduction is much higher.[294] Estimates of the average state deduction range from $472 per year, as quoted by the Kansas Association of Realtors®, to approximately $300 per year, as estimated by the Kansas Department of Revenue.[295]

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[291] Kevin Collinson, *Realtors Will be Riled if Kansas Cuts Out Mortgage Interest Deduction,* Kansas City Star, Feb. 13, 2013, *available at* http://www.kansascity.com/2013/02/13/4064989/kansas-realtors-rally-in-topeka.html.

[292] Ruth Campbell, *Mortgage Interest Rate Change to Take Effect,* Garden City Telegram, June 29, 2013, *available at* http://www.gctelegram.com/news/6-29-13-mortgage-tax-deduction.

[293] *See* Kan. HB 2059, § 2 (2013).

[294] Campbell, *supra*, *Mortgage Interest Rate Change to Take Effect,* http://www.gctelegram.com/news/6-29-13-mortgage-tax-deduction.

[295] Collinson, *supra*, *Realtors Will be Riled if Kansas Cuts Out Mortgage Interest Deduction*, http://www.kansascity.com/2013/02/13/4064989/kansas-realtors-rally-in-topeka.html.

As discussed above, the North Carolina General Assembly considered and enacted sweeping changes in the state's tax structure this year. One of the proposals in the original tax overhaul package was a cap on the MID. The cap was the subject of intense legislative debate and maneuvering. As originally proposed, the interest deduction would have been capped at $25,000 per year. The cap was at one time removed from the version of the bill under consideration, but it was restored after the Finance Committee refused to consider the bill without the cap on deductions in it.[296] The final version of the tax reform law limits itemized deductions to mortgage interest plus property taxes capped at $20,000 (for married taxpayers filing jointly), $16,000 (for heads of households), or $10,000 (for single filers). Taxpayers may take the higher of the standard deduction ($15,000 for married taxpayers filing jointly, $12,000 for a head of household, or $7500 for a single filer) or the allowed itemized deductions.[297]

In Maine, a group of legislators proposed a revision to the state's income tax laws that would have enacted a maximum tax rate of four percent.[298] Most deductions would have been eliminated. The proposal was never put into final form as a bill, so the details of the deduction elimination are not clear. The proposal was rejected by the House Tax Committee after several days of hearings.[299]

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[296] *See* John Frank, *Cap on Mortgage Deductions is Back in House Tax Bill,* Charlotte News Observer, June 5, 2013, *available at* http://www.newsobserver.com/2013/06/05/2941832/cap-on-mortgage-deductions-is.html; Laura Leslie & Mark Binker, *Dispute Over Mortgage Interest, Deductions Stalls Tax Reform Bill* (June 5, 2013), http://www.wral.com/house-tax-reform-plan-hits-a-speedbump/12517975/.

[297] The tax law, known as the Tax Simplification and Reduction Act, was HB 998 (2013).

[298] Me. LD 1496 (2013).

[299] *See* http://www.mainelegislature.org/legis/bills/display_ps.asp?ld=1496&PID=1456&snum=126 (last accessed Sept. 23, 2013).

It is likely that the mortgage interest deduction will continue to come under fire, at the state as well as at the federal level. Although the deduction remains popular with the public,[300] tax policy theorists of all ideological stripes have argued for the abolition of the deduction.[301] Often, they propose replacing the deduction with a tax credit, which would, in theory, target the tax benefit toward lower- and middle-income taxpayers.[302] In addition, politicians on both the left and the right have been attracted to the idea. Liberal politicians have accepted arguments that the deduction benefits upper-income taxpayers more than lower- or middle-income families. Conservatives see the elimination of itemized deductions, including the deduction for mortgage interest, as a way to lower income tax rates without being forced to make politically unpopular cuts in state spending. While it may once have been unthinkable for policymakers to tamper with the MID, the recent spate of state legislation could signal the start of an unpopular trend. The trend may be undesirable, but it is not unstoppable: As seen in Maryland, Minnesota, and Vermont, Realtors® have been successful in blocking legislation to eliminate the deduction.

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[300] Alan Zibel, *Poll: Don't Tread on My Mortgage-Interest Deduction,* Wall Street Journal Online, Jan. 11, 2012, http://blogs.wsj.com/developments/2012/01/11/poll-dont-tread-on-my-mortgage-interest-deduction/.

[301] Tax Policy Center, 2013 Budget Tax Proposals, http://www.taxpolicycenter.org/taxtopics/2013-Budget-Limit-the-Value-of-Itemized-Deductions.cfm.

[302] Will Fischer & Chye-Ching Huang, *Mortgage Interest Deduction is Ripe for Reform* (Center on Budget and Policy Priorities June 25, 2013), http://www.cbpp.org/cms/?fa=view&id=3948; Anthony Randazzo & Dean Stansel, *Who Benefits from the Mortgage Interest Deduction?* (Dec. 12, 2012), http://reason.com/archives/2012/12/12/who-benefits-from-the-mortgage-interest.

C. Other State Tax Issues

1. Education Funding Shifts

Traditionally, public schools have been funded by local property taxes. School districts that are not dependent on city or county governments derive 96% of their tax revenues from property taxes.[303] Proponents of local funding argue that local taxes are an effective tool of local government. Opponents claim that a system that relies too heavily on local funding breeds inequality into the system and disadvantages poorer school districts.[304]

Legislation in Pennsylvania attempts to address the issues posed by funding schools through property taxes. The Property Tax Independence Act,[305] introduced on March 14, 2013, would

<u>Quick Guide to Key Trends in 2013 Tax Policy Debates</u>

Proposals that would reduce or eliminate one or more taxes and replace lost revenue by expanding or increasing another tax ("Tax Swaps")

Arkansas	Louisiana	Missouri
Nebraska	North Carolina	Ohio
Oregon	Virginia	

Proposals that would reduce income tax paid by individuals or businesses

Iowa	Indiana	Kansas
Oklahoma	Wisconsin	

Tax reform proposals that fix tax codes' structural flaws rather than dismantling or eliminating taxes

Kentucky	Minnesota

Potentially California and New York

Proposals to revamp gas taxes

Iowa	Maryland	Massachusetts
Minnesota	Virginia	Washington
Wyoming		

Proposals to eliminate or reduce property taxes for individuals or businesses

Idaho	Iowa	Kansas
Michigan	North Dakota†	Pennsylvania
Texas		

† In 2012, North Dakotans voted down a constitutional amendment that would have made that state the first to entirely eliminate property taxes. Oil-rich North Dakota's public coffers are bulging as a result of the fracking industry, but residents decided to keep the local control in their hands, with more than ¾ of them voting to retain the property tax. *See* CNN Money, http://money.cnn.com/2012/06/13/pf/north-dakota-property-tax/index.htm. Source: Inst. on Taxation & Econ. Policy, http://www.itep.org/pdf/quickguidetostatetrends2013.pdf.

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303 Daphne Kenyon, *The Property Tax-School Funding Dilemma* (Lincoln Institute of Land Policy 2007), https://www.lincolninst.edu/pubs/dl/1308_Kenyon%20PFR%20Final.pdf.

304 Bruce D. Baker & Sean P. Corcoran, *The Stealth Inequities of School Funding* (Center for American Progress Sept. 2012), http://www.americanprogress.org/wp-content/uploads/2012/09/StealthInequities.pdf.

305 Pa. HB 76 / SB 76 (2013). The bill was introduced as HB 1776 in the 2012 legislative session.

eliminate local school property taxes and would fund schools with an increase in state income taxes and an expansion of the state sales and use tax.[306] The primary purpose of the bill is to lower property taxes. As the sponsor of the bill notes,

> Homeowners of all ages are facing extreme pressure because of school property taxes that relentlessly rise at a rate of more than three times that of inflation . . . The housing market is virtually at a standstill in Pennsylvania. Polls of real estate professionals have indicated that through the elimination of the school property tax – the greatest portion of the monthly escrow and an amount that in some areas can equal the mortgage payment – Pennsylvania's real estate market would explode with new buyers.[307]

The bill does not address inequities in education funding between districts. In fact, the bill would continue school funding at existing levels across the state. The bill is intended to be revenue neutral, and "arcane formulas that redistribute wealth" are rejected.[308]

Property taxes tend to be regressive, though less so than sales or excise taxes.[309] Surveys have shown that property taxes are the least popular tax.[310] The burden of property taxes often falls most heavily on those who own property that has gone up in value through market conditions. These owners may not have experienced

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[306] The bill would tax a broad array of services, but "[t]he sale at retail of services rendered as part of a transfer of an interest in real property" would be exempt from the tax.

[307] Sponsor's Memorandum to HB 76, Jan.11, 2013, http://www.legis.state.pa.us/cfdocs/Legis/CSM/showMemoPublic.cfm?chamber=H&SPick=20130&cosponId=10825.

[308] *Id.*

[309] Brian Roach, *Progressive and Regressive Taxation in the United States: Who's Really Paying (and Not Paying) their Fair Share?,* Global Development and Environment Institute Working Paper No. 03-10, October 2003, *available at* http://www.ase.tufts.edu/gdae/Pubs/wp/03-10-Tax_Incidence.pdf.

[310] Michael L. Young, *America's Most Hated Tax,* Reading Eagle, March 27, 2012, *available at* http://businessweekly.readingeagle.com/americas-most-hated-tax/.

any increase in income, but their most valuable asset has—on paper, at least—gained a great deal of value. Thus, taxes increase without consideration of a person's actual ability to pay. State politicians may, however, be less concerned about property taxes than they are about sales or income taxes. Property taxes are levied by local units of government, and so are less susceptible to change at the state level.

State funding for education has also decreased since the beginning of the recession. In the 2012-2013 school year, school funding in 35 states was lower than it was in 2008. State funds were lower in 2012-2013 than in the previous year in twenty-six states.[311] Nevertheless, it is not likely that education funding will be changed in any way to give the schools more money. Public support for local school spending is weak, at best.[312]

2. Transportation Funding

Transportation infrastructure funding was a major concern in a number of states in 2013. As the economic slowdown eased and states began to collect more revenue, infrastructure projects that were deferred due to lack of funding could be pursued. In addition, heavy resource development in western states has placed a greater burden on highways and other transportation infrastructure.[313] But rising interest rates mean that

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[311] Phil Oliff, Chris Mai, and Michael Leachman, *New School Year Brings More Cuts in State Funding for Schools,* Center on Budget and Policy Priorities, Sept. 4, 2012, http://www.cbpp.org/cms/?fa=view&id=3825.

[312] Michael Henderson and Paul Peterson, *The 2013 Education Next Survey*, http://educationnext.org/the-2013-education-next-survey/. The authors report that 53% of survey respondents supported increased education funding, but that number dropped to 43% among respondents who were informed of the actual amount spent in their district.

[313] T.J. Jerke, *Projects: Largest Road Construction Program in N.D. History Has Work All Over,* Jamestown Sun, June 1, 2013, *available at* http://www.jamestownsun.com/event/article/id/187677/.

borrowing, or issuing bonds, is becoming a less attractive way to finance needed projects.[314] At the same time, fuel taxes, the traditional source of transportation funding, are under increasing criticism as a funding mechanism. Politically, it is difficult to raise fuel taxes. Most state gasoline taxes are not indexed to inflation, so revenue from these taxes effectively decreases every year. In addition, increased use of more fuel-efficient motor vehicles means that less gas is purchased, and less tax flows into state coffers.[315]

Transportation improvement bills in some states, such as Wyoming[316] and Maryland,[317] fund projects largely through fuel taxes. A bill[318] pending in Pennsylvania (as of late September, 2013) would use a combination of fuel taxes and an increased franchise tax on oil companies to fund projects.

The days of transportation funding exclusively, or largely, through fuel taxes may be coming to a close. Partial privatization of transportation infrastructure has been discussed in recent years[319], but the momentum behind the idea seems to be slowing. In his 2013 State of the Commonwealth address, the Governor of Massachusetts

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[314] Mary Williams Walsh, *Cost of Public Projects Is Rising, and Pain Will Be Felt for Years,* NY Times, June 27, 2013, *available at* http://dealbook.nytimes.com/2013/06/26/bill-for-public-projects-is-rising-and-pain-will-be-felt-for-years/.

[315] Robert Puentes & Adie Tomer, *Untangling Transportation Funding* (Brookings Inst. Metro. Policy Program Feb. 26, 2009), http://www.brookings.edu/research/opinions/2009/02/26-vehicle-miles-traveled-puentes.

[316] Wyo. HB 69 (2013).

[317] Md. HB 1515 / SB 1054 (2013).

[318] Pa. SB 1 (2013).

[319] Juiita-Elena Yusuf, Candice Wallace, and Merl Hackbart, *Privatizing Transportation Through Public-Private Partnerships: Definitions, Models, and Issues,* Kentucky Transportation Center Research Report KTC-06-09/SPR302-05-2F, May 2006, http://www.ktc.uky.edu/files/2012/06/KTC_06_09_SPR_302_05_2F.pdf.

proposed increasing the state's income tax to fund education and transportation infrastructure projects.[320] In 2013, Virginia took a dramatic step toward reducing its dependence on fuel taxes. The General Assembly passed, with bi-partisan approval, a bill[321] that increases the state's existing general sales tax rate to pay for transportation projects. At the same time, the fuel tax will be abolished. Governor Bob McDonnell signed the bill into law on April 3, 2013. The new approach is not without its critics. Some have attacked the bill for departing from the traditional "user pays" system of transportation funding.[322] Others criticize it as a tax increase.[323] Not only were sales taxes increased, the bill also added a wholesale fuel tax that the vendor has to pay to the refinery, so the consumer may still be paying the tax one way or another.[324]

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[320] Stephanie Ebbert, Michael Levenson, and Martin Finucane, *Governor Deval Patrick Proposes $1.9b Tax Increase to Fund Education, Transportation Plans,* Boston Globe, Jan. 16, 2013 , http://www.boston.com/politicalintelligence/2013/01/16/governor-patrick-expected-call-for-new-taxes-seventh-state-the-commonwealth-speech-tonight/dwclRWV8G8K1WWlOww15JP/story.html.

[321] Va. HB 2313 (2013).

[322] Ryan Holeywell, *Virginia's Bold, New Transportation Funding Idea*, Governing, Jan. 28, 2013, *available at* http://www.governing.com/blogs/view/gov-virginias-bold-new-transportation-funding-idea.html.

[323] Kathryn Watson, *Tweaks to VA Transportation Plan Fail to Satisfy Critics* (Mar. 27, 2013), http://watchdog.org/76997/mcdonnells-transportation-tweaks-dont-satisfy-critics/.

[324] Celina Durgin, *Uneven Results with Changes to Gas Tax in Md., Va.*, Washington Times Aug. 19, 2013, http://www.washingtontimes.com/news/2013/aug/19/uneven-results-when-va-cut-md-hiked-gas-tax/print/.

Other new proposals for transportation funding include charging motorists for vehicle miles driven. This approach closes the gap in funding left by fuel efficiency and a switch to alternate fuel vehicles, such as electric cars or hybrids. Some proposals have called for monitoring vehicle miles by the use of in-vehicle monitoring units installed in individual motor vehicles. Such plans would be difficult to implement. Other proposals include metering mileage based on fuel consumption, using a device that combines cellular service and a connection to the

OREGON BLAZES NEW TRANSPORTATION FUNDING TRAIL

Gas tax revenues, the life blood of state transportation budgets, are tanking. Blame it on more fuel efficient vehicles – including hybrids and electric cars. Or changing driving habits – including increased bus and train ridership. And gas tax rates that often don't keep up with inflation – including a federal gas tax rate of 18.4 cents that's been frozen for 20 years.

It all adds up to a $112 billion annual funding gap to bring the nation's roads, bridges, and transit to a state of good repair over the next 20 years, according to the 2013 Report Card on America's Infrastructure from the American Society of Civil Engineers.

Oregon was the first state to adopt a gasoline tax when it added a penny a gallon to the price of petrol in 1919. Now, it's the first state to roll out a possible alternative to the gas tax – a voluntary vehicle-miles-traveled tax that will ding motorists for how much they drive instead of how often they fill up.

Approved by the state legislature this year, the Road Usage Charge Program (RUCP) will charge 1.5 cents per mile for up to volunteer 5,000 cars and light commercial vehicles and issue a refund for the state gas tax – currently 31.1 cents -- to participants, starting in July 2015.

Oregonians are waiting for the state to nail down the nuts-and-bolts of exactly how the program will work – including how to protect privacy while tracking mileage – and where it will lead in the long run. "Historically, this is a concept that we have expressed concerns about as Realtors," said Paul Rainey, Director of Public Policy for the Oregon Association of Realtors®.

Will a vehicle miles traveled tax eliminate the incentive to buy fuel-efficient – and environmentally friendly – vehicles? Will it punish rural residents who must drive longer distances? And will it result in an even or uneven tradeoff – a rubber-meets-the-road question for some Realtors® who practically live in their cars.

"The logic in pursuing this policy in Oregon is that this ... will make sure that those using the roads are paying for the maintenance," Rainey said. "The issue that will determine if this is viable will directly relate to the equitability of a gas tax versus a vehicle per mile tax."

Many other states and the federal government have studied VMT taxes as well. Oregon's experience will help determine whether the concept gets a green or red light on a national scale.

vehicle's onboard diagnostics port, and metering mileage based on a GPS receiver.[325] A proposal in Massachusetts would measure miles driven at a vehicle's required annual inspection.[326] In some jurisdictions, toll roads could also become popular again.[327]

So far, transportation funding proposals will impact real estate only in indirect ways. It remains to be seen, for example, if Virginia's increased sales tax will discourage relocation to Virginia. Improved infrastructure, insofar as it boosts property values in a particular location, could have the effect of increasing some property taxes. No recent proposals were located, however, that would tax real estate or real estate transactions directly to finance transportation projects.

Current methods for funding transportation are certain to evolve, for three reasons. One is that, as noted above, fuel taxes are not bringing in enough money. State fuel taxes and tolls nationwide account for only about a third of the moneys spent on transportation.[328] The rest is made up from general revenues and federal funding.

Reliance on federal funding is the second reason to anticipate changes: federal funding is fading away. Most federal transportation aid to the states comes from the federal fuel tax, which has not been raised since 1993. The political will in Washington

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[325] *See,* Paul Sorensen, *et al., Implementable Strategies for Shifting to Direct Usage-Based Charges for Transportation Funding,* National Cooperative Highway Research Program, June 2009, http://www.rand.org/content/dam/rand/pubs/reprints/2009/RAND_RP1395.pdf.

[326] *Transportation Finance Recommendations – Revenue Raising Options* (Metro. Area Planning Comm'n Mar. 22, 2013), http://www.mapc.org/sites/default/files/MAPC%20Transportation%20Finance%20Recommendations%20MARCH%2022%202013.pdf.

[327] Jason Saving and Michael Weiss, *Turning to Toll Roads—Gas Tax Trends Drive Highway Funding Shift,* Southwest Economy, Federal Reserve Bank of Dallas, Third Quarter 2012, http://www.dallasfed.org/assets/documents/research/swe/2012/swe1203d.pdf.

[328] Joseph Henchman, *Gasoline Taxes and Tolls Pay for Only a Third of State & Local Road Spending,* Tax Foundation, Jan. 17, 2013, http://taxfoundation.org/article/gasoline-taxes-and-tolls-pay-only-third-state-local-road-spending.

for any tax increase is not there. Consequently, federal transportation funding is running short by about $30 billion per year.[329]

The third reason is that transportation spending, if not the taxes behind it, is very popular with the public.[330] Highways, streets, and mass transit have a direct and daily effect on members of the public. Pragmatically, even advocates of smaller government see the logic behind better transportation funding. In line with this interest, the Maryland Senate passed a bill to place a question on the 2014 general election ballot to preserve transportation funding.[331] The bill proposes an amendment to the Maryland Constitution prohibiting the use of the transportation trust fund for other purposes. The Maryland Association of Realtors® plans to campaign to support the measure.[332]

As interest in this topic continues to grow, the mechanisms for making that funding will evolve, and take far different shapes from what is in place today. The precise shapes that these mechanisms will develop are not clear, but they will not be what we are used to.

D. Summary of State Legislative Action

Table 21 below summaries the top fiscal issues across the board for the 2013 legislative sessions.

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[329] Mark Funkhouser, *A Transportation Funding Power Shift,* Governing, Mar. 2013, http://www.governing.com/gov-institute/funkhouser/gov-transportation-funding-power-shift.html.

[330] David Goldberg, *Rethinking the Gas Tax: Suddenly, it's the Theme of 2013*, Transportation for America, Jan. 31, 2013, http://t4america.org/blog/2013/01/31/rethinking-the-gas-tax-suddenly-its-the-theme-of-2013/.

[331] Maryland General Assembly Senate Bill 829, Transportation Trust Fund – Financing – Use of Funds (2013).

[332] Email of Joe Molinaro, Managing Director, Government and Community Affairs, National Association of REALTORS® to Stacey Supina, Director of Research, Legal Research Center, Inc. (Oct. 11, 2013).

Table 21. Top Fiscal Issues in the 2013 Legislative Sessions[333]

State	Medicaid/ Health Care	Edu-cation	Pensions/ Benefits	Transportation/ Infrastructure	Federal Deficit Reduction	Budget	Taxes/ Revenue	Other
Alabama	x		x					x
Alaska		x	x				x	
Arizona (N/R)								
Arkansas	x	x						
California	x							x
Colorado	x	x			x	x		
Connecticut	x		x			x		
Delaware							x	
District of Columbia				x	x			x
Florida (N/R)								
Georgia	x							
Hawaii			x					x
Idaho	x	x						
Illinois	x		x					x
Indiana	x	x		x				
Iowa	x	x			x			
Kansas	x	x				x		
Kentucky			x				x	x
Louisiana	x	x					x	
Maine	x				x	x		
Maryland				x	x	x		
Massachusetts		x		x				x
Michigan	x						x	x
Minnesota	x				x	x	x	
Mississippi	x	x						x
Missouri	x	x						x
Montana	x		x		x			
Nebraska					x	x		x
Nevada	x	x		x				

[333] NCSL, *Top Fiscal Issues for 2013 Legislative Sessions*, http://www.ncsl.org/issues-research/budget/top-fiscal-issues-for-2013-legislative-sessions.aspx. Source: NCSL survey of legislative fiscal offices, fall 2012.

State	Medicaid/ Health Care	Edu-cation	Pensions/ Benefits	Transportation/ Infrastructure	Federal Deficit Reduction	Budget	Taxes/ Revenue	Other
New Hampshire	x	x	x					
New Jersey		x				x		x
New Mexico	x	x					x	
New York					x			x
North Carolina	x	x			x			x
North Dakota				x			x	x
Ohio		x				x	x	
Oklahoma	x					x	x	
Oregon	x	x	x					
Pennsylvania	x		x	x				
Rhode Island (N/R)								
South Carolina (N/R)								
South Dakota	x	x						x
Tennessee	x			x	x			
Texas	x	x		x				
Utah	x	x		x				
Vermont	x		x	x				x
Virginia	x		x	x				
Washington	x	x				x		
West Virginia	x		x	x				
Wisconsin	x	x					x	
Wyoming					x	x		x
Total	34	23	13	13	12	12	11	18

VI. CONCLUSION

To paraphrase Albert Einstein, the hardest thing to understand in the world is taxes. Although he was actually referring to federal income taxes, the point is, if even Einstein had trouble, it's no wonder the rest of us struggle with the ever-evolving landscape of tax laws. This White Paper attempts to explain the different types of major taxes, what those taxes pay for, how they vary across state and local lines, and why this all matters to REALTORs®.

The world of tax laws and regulations is in constant flux. Taxes, like death, will remain certain, but their shape will not remain what taxpayers are used to. As a Greek philosopher noted, "No one ever steps in the same river twice, for it is not the same river, and you are not the same person."[334] The changing economy means that traditional "rivers" of revenue will rise and fall, and sometimes dry up completely. At the same time, swirling political winds – which for now are driven by an antipathy towards taxation – will sway the mindsets of policymakers. Policymakers are increasingly eager to alter, if not abolish, the traditional types of taxes that governments have relied upon. The need for revenue will continue, but the manner of obtaining it will change.

The recent volatility of the business cycle is another powerful force. While the outlook for state revenues generally improved in 2013,[335] the recession of 2007 to 2009, and the slow recovery from that recession, decelerated virtually every type of economic activity, and therefore reduced the tax collections derived from each activity. Personal income remains below pre-recession levels,[336] and although state income tax

[334] Heraclitus of Epheseus, c. 535 – 475 BCE.

[335] National Conference of State Legislatures, *State Budget Update: Fall 2012,* http://www.ncsl.org/issues-research/budget/state-budget-update-fall-2012.aspx.

[336] According to the U.S. Census Bureau, the median annual household income in 2012 was $51,017. The peak, adjusted for inflation, was $56,080 in 1999. Annie Lowrey, *Household Incomes Remain Flat*

collections rose noticeably in the first quarter of 2012, that increase is likely to be temporary.[337] Although even a slight rebound in income tax collections would appear to be good news, states also face political pressure to keep income taxes low. States with low income taxes experienced gains in personal income, while those with higher tax burdens have lost income.[338] Economists differ on the meaning of this statistic, and whether the lower tax rates have caused the income shift,[339] but politicians and voters have targeted income taxes for cuts, if not outright abolition. In response to economic and political pressures, states have looked for ways to lower taxes, while at the same time generating sufficient tax revenues to operate.

While there is some interest in tax cutting for its own sake, or as a way to reduce the size and reach of government, state and local policymakers are closer to their constituents than members of Congress. This makes them more aware, and closer to, the impact of inadequate funding of services such as schools and roads. Yet tax increases, especially broad-based increases that affect all taxpayers, continue to be highly unpopular. They are also bad for a state's image. Economists may differ on the question, but the perception of income taxes as bad for economic growth has a great

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Despite Improving Economy, New York Times, Sept. 17, 2013, p. A 15, *available at* http://www.nytimes.com/2013/09/18/us/median-income-and-poverty-rate-hold-steady-census-bureau-finds.html.

[337] Much of the increase reflects a desire by taxpayers to have income taxed at 2012 levels, rather than at higher 2013 levels. A large income tax increase on wealthy taxpayers in California also contributed to the increase, as well as the fact that state income tax returns are due on April 15. The income tax outlook for the remainder of 2013 is unclear. *See* Lucy Dadayan & Donald J. Boyd, *Temporary Bubble in Income Tax Receipts: States Reported the Strongest Growth in Personal Income Tax Collections Since the Great Recession* (Nelson A. Rockefeller Inst. of State Gov't Data Alert Sept. 18, 2013), http://www.rockinst.org/newsroom/data_alerts/2013/2013-09-18_Data_Alert.pdf.

[338] Tax Foundation, *State to State Migration Data,* http://interactive.taxfoundation.org/migration/.

[339] Richard Florida, *Lower State Income Tax Does not Spur Economic Development,* Atlantic Cities, May 13, 2013, *available at* http://www.theatlanticcities.com/jobs-and-economy/2013/05/lower-state-income-taxes-do-not-spur-economic-development/5508/.

deal of resonance in policy debates. Although income taxes may be the most progressive, state policymakers are loath to give their states even the appearance of a competitive disadvantage. Accordingly, tax legislation in many states has been framed in terms of a need to keep the state "competitive" with others. This competition drives the move to lower taxes, as much, if not more than, any small-government ideology. With that in mind, shifts to other forms of taxation may be hailed as tax "cuts," even if the shifts are revenue neutral and result in tax increases in other areas, such as sales taxes.

The changing economy has added new difficulties for states. As incomes decrease, sales of tangible goods, as a portion of economic activity, also decrease. As property values decrease, so does the intake from property taxes. At the same time, there are functions of government that cannot be left unfunded, as well as strong and vocal constituencies in favor of increasing government spending on many programs. The need or impetus to spend has collided with the resistance to raise taxes. Policymakers are backed into a corner, and must look to new sources of revenue. In many situations—such as increasing or expanding the reach of sales taxes—these revenue sources are not so much "new" as they are augmentations of old or existing sources.

With all of these changes afoot, it's important to stay alert for developments that may implicate real estate concerns. Some of the tax proposals on the table, like elimination of the mortgage interest deduction, have a definite connection with the real estate industry, and recent experience has shown that the industry's voice can be heard, loud and clear.

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APPENDIX

Table A-1. Percentage of Total State and Local Tax Revenue from Each Source (FY 2010)[340]

State	Individual Income	Corporate Income	General Sales	Property	Other Taxes[341]
U.S.	20.5%	3.4%	22.4%	34.8%	18.9%
Ala.	20.3%	3.2%	29.2%	19.4%	27.9%
Alaska	0.0%	10.4%	5.5%	21.4%	62.7%
Ariz.	12.3%	2.1%	33.7%	37.3%	14.6%
Ark.	22.0%	4.1%	37.2%	18.3%	18.4%
Calif.	26.4%	5.3%	23.1%	31.2%	14.0%
Colo.	20.0%	1.8%	24.4%	39.1%	14.8%
Conn.	26.9%	2.4%	14.7%	42.0%	14.0%
Del.	25.3%	4.1%	0.0%	18.6%	52.0%
Fla.	0.0%	2.7%	30.0%	42.9%	24.4%
Ga.	23.3%	2.3%	27.7%	35.2%	11.6%
Hawaii	23.2%	1.2%	35.1%	21.1%	19.4%
Idaho	24.6%	2.3%	26.0%	30.1%	17.0%
Ill.	15.8%	2.5%	15.9%	43.6%	22.1%
Ind.	23.3%	2.6%	25.5%	32.8%	15.9%
Iowa	23.0%	1.6%	22.9%	34.8%	17.7%
Kans.	23.6%	3.1%	25.4%	34.4%	13.5%
Ky.	30.4%	3.5%	20.3%	21.5%	24.3%
La.	14.2%	2.4%	38.0%	20.9%	24.5%

[340] *See* Tax Found., *Facts & Figures—How Does Your State Compare* (Scott Drenkard ed. Mar. 18 2013), http://taxfoundation.org/sites/taxfoundation.org/files/docs/ff2013.pdf. Sources: U.S. Census Bureau and Tax Foundation. Note that percentages may not add up to 100% due to rounding.

[341] "Other Taxes" include excise taxes (including those on alcohol, tobacco, motor vehicles, utilities, and licenses), severance taxes, stock transfer taxes, and estate and gift taxes.

State	Individual Income	Corporate Income	General Sales	Property	Other Taxes[341]
Maine	22.3%	3.0%	17.0%	40.6%	17.1%
Md.	35.6%	3.2%	13.4%	30.1%	17.7%
Mass.	30.3%	5.5%	13.8%	38.8%	11.7%
Mich.	16.4%	1.9%	25.9%	40.3%	15.4%
Minn.	26.5%	3.0%	18.6%	30.7%	21.2%
Miss.	15.1%	3.5%	31.8%	28.2%	21.4%
Mo.	24.3%	1.4%	25.3%	30.2%	18.7%
Mont.	22.2%	2.9%	0.0%	39.8%	35.1%
Nebr.	20.6%	2.1%	21.7%	36.8%	18.9%
Nev.	0.0%	0.0%	28.0%	34.5%	37.5%
N.H.	1.6%	10.0%	0.0%	64.6%	23.8%
N.J.	20.2%	4.0%	15.5%	48.4%	11.9%
N.M.	14.6%	1.9%	38.8%	19.8%	24.8%
N.Y.	31.2%	6.7%	16.3%	32.4%	13.5%
N.C.	27.9%	4.0%	24.3%	26.2%	17.6%
N.D.	8.7%	2.5%	20.6%	19.8%	48.4%
Ohio	27.7%	0.6%	20.5%	30.0%	21.1%
Okla.	19.5%	1.9%	31.6%	21.1%	25.9%
Ore.	37.7%	3.0%	0.0%	37.6%	21.6%
Pa.	25.4%	3.7%	16.3%	30.4%	24.3%
R.I.	18.9%	2.5%	16.6%	45.6%	16.4%
S.C.	20.3%	1.1%	23.9%	35.8%	18.8%
S.D.	0.0%	1.2%	39.7%	35.9%	23.3%
Tenn.	0.9%	4.9%	44.0%	27.6%	22.5%
Tex.	0.0%	0.0%	29.0%	45.2%	25.8%
Utah	25.3%	3.0%	26.5%	27.6%	17.6%

State	Individual Income	Corporate Income	General Sales	Property	Other Taxes[341]
Vt.	16.6%	2.9%	10.9%	45.8%	23.9%
Va.	27.8%	2.5%	14.6%	36.1%	19.0%
Wash.	0.0%	0.0%	44.3%	31.5%	24.2%
W.Va.	23.5%	3.7%	17.9%	21.3%	33.6%
Wis.	23.7%	3.5%	17.4%	39.5%	15.9%
Wyo.	0.0%	0.0%	27.8%	42.5%	29.7%
D.C.	22.0%	6.5%	17.1%	37.0%	17.4%

Table A-2. State Individual Income Tax Rates as of January 1, 2013[342]

State	Rates/Brackets (a)	State	Rates/Brackets (a)
Ala. (f, g)	2.0% > $0 4.0% > $500 5.0% > $3,000	**Nebr.**	2.46% > $0 3.51% > $2,400 5.01% > $17,500 6.84% > $27,000
Alaska	None	**Nev.**	None
Ariz.	2.59% > $0 2.88% > $10,000 3.36% > $25,000 4.24% > $50,000 4.54% > $150,000	**N.H.** (b)	5.0% > $0
Ark. (a, d, e)	1.0% > $0 2.5% > $4,099 3.5% > $8,199 4.5% > $12,199 6.0% > $20,399 7.0% > $33,999	**N.J.**	1.40% > $0 1.75% > $20,000 3.50% > $35,000 5.525% > $40,000 6.37% > $75,000 8.97% > $500,000

[342] *See* Tax Found., *Facts & Figures—How Does Your State Compare* (Scott Drenkard ed., Mar. 18 2013), http://taxfoundation.org/article/facts-figures-2013-how-does-your-state-compare. Sources: Tax Foundation, state statutes, state tax forms and instructions.

Notes for table:

(a) 2013 rates, but 2012 brackets; 2013 brackets were not available as of press time for the source article. Brackets given are for single taxpayers. Some states double the single-filer bracket widths for joint filers (AL, AZ, CT, HI, ID, KS, LA, ME, NE, OR). New York doubles all brackets except the 6.86% bracket, which is effective at $300,000. California doubles all but the top bracket. Some states increase, but do not double, brackets for joint filers (GA, MN, NM, NC, ND, OK, RI, VT, WI). Maryland decreases some and increases others, and New Jersey adds a 2.45% rate and doubles some bracket widths. Consult the Tax Foundation website for tables for joint filers and married filing separately.

(b) Tax applies to interest and dividend income only.

(d) Rates apply to regular tax table. A special tax table is available for low income taxpayers, which reduces their tax payments.

(e) Bracket levels are adjusted for inflation each year.

(f) These states allow deducting some or all of the filer's federal income tax paid from their state taxable income.

(g) Local income taxes are excluded. Fourteen states have county or city level income taxes; the average rate, weighted by total personal income within each jurisdiction is: 0.09% in Alabama 0.16% in Delaware; 0.64% in Indiana; 0.08% in Iowa; 0.74% in Kentucky; 1.57% in Maryland; 0.13% in Michigan; 0.14% in Missouri; 0.85% in New York.; 1.06% in Ohio; 0.01% in Oregon; and 0.78% in Pennsylvania. Weighted local rates are from Tax Foundation, 2013 State Business Tax Climate Index.

(h) New York has a "tax benefit recapture," by which many taxpayers with incomes over $100,000 pay the top tax rate on all of their income, not just on the amount above the bracket threshold.

State	Rates/Brackets (a)	State	Rates/Brackets (a)
Calif. (a, e)	1.0% > $0 2.0% > $7,455 4.0% > $17,676 6.0% > $27,897 8.0% > $38,726 9.3% > $48,942 10.3% > $250,000 11.3% > $300,000 12.3% > $500,000 13.3% > $1,000,000	**N.M.**	1.7% > $0 3.2% > $5,500 4.7% > $11,000 4.9% > $16,000
Colo.	4.63% of federal taxable income	**N.Y.** (g, h)	4.00% > $0 4.50% > $8,200 5.25% > $11,300 5.90% > $13,350 6.45% > $20,550 6.65% > $77,150 6.85% > $205,850 8.82% > $1,029,250
Conn.	3.0% > $0 5.0% > $10,000 5.5% > $50,000 6.0% > $100,000 6.5% > $200,000 6.7% > $250,000	**N.C.**	6.00% > $0 7.00% > $12,750 7.75% > $60,000
Del. (g)	2.20% > $2,000 3.90% > $5,000 4.80% > $10,000 5.20% > $20,000 5.55% > $25,000 5.75% > $60,000	**N.D.** (e)	1.51% > $0 2.82% > $36,250 3.13% > $87,850 3.63% > $183,250 3.99% > $398,350
Fla.	None	**Ohio** (a, e, g)	0.587% > $0 1.174% > $5,200 2.348% > $10,400 2.935% > $15,650 3.521% > $20,900 4.109% > $41,700 4.695% > $83,350 5.451% > $104,250 5.925% > $208,500
Ga.	1.0% > $0 2.0% > $750 3.0% > $2,250 4.0% > $3,750 5.0% > $5.250 6.0% > $7,000>	**Okla.**	0.5% > $0 1.0% > $1,000 2.0% > $2,500 3.0% > $3,750 4.0% > $4,900 5.0% > $7,200 5.25% > $8,700
Hawaii	1.4% > $0 3.2% > $2,400 5.5% > $4,800 6.4% > $9,600 6.8% > $14,400 7.2% > $19,200 7.6% > $24,000	**Ore.** (e, f, g)	5.0% > $0 7.0% > $3,250 9.0% > $8,150 9.9% > $125,000

State	Rates/Brackets (a)	State	Rates/Brackets (a)
	7.9% > $36,000 8.25% > $48,000 9.0% > $150,000 10.0% > $175,000 11.0% > $200,000		
Idaho (a, e)	1.6% > $0 3.6% > $1,380 4.1% > $2,760 5.1% > $4,140 6.1% > $5,520 7.1% > $6,900 7.5% > $10,350	**Pa.** (g)	3.07% > $0
Ill.	5% of federal adjusted gross income with modification	**R.I.** (e)	3.75% > $0 4.75% > $58,600 5.99% > $133,250
Ind. (g)	3.4% of federal adjusted gross income with modification	**S.C.** (e)	3% > $2,850 4% > $5,700 5% > $8,550 6% > $11,400 7% > $14,250
Iowa (e, f, g)	0.36% > $0 0.72% > $1,494 2.43% > $2,988 4.50% > $5,976 6.12% > $13,446 6.48% > $22,410 7.92% > $44,820 8.98% > $67,230	**S.D.**	None
Kans.	3.00% > $0 4.90% > $15,000	**Tenn.** (b)	6% > $0
Ky. (g)	2.0% > $0 3.0% > $3,000 4.0% > $4,000 5.0% > $5,000 5.8% > $8,000 6.0% > $75,000	**Tex.**	None
La. (f)	2.0% > $0 4.0% > $12,500 6.0% > $50,000	**Utah**	5% > $0
Maine (e)	6.50% > $5,200 7.95% > $20,900	**Vt.** (e)	3.55% > $0 6.80% > $36,250 7.80% > $87,850 8.80% > $183,250 8.95% > $398,350
Md. (g)	2.00% > $0 3.00% > $1,000 4.00% > $2,000 4.75% > $3,000 5.00% > $100,000 5.25% > $120,000 5.50% > $150,000 5.75% > $250,000	**Va.**	2.00% > $0 3.00% > $3,000 5.00% > $5,000 5.75% > $17,000
Mass.	5.25% > $0	**Wash.**	None

State	Rates/Brackets (a)	State	Rates/Brackets (a)
Mich. (g)	4.25% of federal adjusted gross income with modification	**W.Va.**	3.0% > $0 4.0% > $10,000 4.5% > $25,000 6.0% > $40,000 6.5% > $60,000
Minn. (e)	5.35% > $0 7.05% > $24,270 7.85% > $79,730	**Wis.** (e)	4.60% > $0 6.15% > $10,750 6.50% > $21,490 6.75% > $161,180 7.75% > $236,600
Miss.	3.0% > $0 4.0% > $5,000 5.0% > $10,000	**Wyo.**	None
Mo. (f, g)	1.5% > $0 2.0% > $1,000 2.5% > $2,000 3.0% > $3,000 3.5% > $4,000 4.0% > $5,000 4.5% > $6,000 5.0% > $7,000 5.5% > $8,000 6.0% > $9,000	**D.C.**	4% > $0 6% > $10,000 8.5% > $40,000 8.95% > $350,000
Mont. (a, e, f)	1.0% > $0 2.0% > $2,700 3.0% > $4,800 4.0% > $7,300 5.0% > $9,900 6.0% > $12,700 6.9% > $16,400		

Table A-3. Combined State & Local Tax Rates[343]

State	State Tax Rate	Rank	Avg. Local Tax Rate (a)	Combined Rate	Rank	Minimum Local Rate	Maximum Local Rate
Ala.	4.0%	38	4.45%	8.45%	8	0.0%	8.0%
Alaska	0	46	1.69%	1.69%	46	0.0%	7.5%
Ariz.	6.6%	9	2.56%	9.16%	2	0.0%	5.125%
Ark.	6.0%	16	2.61%	8.61%	6	0.0%	7.5%
Calif. (b)	7.5%	1	0.88%	8.38%	9	0.0%	2.5%
Colo.	2.9%	45	4.49%	7.39%	15	0.0%	7.5%
Conn.	6.35%	11	0	6.35%	31		
Del.	0	46	0	0	47		
Fla.	6.0%	16	0.62%	6.62%	29	0.0%	1.5%
Ga.	4.0%	38	2.99%	6.99%	22	2.0%	4.0%
Hawaii (c)	4.0%	38	0.35%	4.35%	45	0.0%	0.5%
Idaho	6.0%	16	0.02%	6.02%	36	0.0%	2.5%

[343] Tax Found., *Facts & Figures—How Does Your State Compare* (Scott Drenkard ed. Mar. 18 2013), http://taxfoundation.org/sites/taxfoundation.org/files/docs/ff2013.pdf.

Notes for table:

(a) City, county, and municipal rates vary; these rates were weighted by population to compute an average local tax rate.

(b) Three states collect a separate "local" add-on sales tax: California (1%), Utah (1.25%), and Virginia (1%). These taxes were included in the state sales tax for purposes of this table.

(c) The sales taxes in Hawaii, New Mexico, and South Dakota have broad bases that include many services, so their rates are not strictly comparable to other states.

(d) Due to data limitations, this table does not include sales taxes in local resort areas in Montana.

(e) Some counties in New Jersey are not subject to the statewide sales tax rate and collect a local rate of 3.5%. Their average local score is represented as a negative.

Sources: Sales Tax Clearinghouse; Tax Foundation calculations; state revenue department websites.

State	State Tax Rate	Rank	Avg. Local Tax Rate (a)	Combined Rate	Rank	Minimum Local Rate	Maximum Local Rate
Ill.	6.25%	13	1.88%	8.13%	12	0.0%	3.25%
Ind.	7.0%	2	0	7.00%	20		
Iowa	6.0%	16	0.82%	6.82%	25	0.0%	3.25%
Kans.	6.3%	12	1.95%	8.25%	10	0.0%	3.5%
Ky.	6.0%	16	0	6.00%	37		
La.	4.0%	38	4.87%	8.87%	3	0.0%	7.0%
Maine	5.0%	31	0	5.00%	43		
Md.	6.0%	16	0	6.00%	37		
Mass.	6.25%	13	0	6.25%	33		
Mich.	6.0%	16	0	6.00%	37		
Minn.	6.875%	7	0.29%	7.16%	17	0.0%	1.0%
Miss.	7.0%	2	0.00%	7.00%	19	0.0%	0.25%
Mo.	4.225%	37	3.23%	7.46%	14	0.5%	4.7%
Mont. (d)	0	46	0	0	47		
Nebr.	5.5%	28	1.28%	6.78%	27	0.0%	1.5%
Nev.	6.85%	8	1.08%	7.93%	13	0.0%	1.25%
N.H.	0	46	0	0	47		
N.J. (e)	7.0%	2	-0.03%	6.97%	23		
N.M. (c)	5.125%	30	2.13%	7.26%	16	0.375%	3.563%
N.Y.	4.0%	38	4.48%	8.48%	7	3.0%	4.875%
N.C.	4.75%	35	2.12%	6.87%	24	2.0%	2.5%
N.D.	5.0%	31	1.52%	6.52%	30	0.0%	3.0%
Ohio	5.5%	28	1.30%	6.80%	26	0.75%	2.25%
Okla.	4.5%	36	4.17%	8.67%	5	0.25%	6.5%
Ore.	0	46	0	0	47		

State	State Tax Rate	Rank	Avg. Local Tax Rate (a)	Combined Rate	Rank	Minimum Local Rate	Maximum Local Rate
Pa.	6.0%	16	0.34%	6.34%	32	0.0%	2.0%
R.I.	7.0%	2	0	7.00%	20		
S.C.	6.0%	16	1.08%	7.08%	18	0.0%	3.0%
S.D.	4.0%	38	1.82%	5.82%	40	0.0%	2.0%
Tenn.	7.0%	2	2.44%	9.44%	1	1.5%	2.75%
Tex.	6.25%	13	1.89%	8.14%	11	0.0%	2.0%
Utah (b)	5.95%	27	0.72%	6.67%	28	0.0%	2.0%
Vt.	6.0%	16	0.14%	6.14%	34	0.0%	1.0%
Va. (b)	5.0%	31	0	5.00%	43		
Wash.	6.5%	10	2.36%	8.86%	4	0.5%	3.0%
W.Va.	6.0%	16	0.04%	6.04%	35	0.0%	1.0%
Wis.	5.0%	31	0.43%	5.43%	41	0.0%	1.5%
Wyo.	4.0%	38	1.34%	5.34%	42	0.0%	2.0%
D.C.	6.0%	(16)	0	6.00%	(37)		

Table A-4. Local Income Tax Rates by Jurisdiction (2011)[344]

State	Resident Tax Rate	Nonresident Tax Rate
Alabama		
Bessemer	1.00%	same
Birmingham	1.00%	same
Gadsden	2.00%	same
Macon County	1.00%	same
California		
San Francisco	1.50% (imposed on employer)	same
Colorado		
Aurora	$2.00 per month on compensation over $250	same
Denver	$5.75 per month on compensation over $500	same
Greenwood Village	$4.00 per month on compensation over $250	same
Delaware		
Wilmington	1.25%	same
Indiana		
Adams County	1.124%	0.674%
Allen County	1.00%	0.55%
Bartholomew County	1.25%	0.5%
Benton County	2.29%	0.54%
Blackford County	1.36%	0.61%
Boone County	1.00%	0.25%
Brown County	2.2%	0.5%
Carroll County	1.55%	0.4%
Cass County	2.5%	0.5%
Clark County	2.00%	0.75%
Clay County	2.25%	0.25%
Clinton County	2.00%	0.75%
Crawford County	1.00%	0.5%
Daviess County	1.75%	0.75%
Dearborn County	0.6%	0.15%
Decatur County	1.33%	0.58%
DeKalb County	1.5%	0.75%
Delaware County	1.05%	0.6%
Dubois County	1.00%	0.55%
Elkhart County	1.5%	0.5%
Fayette County	2.37%	0.87%
Floyd County	1.15%	0.65%
Fountain County	1.1%	0.35%
Franklin County	1.25%	0.5%

[344] Henchman & Sapia, *supra*, Tax Foundation Fiscal Fact No. 280, *Local Income Taxes: City- and County-Level Income and Wage Taxes Continue to Wane*, http://taxfoundation.org/article/local-income-taxes-city-and-county-level-income-and-wage-taxes-continue-wane. Source: Tax Foundation compilation from state revenue departments and other sources.

State	Resident Tax Rate	Nonresident Tax Rate
Fulton County	1.93%	0.68%
Gibson County	0.5%	0.5%
Grant County	2.25%	0.75%
Greene County	1.00%	0.25%
Hamilton County	1.00%	0.25%
Hancock County	1.55%	0.4%
Harrison County	1.00%	0.5%
Hendricks County	1.4%	0.65%
Henry County	1.25%	0.5%
Howard County	1.6%	0.55%
Huntington County	1.75%	0.5%
Jackson County	1.6%	0.75%
Jasper County	3.05%	0.5%
Jay County	2.45%	0.6%
Jefferson County	0.35%	0.35%
Jennings County	1.25%	0.5%
Johnson County	1.00%	0.25%
Knox County	1.1%	0.65%
Kosciusko County	1.00%	0.475%
LaGrange County	1.4%	0.65%
LaPorte County	0.95%	0.7%
Lawrence County	1.75%	0.25%
Madison County	1.75%	0.625%
Marion County	1.62%	0.405%
Marshall County	1.25%	0.25%
Martin County	1.00%	0.4%
Miami County	2.54%	0.965%
Monroe County	1.05%	0.2625%
Montgomery County	2.1%	0.6%
Morgan County	2.72%	0.52%
Newton County	1.00%	0.25%
Noble County	1.5%	0.75%
Ohio County	1.00%	0.25%
Orange County	1.25%	0.5%
Owen County	1.3%	0.55%
Parke County	2.3%	0.75%
Perry County	1.06%	0.685%
Pike County	0.4%	0.4%
Porter County	0.5%	0.5%
Posey County	1.00%	0.625%
Pulaski County	3.13%	0.68%
Putnam County	1.5%	0.75%
Randolph County	1.5%	0.75%
Ripley County	1.38%	0.63%
Rush County	1.5%	0.75%
St. Joseph County	1.75%	0.7375%
Scott County	1.41%	0.4725%
Shelby County	1.25%	0.5%
Spencer County	0.8%	0.575%

State	Resident Tax Rate	Nonresident Tax Rate
Starke County	1.06%	0.81%
Steuben County	1.79%	0.54%
Sullivan County	0.3%	0.3%
Switzerland County	1.00%	0.25%
Tippecanoe County	1.1%	0.65%
Tipton County	1.33%	0.58%
Union County	1.5%	0.5%
Vanderburgh County	1.00%	0.25%
Vermillion County	0.10%	0.10%
Vigo County	1.25%	0.75%
Wabash County	2.90%	0.75%
Warren County	2.12%	0.57%
Warrick County	0.50%	0.50%
Washington County	1.50%	0.75%
Wayne County	1.50%	0.50%
Wells County	2.10%	0.70%
White County	1.32%	0.57%
Whitley County	1.2329%	0.4829%
Iowa		
Appanoose County	1.00%	same
297 Iowa school districts impose an income tax surcharge ranging between 1 and 20% of state income tax owed.		
Kansas		
30 Kansas counties, 105 Kansas cities, and 400 Kansas townships impose a local intangibles tax on interest, dividends, and securities transactions (but not wages). The tax rates are generally uniform: county tax is 0.75% and city and township taxes are 2.25%. No city or township has a rate higher than 2.25%, and 36 have a lower rate, as low as 0.25%. The taxes cumulatively raised approximately $2.4 million in 2008.		
Kentucky		
Adairville	1.50%	same
Alexandria	1.50%	same
Allen County	1.00%	same
Ashland	1.50%	same
Auburn	1.50%	same
Augusta	1.00%	same
Ballard County	1.00%	same
Bardstown	0.50%	same
Bath County	1.50%	same
Beattyville	1.00%	same
Bellevue	2.50%	same
Benton	0.50%	same
Berea	2.00%	same
Boone County	1.45%	same
Bourbon County	0.75%	same
Bowling Green	1.85%	same
Boyd County	1.00%	same
Boyle County	0.75%	same
Breathitt County	1.00%	same
Bromley	1.00%	same
Brooksville	1.75%	same

State	Resident Tax Rate	Nonresident Tax Rate
Brownsville	1.00%	same
Burkesville	1.00%	same
Butler County	1.00%	same
Cadiz	1.50%	same
Caldwell County	1.00%	same
Calvert City	0.50%	same
Campbell County	1.05%	same
Campbellsville	1.00%	same
Caneyville	$2 per week (full time) or $1 per week (part time)	same
Carlisle	1.00%	same
Carmango	1.00%	same
Carroll County	1.00%	same
Catlettsburg	1.50%	same
Cave City	2.00%	same
Clark County	1.50%	same
Clarkson	$2 per week	same
Clay City	1.00%	same
Clay County	1.00%	same
Clinton	0.50%	same
Clinton County	0.75%	same
Cold Spring	1.00%	same
Covington	2.50%	same
Crescent Springs	1.00%	same
Crestview Hills	1.00%	same
Cumberland County	1.25%	same
Cynthiana	1.50%	same
Danville	1.25%	same
Daviess County	0.35%	same
Dawson Springs	1.50%	same
Dayton	2.00%	same
Dry Ridge	0.50%	same
Eddyville	1.50%	same
Edgewood	1.00%	same
Edmonton	1.50%	same
Elizabethtown	1.35%	same
Elkhorn City	1.00%	same
Elkton	2.00%	same
Elsmere	0.013%	same
Eminence	0.75%	same
Erlanger	0.015%	same
Estill County	1.25%	same
Fayette County	0.50%	same
Flemingsburg	1.00%	same
Florence	2.00%	same
Fort Mitchell	1.00%	same
Fort Thomas	1.25%	same
Fort Wright	1.00%	same
Frankfort	1.75%	same

State	Resident Tax Rate	Nonresident Tax Rate
Franklin	1.00%	same
Franklin County	1.00%	same
Fulton	2.00%	same
Gallatin County	1.00%	same
Gamaliel	1.00%	same
Garrard County	1.00%	same
Georgetown	1.00%	same
Glasgow	1.50%	same
Graves County	1.00%	same
Grayson	1.00%	same
Grayson County	0.50%	same
Greensburg	1.00%	same
Guthrie	1.00%	same
Hancock County	1.25%	same
Harrison County	1.50%	same
Harrodsburg	1.00%	same
Hart County	0.008%	same
Hazard	1.75%	same
Henderson	1.00%	same
Hickman	1.50%	same
Highland Heights	1.00%	same
Hillview	1.50%	same
Hodgenville	0.75%	same
Hopkinsville	0.02%	same
Horse Cave	0.50%	same
Independence	1.25%	same
Jackson	1.00%	same
Jackson County	1.00%	same
Jamestown	1.00%	same
Jeffersontown	1.00%	same
Jeffersonville	1.00%	same
Jessamine County	1.00%	same
Johnson County	0.50%	same
Junction City	1.00%	same
Kenton County	0.1097% - 0.7097%	same
Knox County	1.00%	same
Lakeside Park	1.00%	same
Laurel County	1.00%	same
Lebanon	1.00%	same
Lebanon Junction	0.80%	same
Leitchfield	1.20%	same
Leslie County	1.00%	same
Lewisburg	1.50%	same
Lexington Fayette Urban County	2.25%	same
Lincoln County	1.00%	same
Livingston County	1.00%	same
Logan County	0.75%	same
Louisville	2.20%	same
Ludlow	1.50%	same

State	Resident Tax Rate	Nonresident Tax Rate
Madison County	1.00%	same
Madisonville	1.50%	same
Magoffin County	1.00%	same
Marion	0.75%	same
Marion County	1.00%	same
Marshall County	1.50%	same
Martin	1.30%	same
Martin County	1.00%	same
Mayfield	2.00%	same
Maysville	1.95%	same
McCracken County	1.00%	same
McCreary County	1.00%	same
McKee	1.00%	same
McLean County	1.00%	same
Menifee County	1.25%	same
Mercer County	0.45%	same
Metcalfe County	1.00%	same
Middlesboro	2.00%	same
Midway	2.00%	same
Millersburg	1.00%	same
Monroe County	0.50%	same
Montgomery County	1.00%	same
Morehead	1.50%	same
Morgan County	0.50%	same
Morgantown	2.00%	same
Mount Vernon	1.00%	same
Mt. Olivet	1.00%	same
Mt. Washington	1.00%	same
Muldraugh	1.00%	same
Munfordville	0.75%	same
Nelson County	0.50%	same
Newport	2.50%	same
Nicholas County	1.00%	same
Nicholasville	1.50%	same
Oak Grove	1.50%	same
Ohio County	1.00%	same
Owensboro	1.33%	same
Owenton	1.00%	same
Paducah	2.00%	same
Paintsville	1.00%	same
Paris	1.50%	same
Park City	1.00%	same
Park Hills	0.015%	same
Pendleton County	0.50%	same
Perryville	1.00%	same
Pikeville	2.00%	same
Pineville	1.50%	same
Pioneer Village	1.00%	same
Powell County	1.25%	same

State	Resident Tax Rate	Nonresident Tax Rate
Prestonburg	1.50%	same
Princeton	1.50%	same
Pulaski County	1.00%	same
Raceland	1.00%	same
Radcliff	2.00%	same
Richmond	2.00%	same
Robertson County	1.50%	same
Rockcastle County	1.50%	same
Rowan County	1.00%	same
Russell	0.875%	same
Russell County	0.25%	same
Russell Springs	1.00%	same
Russellville	2.00%	same
Saylersville	1.00%	same
Scott County	1.50%	same
Scottsville	1.50%	same
Shelby County	1.00%	same
Shelbyville	1.50%	same
Shepherdsville	1.00%	same
Shively	1.50%	same
Silver Grove	1.50%	same
Simpson County	0.75%	same
Southgate	2.50%	same
Spencer County	0.008%	same
Springfield	1.00%	same
St. Matthews	0.75%	same
Stanford	0.65%	same
Stanton	1.00%	same
Taylor County	1.00%	same
Taylor Mill	2.00%	same
Taylorsville	0.75%	same
Todd County	1.00%	same
Tompkinsville	1.00%	same
Union County	0.50%	same
Vanceburg	1.00%	same
Versailles	1.00%	same
Villa Hills	0.075%	same
Vine Grove	1.00%	same
Warren County	1.50%	same
Warsaw	1.00%	same
Washington County	0.75%	same
Wayne County	0.90%	same
West Buechel	1.00%	same
West Liberty	0.50%	same
West Point	2.00%	same
Whitley County	1.00%	same
Wilder	2.25%	same
Wilmore	2.00%	same
Winchester	1.50%	same

State	Resident Tax Rate	Nonresident Tax Rate
Wolfe County	1.25%	same
Woodford County	1.50%	same
Maryland		
Allegany County	3.05%	1.25%
Anne Arundel County	2.56%	1.25%
Baltimore (city)	3.05%	1.25%
Baltimore County	2.83%	1.25%
Calvert County	2.80%	1.25%
Caroline County	2.63%	1.25%
Carroll County	3.05%	1.25%
Cecil County	2.80%	1.25%
Charles County	2.90%	1.25%
Dorchester County	2.62%	1.25%
Frederick County	2.96%	1.25%
Garrett County	2.65%	1.25%
Harford County	3.06%	1.25%
Howard County	3.20%	1.25%
Kent County	2.85%	1.25%
Montgomery County	3.20%	1.25%
Prince George's County	3.20%	1.25%
Queen Anne's County	2.85%	1.25%
St. Mary's County	3.00%	1.25%
Somerset County	3.15%	1.25%
Talbot County	2.25%	1.25%
Washington County	2.80%	1.25%
Wicomico County	3.10%	1.25%
Worcester County	1.25%	1.25%
Michigan		
Albion	1.00%	0.5%
Battle Creek	1.00%	0.5%
Big Rapids	1.00%	0.5%
Detroit	2.50%	1.25%
Flint	1.00%	0.5%
Grand Rapids	1.50%	0.75%
Grayling	1.00%	0.5%
Hamtramck	1.00%	0.5%
Highland Park	2.00%	1.0%
Hudson	1.00%	0.5%
Ionia	1.00%	0.5%
Jackson	1.00%	0.5%
Lansing	1.00%	0.5%
Lapeer	1.00%	0.5%
Muskegon	1.00%	0.5%
Muskegon Heights	1.00%	0.5%
Pontiac	1.00%	0.5%
Port Huron	1.00%	0.5%
Portland	1.00%	0.5%
Saginaw	1.50%	0.75%
Springfield	1.00%	0.5%

State	Resident Tax Rate	Nonresident Tax Rate
Walker	1.00%	0.5%
Missouri		
Kansas City	1.00%	same
St. Louis	1.00%	same
New Jersey		
Newark	1.00% (imposed on employers)	same
New York		
New York City	2.907% - 3.876%	none
New York City Metropolitan Transportation Authority (MTA) (New York City and surrounding jurisdictions)	0.34% (imposed on employers)	none
New York-New Jersey Waterfront (employers of port personnel)	2.00% (imposed on employers)	none
Yonkers	15% of net state tax	0.50%
Ohio		
593 of Ohio's 932 municipalities and 181 of Ohio's 611 school districts impose an income tax. Listed below as representative are the taxes imposed in the twelve largest cities in the state.		
Akron	2.25%	same
Canton	2.00%	same
Cincinnati	2.10%	same
Cleveland	2.00%	same
Columbus	2.50%	same
Dayton	2.25%	same
Hamilton	2.00%	same
Lorain	2.00%	same
Parma	2.50%	same
Springfield	2.00%	same
Toledo	2.25%	same
Youngstown	2.75%	same
Oregon		
Lane County Mass Transit District (Eugene, Springfield, and surrounding communities)	0.0067% (imposed on employers)	same
Tri-Met Transportation District (Portland)	0.6918% (imposed on employers)	same
Pennsylvania		
2,492 of Pennsylvania's 2,562 municipalities and 469 of Pennsylvania's 500 school districts impose a local income tax or local services tax. Listed below as representative are the taxes imposed in the twelve largest cities in the state.		
Allentown	1.35% plus $52 per year	1.35%
Altoona	1.20% plus $52 per year	1.20%
Bethlehem	1.00% plus $52 per year	1.00%
Erie	1.18% plus $52 per year	1.18%
Harrisburg	1.00% plus $52 per year	1.00%
Lancaster	1.10% plus $52 per year	none
Philadelphia	3.928%	3.4985%
Pittsburgh	3.00% plus $52 per year	1.00%
Reading	3.60% plus $52 per year	1.30%
Scranton	3.40% plus $52 per year	1.00%
Wilkes-Barre	3.00% plus $52 per year	1.00%

State	Resident Tax Rate	Nonresident Tax Rate
York	1.00% plus $52 per year	none
West Virginia		
Charleston	$2 per week (imposed on employers)	none
Huntington	$3 per week (imposed on employers)	none
Weirton	$2 per week (imposed on employers)	none

Table A-5. Real Estate Transfer Taxes[345]

REAL ESTATE TRANSFER TAXES		
State	**Tax Description**	**Transfer Fee Rate**
Alabama	Deeds $0.50/$500 Mortgages $0.15/$100	0.1% 0.15%
Alaska	None	
Arizona	$2 fee per deed or contract	Flat fee
Arkansas	$3.30/$1,000	0.33%
California	Local option transfer tax $.55/$500 for counties The city tax rate is half of the county rate and the city tax is allowed as a credit against the county tax.	0.11%
Colorado	Transfer tax $.01/$100	0.01%
Connecticut	State residential transfer tax has two tiers of either 0.75% or 1.25%, based on value Nonresidential is 1.25% Municipal transfer tax from 0.11% to 0.36%	0.75% up to $800K and 1.25% of value over $800K; plus municipal tax
Delaware	2% tax on value of property unless there is also a local transfer tax; then the maximum rate is 1.5% to the state and 1.5% to the municipality[346]	1.5% - 3% 1% for construction projects over $10,000
District of Columbia	Transfer tax 1.1% on transactions up to $399,999; 1.45% on transactions of $400,000 and above Mortgage recordation fee $26.50 for the first 2 pages and $7 for each page thereafter, which	1.1% - 1.45%

[345] National Conference of State Legislatures, *Real Estate Transfer Taxes*, http://www.ncsl.org/issues-research/budget/real-estate-transfer-taxes.aspx. Sources: NCSL; Commerce Clearing House State Tax Guide, Sept. 2012. Compiled by National Conference of State Legislatures Fiscal Affairs Program. Posted Sept. 2012.

[346] *See* Del. Title Ins. Rate & Transfer Tax Calculator, http://www.anytimeestimate.com/TITLE_INSURANCE/de-title-insurance.htm; *see also* Del. Dep't of Transp., http://www.deldot.gov/information/projects/hpms/2010/2010RealtyTransferTaxGrossStateCollections.pdf.

REAL ESTATE TRANSFER TAXES		
State	**Tax Description**	**Transfer Fee Rate**
	generally results in a total recording cost of approximately $290 for purchase transactions[347]	
Florida	Conveyance of realty $0.70/$100 ($0.60 in Miami-Dade County plus a $0.45 surtax on documents transferring anything other than a single-family residence) Mortgage tax $0.35/100	0.7% 0.35%
Georgia	$.10/$100	0.1%
Hawaii	Transfer tax $0.10 to $1/$100, based on property value $0.15 to $1.25/$100 without homeowner exemption, based on value.	0.1%-1.0% 0.15%-1.25%
Idaho	None	
Illinois	State $0.50/$500 County - $0.25/$500 Chicago - $5.25/$500	0.1% 0.05% 1.05%
Indiana	None	
Iowa	Transfer tax $0.80/$500	0.16%
Kansas	Mortgage fee $0.26/$100	0.26%
Kentucky	Transfer tax $0.50/$500	0.1%
Louisiana	None	
Maine	Transfer tax $2.20/$500	0.44%
Maryland	Transfer tax 0.5% (or 0.25% for 1st- time buyers) County transfer tax varies by county Recordation tax varies by county	0.5% Varies Varies
Massachusetts	Transfer tax $4.56/$1,000 ($2 / $500 plus 14% surtax) Barnstable County transfer tax $3.42 / $1,000 ($1.50 / $500 plus 14% surtax) Also $10-$20 document fee	0.456% 0.342%
Michigan	State - $3.75/$500 County - $0.55/$500 - $.75/$500 depending on +/- 2 million population	0.75% 0.11% - 0.15%
Minnesota	Deed tax of $1.65/$500 Mortgage registry tax $.23/100	0.33% 0.23%

[347] Paying Transfer & Recordation Taxes (Federal Title Dec. 12, 2012), http://federaltitle.com/purchase/taxes.

REAL ESTATE TRANSFER TAXES		
State	**Tax Description**	**Transfer Fee Rate**
Mississippi	None	
Missouri	None	
Montana	None	
Nebraska	Transfer tax $2.25/$1,000	0.225%
Nevada	$0.65/$500 up to 700,000 county population $1.25/$500over 700,000 county population Counties may impose an additional $0.10/$500 County tax regardless of size $1.30 / $500	0.13% 0.25% 0.26%
New Hampshire	Transfer tax $0.75/$100 Paid by buyer and by seller $20 minimum tax on transfers of $4,000 or less	1.5%
New Jersey	Transfer tax: Varies based on price and tax status (seniors, disability) Homes over $1 million add $5/$500 surtax Commercial sales over $1 million have 1% fee County: up to 0.1% additional tax	0.4% - 1.21%, based on value 1.0% 1.0% 0.1%
New Mexico	None	
New York	Realty transfer state - $2/$500 up to $1 million; 1% additional over $1 million and some counties may levy more Mortgage recording tax-state $1.00/$100 Mortgage NY City $1.00-$1.75/$100 Realty transfer NY City 1% to 2.625% based on +/- $550K home value There are many other local option taxes with rates varying by locality	0.4% or 1.4% over $1 million, possibly more depending on county 1.0% 1% to 1.75% 1% to 2.625%
North Carolina	Transfer tax $1/$500 Local option to increase by up to 0.4%	0.2% 0.4%
North Dakota	None	
Ohio	Transfer tax $0.10/100 Plus local option $0.30/100	0.4% (0.1% plus 0.3% local)
Oklahoma	Deed stamp tax $0.75/$500 Mortgage registration tax $0.02-$0.10/$100, based on term of mortgage	0.15% 0.02%-0.1%
Oregon	None	
Pennsylvania	Documentary stamp tax 1% County rates widely vary	1%

REAL ESTATE TRANSFER TAXES		
State	**Tax Description**	**Transfer Fee Rate**
Rhode Island	Realty conveyance tax $2.00/$500	0.4%
South Carolina	Deed recording fee $1.85/$500 ($1.30 state, $0.55 county)	0.37%
South Dakota	$.50/$500	0.1%
Tennessee	Transfer tax $0.37/$100 Mortgage tax $0.115 /$100	0.37% 0.12%
Texas	None	
Utah	None	
Vermont	Property transfer tax 1.25% Unless property is owner-occupied, in which case, tax is 0.5% on the first $100,000 of value and 1.25% over $100,000. Qualified farms - 0.5% Plus capital gains tax on land sales, based on length of ownership	1.25% (or marginal rates based n value)
Virginia	Transfer tax $0.50/$500 Mortgage tax $0.25/$100 up to $10 million value; more thereafter. Local option for one-third more of state recordation tax $20 fee on every deed collected Northern Virginia Transportation Authority and the Hampton Roads Transportation Authority are authorized to impose a local realty grantor's fee of $0.40 per $100.	0.1% 0.25%
Washington	Real property sale excise tax 1.28% of sales price plus local option tax, currently ranging from 0.25%-0.75%.	1.28% 1.53% to 2.03% combined with local option
West Virginia	Transfer tax $1.65/$500 ($1.10 state, $0.55 county) Local option for $.55 more. Plus $20 flat fee on all transfers.	0.33% $20.00
Wisconsin	Transfer tax $.30/$100	0.3%
Wyoming	None	