

Issues of Design in Ethiopia's Property Tax Reform: Lessons from Previous Legislative Regimes and Other Jurisdictions[⇒]

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While property tax is the oldest of all types of taxes worldwide, the impulse to reform and reintroduce it in its 'modern forms' is a recent undertaking. Ethiopia has started property tax reform in 2011 intending to modernize the urban property valuation and taxation system across the urban centers of the country. The recent draft legislations and debates in the media seem to end the reform process that has stalled or been thrown into reverse. This article identifies and examines issues of design in Ethiopia's property tax reform based on lessons from previous legislative regimes and experiences of other jurisdictions. Primary data were collected through legal document analysis and semi-structured interviews while secondary data were collected through document review. The findings from the investigation showed that there are various property tax design options in the determination of tax bases, rates, valuation methods, rules of exemptions and administrative procedures. The article put an emphasis on the need to carefully draw lessons from own past and other jurisdictions to successfully end the ongoing property tax reform.

Keywords: *Property Tax Reform, Tax Design, Historical Development, Foreign Experience, Ethiopia*

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Introduction

While property tax is the oldest of all types of taxes, the impulse to reform and reintroduce it in its ‘modern’ form is a recent undertaking. Since the 1990s, property tax reform, in one form or another, has been a global phenomenon happening in both developed and developing countries.¹ In particular, post-Soviet transition and developing economies world have embarked on massive property tax reforms with renewed theoretical and policy justifications.² Studies have now confirmed that property taxes are more efficient, equitable, predictable, and simple compared to consumption and income taxes.³ Property tax reforms are also associated with opportunities and challenges that rapid urbanization has posed in many developing countries over the past half-century.⁴ Many have argued that property taxes have the potential to improve national revenue, promote local governance, and improve land and property administration.⁵ Thus, over the past 30 years, many countries in Asia, Latin America, and Africa have strengthened property taxes reforms as a critical component of tax reform discourse and as part of land reforms, urban policies and decentralization, and local

¹ William J. McCluskey and Riël C.D. Franzsen,, Property Tax Reform In Africa: Challenges and Potential, Paper Presented at the 2016 World Bank Conference on Land and Poverty, The World Bank, Washington DC, (2016).

² Richard M. Bird and Enid Slack, Land and Property Taxation: A Review, *In Workshop on Land Issues in Latin American and the Caribbean, Vol. 19*, (2002); See also, Tom Goodfellow, Property Taxation and Economic Development; Lessons from Rwanda and Ethiopia, *SPERI Global Political Economy Brief No. 4: Sheffield Political Economy Research Institute*, (2016).

³ Merima Ali et als, Property Taxation in Developing Countries, *CMI Brief*, Vol. 16 No. 1, (2017).

⁴ James R. Gillespie, The Property Tax and Urbanization, *Administrative Law Review*, Vol. 21, No. 3, (1969), PP. 319- 324; See also, Tom Goodfellow, Taxing the Urban Boom: Property Taxation and Land Leasing in Kigali and Addis Ababa, ICTD Working Paper 38, (2015), P. 12.

⁵ *Id.*

government reforms.⁶ Yet, the contribution of property tax to the national GDP remains scant.⁷ Such low performance of property tax collection in developing countries is mainly attributed to problems with the current system and inappropriate tax policies including poor coverage, inequities between taxpayers, outdated valuations and lack of revaluations, and inappropriate basis of valuation.⁸

Property taxation historically coexists with the Ethiopian state since the pre-Aksumite and Aksumite periods.⁹ However, its modern form is generally associated with the economic transformation and centralization programs of Emperor Haile Sellassie.¹⁰ This was made possible by enacting the first Land Tax Proclamation No.8/1942 which continued in different forms until the end of the imperial regime by the 1974 revolution. The period is honored for modernizing the property tax regime and its collection modality although the attempt to abolish the serfdom land-holding system of feudalism and diminishing the political and fiscal powers of regional rulers was not successful.¹¹ The Derg Regime (1974-1991) focused on shifting the governance structure, the land, and property system, and the tax system as a foundation to restructure the political economy in line with socialism.¹² The regime in particular nationalized land and extra houses, and in effect

⁶ *Id.*

⁷ Richard M. Bird and Jorge Martinez-Vazquez (eds.), *Taxation and Development: The Weakest Link? Studies in Fiscal Federalism and State-local Finance series*, (2014)

⁸ *Id.*

⁹ Richard Pankhurst, Tribute, Taxation and Government Revenues in Nineteenth and early Twentieth Century Ethiopia, *Journal of Ethiopian Studies*, July 1967, Vol. 5, No. 2, (1967), PP. 37-87

¹⁰ *Ibid*

¹¹ Wogene Yirko, History of the Post-War Ethiopian Fiscal System, in EshetuChole (eds), *Fiscal Decentralization in Ethiopia*, Addis Ababa University, (1994)

¹² Giulia Mascagni, A Fiscal History of Ethiopia: Taxation and Aid Dependence 1960-2010, ICTD Working Paper 49, (2016)

abolished land taxation.¹³ In this way, the Derg government significantly reformed land revenue into fees and rents and constrained the property tax regime only to urban houses.¹⁴

Currently, while it is true that there is no property taxation in the strict sense of the term in Ethiopia, the existing property tax-like payments are fenced with legal, technical and institutional problems. Lincoln Institute of Land Policy identified four major problems of the property tax system in Ethiopia: the application of the outdated taxation law that continued for more than four decades, the land tenure system of the country (the legal and practical problem of fictitious separation of ownership to land and building, the sheer magnitude of informal property ownership and informal property market or transfer in urban centers (tortoise regularization) and lack of assertiveness on the part of urban local governments to identifying taxpayers and serving tax notices.¹⁵

In an attempt to reverse this situation, Ethiopia started property tax reform in 2011 to modernize the urban property valuation and taxation system across the urban centers. The country's interest is demonstrated by the findings of research conducted in three pilot cities, namely, Dire Dawa, Mekelle, and Bahir Dar on issues regarding real Property identification and valuation,

¹³ Public ownership of Rural Lands, Proclamation No. 31/1975, *Negarit Gazeta*, (1975), See also, Government ownership of Urban Lands and extra Houses, Proclamation No. 47/1975, *Negarit Gazeta*, (1975).

¹⁴ The land reform was accompanied by the promulgation of Rural Land Use Fee and Agricultural Activities Income Tax Proclamation No. 77/1976 (later amended by Proclamation No. 152/1978) and in the urban area, Urban Land Rent and House Tax Proclamation No. 80/1976 (later Proclamation No. 161/1979 and enforced by Legal Notice No. 64/1979).

¹⁵ See Alemayehu Negash & Bekalu Tilahun, Property Taxation in North-east Africa: Case Study of Ethiopia, Lincoln Institute of Land Policy, Working Paper, (2009),

capacity design and building, and public engagement.¹⁶ Draft and prototype legislations are also prepared for Federal and Regional Governments.¹⁷ Despite all such moves taking place in the last 10 years, the final bill has not yet been ratified and the undertaking towards property taxation appears to be disorganized and too slow.¹⁸ Apart from such a languishing scenario on the current process, there has not been a comprehensive study so far about property tax reform in general and issues of design in particular.

Against this background, this study examined and identified issues of design in Ethiopia's property tax reform. The investigation generated evidences through qualitative tools, which the researcher opted to use for their high degree of flexibility and docility to meet research objectives in depth. Primary data were collected through a critical examination of legal texts such as the Constitutions, Proclamations, Regulations, and other legislations enacted over the last sixty years in the country as well as the recent draft prototype legislations. In an attempt to explore existing situations and options for the reform, semi-structured interviews were conducted with purposively selected informants in the reform project offices in Addis Ababa and Bahir Dar. Laws of other countries such as Tanzania, South Africa, and Thailand are also consulted to draw lessons on the issues of design. These countries are purposively selected based on their relevance in associating property tax reform with land reform (Tanzania), local government empowerment (South Africa) and revenue mobilization (Thailand). Finally, the study relies on

¹⁶ SuDCA Development Consultant, Overall Municipal Revenue Baseline Study in Three Cities of Ethiopia (Bahir Dar, Mekelle & Dire Dawa), Ministry of Urban Development and Housing, (2016)

¹⁷ FDRE Real Property Tax Proclamation(Draft); Regional Prototype Property Tax Proclamation (Draft)

¹⁸ Ethiopian Monitor, Public to Debate over Ethiopia's First Property Tax Bill, 25 June 2020 available at: <https://ethiopianmonitor.com/2020/06/25/public-to-debate-over-ethiopias-first-property-tax-bill/> [last accessed on 30 January 2023]

secondary sources through analysis of research works, books, journals, articles, periodicals, web resources, conferences podcasts, etc.

The remainder of the article is organized into five sections. The first section has so far provided a backdrop to the investigation. The next section establishes the conceptual foundations of property tax by focusing on definitions, types, justifications, and theoretical debates. This is followed by an exploration of property tax reform experiences of selected countries, and section three reviews the historical account of property tax in Ethiopia. Section four raises the core issue in the article. It identifies and examines major design issues in Ethiopia's property tax reform. Finally, the last section provides concluding remarks.

1. Conceptual Foundations of Property Tax

Property, literally, tax is a direct tax imposed on a property (real or personal; immovable or movable; corporeal or incorporeal) that belongs to and is appropriated by an individual or entity. It's thus known by different designations in the literature such as "real estate tax", 'real property tax', "land and building tax", and "immovable property tax" depending on the form of property the tax is levied on. Still, others call it "ad valorem tax" for it is assessed based on a property's value and "local tax" for it is imposed, administered, and used mainly by local governments. Black's Law Dictionary defines property tax as a tax levied on the owner of the property [especially real property] usually based on the property's value.¹⁹ Joan M. Youngman also narrowly defines property as "a tax on ownership and other legal interests in land and buildings to achieve important fiscal, political and legal objectives".²⁰ Other scholars, of course, do not confine the meaning to this

¹⁹ Bryan A. Garner, Black's Law Dictionary, Seventh Edition, West Publishing Co., St. Paul Minn, United States of America, 1999, P.1526.

²⁰ Joan M. Youngman, *Tax on Land and Buildings*, in Victor Thuronyi (eds), *Tax Law Design and Drafting*, IMF, (1996), P. 9

designation arguing that although property tax is commonly associated with real property, property taxes are also imposed on personal properties, movable assets, or intangible properties.²¹ Accordingly, scholars Riël Franzsen and William McCluskey point out that, in addition to the recurrent or annual taxes, property taxes include taxes on the transfer (acquisition, alienation, or both) of property such as stamp duties, real estate transfer taxes, capital gains taxes, gift taxes, and death and inheritance taxes.²² It is important to note that these are transaction taxes and such definitions are used mainly for purposes of national revenue statistics. Turning to the Ethiopian conceptualization of the term, the draft Property Tax Prototype Proclamation adopts the narrow view and defines “property tax” as tax levied in respect of urban land use, including building and other land improvements located on urban land but chargeable from a taxpayer.²³ Accordingly, the main focus of this study is the recurrent property tax on real properties or immovables because other property-related taxes are covered by the different income and consumption tax laws in Ethiopia.

Understanding why countries adopt property tax and why it has generally become a reform agenda worldwide is well worth a thorough discussion. Property taxes, especially taxes on immovable property, have many virtues.²⁴ Firstly, in terms of efficiency, property tax has the potential to be a significant revenue producer, especially for subnational governments in rapidly urbanizing developing countries. Secondly, property tax is said to be fair because an immovable property is often a primary repository of wealth and, in most societies, such properties are found concentrated in the hands of

²¹ Riël Franzsen and William McCluskey, *Property Tax in Africa: Status, Challenges, And Prospects*, the Lincoln Institute of Land Policy, (2017), P. 4.

²² *Id.* P. 3

²³ FDRE Real Property Tax Proclamation (Draft), Art. 2 (2)

²⁴ *Supra* note 3, P.32; Jay K. Rosengard, The Tax Everyone Loves to Hate: Principles of Property Tax Reform. In William J. McCluskey et al. (eds.), *A Primer on the Property Tax: Administration and Policy*, Wiley Blackwell, (2013), PP. 173–86

the few. The third prominent justification in support of property tax is local government autonomy and accountability. In many countries, property tax is taken as an effective tool for decentralization and reducing local government dependence on fiscal transfers from higher tiers of government. Fourthly, property tax is also used to promote the efficient use of land and building and to counter speculation, price hike, and volatility.

At this point, it's plausible to pose the question of why many countries and cities especially in developing and transition economies poorly perform with property taxes. Despite its virtues, property tax is not free from limitations and criticisms.²⁵ Firstly, as a direct tax, property tax is visible or noticeable and politically sensitive. The second challenge with property tax is the cash flow or liquidity problem. Characteristically, property tax is imposed on the imputed value and does not reflect a real cash flow or the taxpayer's real current situation. Fourthly, it is argued that property tax revenues are inelastic compared to income or sales taxes. Volatility is also seen as a problem as the tax rise and fall quickly with changes in property values in the market. Finally, there is a concern that although property tax is said to be local, the tax is not usually under full local control. In most jurisdictions, property tax is not truly a local tax because local governments have no or less discretion for the levying (determination of tax base, rate, valuation, and exemptions rules) and administration (assessment, collection, enforcement, and dispute settlement procedures) of the tax.²⁶ However, such criticisms cannot in any way do away with the adoption of property tax in a country. It is also worth noting that, like other taxes, property tax has its own advantages and disadvantages. Effective property tax reform must, therefore, be designed and implemented to address these concerns in design and administration.

²⁵ *Id.*, Jay K. Rosengard; *Supra* note 3

²⁶ *Id.*, Jay K. Rosengard

2. The Experience of Other Countries

Property taxes, perhaps tax in general, are almost as old as the age of ancient state societies. Various forms of property taxes were levied and collected in the time of ancient Egypt, Greece, Babylonia, China, and other parts of the ancient world to generate funds for government expenditure and to maintain imperial armies.²⁷ In medieval times, many of these ancient taxes were replaced by a variety of obligatory services and a system of aids or gifts to the King.²⁸ In the feudal system, landlords provide land to the tenants in exchange for their loyalty, service, and tribute. Peasants paid one-tenth (a tithe) of the value of crops to the lord who then passed on a percentage to the king.

The turn of the 20th Century marked quite a new and unpleasant episode in the history of property taxation. Problems in the international economy such as the Great Depression (1929-1939), the rise of socialist movements and the resultant economic restructurings, the growing interdependence of economies, and the internationalization of markets (globalization) have brought fiscal reform movements to implement sales and income taxes and parallels movements towards property tax cut.²⁹ However, the end of the 20th Century has brought a new era in the history of property tax for several reasons. This new development and expansion of property tax reform around the world are

²⁷ Carlson, Richard Henry. "A Brief History of Property Tax" *Fair and Equitable*, Vol. 3 No. 2, (2005), PP, 3-9.

²⁸ Tsebo Moses, *The History of Taxation Around the World from Ancient to Modern Times*, (2021). available at: <https://www.yoair.com/blog/the-history-of-taxation-around-the-world/> [last visited on 06/01/2022]. However, despite all developments in the ancient history, the word "tax" had not even existed and it was used as an official word only in the 14th century as derived from the Latin word "taxare" which means "to assess".

²⁹ Odd-Helge Fjeldstad and Ole Therkildsen, *Mass Taxation and State-Society Relations in East Africa*, in Deborah Braütigam et al (eds), *Taxation and State Building in Developing Countries*. Cambridge: Cambridge University Press, (2008) PP.114 – 134.

particularly associated with the dissolution of the Soviet Union (1988–1991) and the collapse of the Communist regimes in other parts of the world.³⁰ Thus, over the past 30 years, several developed and developing countries have strengthened property taxes reforms as a critical component of tax reform discourse and as part of land reforms, urban policies, decentralization, and local government reforms. Reflecting such changes, the continent of Africa has also seen extensive work on property tax reforms in more than half of the 54 countries during the last 20 years as part of land reforms and local government reforms, out of which Ethiopia can draw important lessons.³¹ Therefore, in the next sections, an attempt has been made to draw lessons from four different jurisdictions with a specific focus on their reform experiences and design issues.

2.1. Tanzania

Although property tax has a long history of ups and downs, it is the re-establishment of local government authorities through Local Government Finance Act No. 9/ 1982 and Urban Authorities Rating Act No. 2/1983 (as amended in 2019) that celebrate the rebirth of property tax and reforms in Tanzania.³² The Tanzanian property tax laws use buildings as a tax base. The value-based taxation covers buildings within the taxing jurisdictions in actual occupation and improvements therein with the exclusion of undeveloped land. Exempted properties include those personally occupied by the President, properties used for public utilities or public worship, public libraries and museums, cemeteries and crematoria, civil and military aerodromes, sporting

³⁰ *Id.*

³¹ *Id.*

³² Kayuza, H., Real Property Taxation in Tanzania: Reflections from Dar es Salaam City, *Utafiti Journal*, Vol. 7, No. 1, (2018); Massawe, Hanifa T., Regulation of Property Tax in Tanzania: Legal and Administrative Challenges, *KAS African Law Study Library* 7, No. 3, (2020): 424-438.

facilities, railway properties, and any other property as the Minister responsible for Local Authorities shall prescribe.³³

While responsibilities for the various phases of property tax administration are shared by respective government authorities, the ultimate power of property tax collection rests within local governments. In Tanzania, the market value for a building or improvements made to it forms the basis of property tax.³⁴ The property tax rates are prescribed by the local authorities.³⁵ Tanzania's property tax regime also provides mechanisms for tax enforcement systems (confiscation of payments and profits from the respective property, fines, and interests on late payment) and dispute settlement bodies that consists of relevant skilled and qualified personnel to adjudicate.³⁶

2.2. South Africa

South Africa has a long history of property tax practice and currently performs relatively well in terms of tax collection efficiency.³⁷ While over 64% of its population is living in urban areas, more than 90% of individual properties are formally registered and more than 80% of property holders are listed on the land and property tax roll.³⁸ Currently, municipalities update the list of properties (including those subjected to exemptions, deductions, and rebates), assess all of their properties, and enforce property taxes by attaching the property of delinquent taxpayers.³⁹ Municipalities derive their power to levy property tax from the Constitution of the Republic of South Africa,

³³ Urban Authorities Rating of Tanzania, (1983), Section 7.

³⁴ *Id.*, Section 22.

³⁵ *Id.*, Part IV

³⁶ *Id.*, Section 26 and 29.

³⁷ Franzsen, R. C. D. and W. H. A. Olima, Property Taxation in Southern and East Africa: Lessons from South Africa and Kenya, *SA Mercantile Law Journal* 15, no. 3, (2003), PP. 309-325.

³⁸ *Id.*, P. 324

³⁹ *Id.*

which establishes three independent tiers of government with defined powers and functions.⁴⁰ Later the national law, which is enacted to repeal previous provincial laws and provide for a uniform system of property tax, gives the power of levying and collecting property tax to local metropolitan and municipalities.⁴¹ Yet, local governments adopt property tax legislation as far as it is consistent with the central government municipal property rate Act.⁴²

Regarding the tax base, property tax is levied on owners of immovable property based on the market value, comprising land and buildings as one composite value.⁴³ Tax rates are set locally and annually by municipalities and the SAMPRO allows municipalities to levy different tax rates on different categories of property.⁴⁴ Coming to the property tax exemptions, the SAMPRO under section 15 exempts residential properties whose threshold market value is at least the first ZAR 15,000; a hundred percent of public infrastructures such as roads, waterways, railway lines and airports; thirty percent of the value of taxable public services infrastructure such as the coastline and offshore islands; mineral rights; property used primarily as a place of public worship; property owned by land reform beneficiaries.⁴⁵ Yet it is important to note that such an exemption applies only for 10 years from the acquisition; and parts of national parks, nature reserves, and botanical gardens.⁴⁶

2.3. Thailand

⁴⁰ The Constitution of the Republic of South Africa, (1996), Article 229.

⁴¹ The South Africa's Local Government: Municipal Property Rates Act 6/2004, Article 2, {hereinafter SAMPR}

⁴² *Id.* Article 2(3)

⁴³ *Id.*, Section 46.

⁴⁴ *Id.*, Section 8.

⁴⁵ *Id.*

⁴⁶ *Id.*, Section 15.

Before a couple of decades, Thailand levied an annual real property tax such as Local Development Tax (LDT) or House and Land Tax (HLT).⁴⁷ In addition to these two forms of taxes, there was also a property transfer fee on the market value of the transferred property.⁴⁸ The Thailand Land and Building Act provides that local governments have the power to collect tax on land or buildings located in their jurisdictions and use the revenue therefrom.⁴⁹ The law also obliges individual or legal entity that owns, possesses, or has usage rights of land or buildings, including condominium units to pay land and building tax.⁵⁰

The tax base is the total value of land or building.⁵¹ The value of land or a building is determined based on its pre-assessed value, which shall be published by local governments each year and the tax rates shall be specified in a Royal Decree. For land or buildings which are vacant or unused for more than 3 consecutive years, the tax rates will increase by 0.3% every three years. The property of the State, the property or offices of the UN and other international organization, property serving as an office of an embassy, the property of the Thai Red Cross, the religious asset of any religion and used only for carrying out religious activities, the property owned by the charitable organization, property privately owned, the common asset for common benefits of co-owners, public utility land, etc. are exempted from land and building tax.⁵²

Each year local governments notify tax assessment with particulars of land or buildings, the pre-assessed value of the property, tax rates, and the amount of

⁴⁷ Laovakul, D., Property tax in Thailand: An Assessment and Policy Implication, *Thammasat Review of Economic and Social Policy*, 2(1), (2016), 24-53.

⁴⁸ William McCluskey, Roy Bahl, and Riël Franzsen, Strengthening Property Taxation within Developing Asia, *ECON Publications*. 105, (2021), PP. 1-16.

⁴⁹ Thailand Land and Building Act, *B.E. 2562*, (2019), Section 7.

⁵⁰ *Id.*, Section 9.

⁵¹ *Id.*, section 35.

⁵² *Id.*, Section 8.

tax payable.⁵³ A taxpayer who received such notices has the right to object to the assessment and ask the local administrator for review. In a case where taxpayers are not satisfied with the decision of the local administrator, an appeal can be lodged with the Tax Assessment Appeal Committee. In cases where a taxpayer has failed to pay tax within the specified time, the taxpayer shall be liable to make a penalty amounting to forty percent of the tax in arrears. As an exception to this rule, in cases where the taxpayer has paid tax before receiving the written warning, the taxpayer shall be liable to make a penalty payment amounting percent of the tax in arrears.⁵⁴

The other experience worth noting from Thailand relates to the “Land and Buildings Tax Decision Committee”. This committee consists of different heads of office including the Director-General of the Department of Lands, which is entrusted with duties and powers to decide over questions on the collection of tax, to give counseling statements or advice in connection with the collection of tax, and the compliance, and to perform any other activities as provided by law.⁵⁵

3. The Genesis and Development of Property Tax in Ethiopia

3.1. Pre-1940s Property Taxation

Ethiopia, whose history as a nation-state can be traced back to antiquity, had passed through various forms of property tax under different land tenures and political administrations. As is the case in other parts of the world, its tax system, especially land and agriculture taxation, dates back to ancient times. In the Aksumite kingdom, like other dynastic kingdoms of the time, kings resorted to compulsory tributes and other traditional forms of taxes from

⁵³ *Id.*, section 44.

⁵⁴ *Id.*, section 62.

⁵⁵ *Id.*, section 16.

conquered peoples and kingdoms.⁵⁶ Some other sources argue that it was during the Zerayacob time that the first tax system was introduced in Ethiopia.⁵⁷ Central and provincial rulers compelled subjects to provide compulsory service to the kingdom. Shreds of evidence found in some inscriptions attest that particular property taxes, such as taxes on crops, livestock, livestock products (such as butter, milk, and wool), hunting products (ivory and honey), and handicraft products were imposed and collected in the ancient and medieval periods in Ethiopia. The king was at the center of his imperial rule, while there were powerful provincial lords who had substantial power over the lands and the people in their respective provinces. It can be emphasized that land played a significant role in the development of the Ethiopian state and taxation in general. The traditional system of land tenure in Ethiopia is essentially based on the concepts of Rist and Gult.⁵⁸ Although there is no record evidence as to what type and how taxes were levied, the tax system was generally traditional and in-kind criticized as excessively burdensome, arbitrary, and oppressive.⁵⁹

In 1907, a landmark legislation recognizing private ownership of urban land was enacted. This legislation provided tax as one of its objectives in which government shall assess the amount of money to be paid depending on its value. In the 1920s, the government made early attempts to simplify and

⁵⁶ Addis Chamber –Alliance Professionals, Tax System Manual, (2004), [hereinafter Tax System Manual]

⁵⁷ *Id.*

⁵⁸ Rist is a group right emanated from family relations and inherited among descendants. On the other hand, gult is not the right to hold land but the right to administer and collect tribute from landowners. Hence, rist was relatively secure in that there was less eviction and state interference. But taxes were payable in both cases. **See generally**, Temesgen Gebeyehu, Land Tenure, Land Reform and the Qalad System in Ethiopia 1941–1974, *Journal of Asian and African Studies*, Vol. 46, No 6, (2011), PP. 567–577; Dechasa Abebe, A Socio-Economic History of North Shāwa, Ethiopia 1880s-1935, PhD Thesis University of South Africa, (2015).

⁵⁹ Tax System Manual, *Supra* note 56.

standardize the agricultural tax system. For example, in 1929 practical measures such as the introduction of new regulations for the survey and measurement of lands, abolition of unpaid services, greater equity in taxation, and making *Asrat* a tax paid yearly to the Government and equivalent to one-tenth of the produce of the land payable in cash. In 1935, a law establishing a single land tax was introduced, which among others, provided that all landholders were henceforth required to pay 30 Thalers (silver coins) per Gasha per annum and were to be relieved from all other taxes and obligations of service. During the Italian Occupation, the colonial administration canceled all land taxes, collecting only the *Asrat* and imposing corvees i.e., forced labor exacted instead of taxes.

3.2. Property Tax During the 1940-1974- Signs of Progress

As part of Post-liberation measures, administrative and temporary reforms were made to centralize taxation and reintroduce the land tax in the 1940s. In 1942, a special regulation was issued for the payment and collection of the *Asrat*. This was followed by the introduction of the first land tax, i.e., Land Tax Proclamation No. 8/1942.⁶⁰ According to the Proclamation, an annual land tax is collected at the rates of 15, 10, and 5 Birr respectively on a Gasha of fertile, semi-fertile, and poor land. In the provinces, where land had not been measured, land taxes were paid based on the 1935 law, the rate being half the rate on measured lands. In 1944, Land Tax Proclamation No. 70/1944 was enacted to repeal Proclamation No. 8/1942 and continued in service for more than two decades. This law introduced two land-based taxes: the *Asrat* and the Land Tax. The tax provides for the classification of lands into fertile, semi-fertile, and poor lands and authorizes the Minister of Finance, subject to the approval of the Council of Ministers, to change or amend the rates for the payment of the *Asrat*.⁶¹ The Land Tax (Amendment) Proclamation No. 84/1947 also introduced some minor changes concerning penalties for default

⁶⁰ Land Tax Proclamation No. 8/1942, *Negarit Gazeta*, (1942).

⁶¹ Land Tax Proclamation No. 70/1994, *Negarit Gazeta*, (1994), **Article 5**.

in the payment of the tax. Subsequently, the Land Tax Amendment Proclamation No. 106/1949 was enacted. Later, Land Tax Regulation Legal Notice No. 257/1962 came to effect, providing for a reclassification of all measured land as fertile, semi-fertile, and poor.

The other major amendments to the 1944 tax law included the introduction of "Education" and "Health" taxation. The Education Tax Proclamation No.94/1947 levied taxes on all lands. The Education Tax is basically a proportional tax since the relative tax burden remains constant with increases in the size of private landholding. Later, Additional Education Taxes Proclamation No. 279/1970 imposed a 30 percent education tax on urban property and on personal emoluments at the rate of 0.50 Birr on monthly earnings of 50.00 - 100.00 Birr and at the rate of 2 percent on all monthly earnings in excess of 100.00 Birr. Finally, health tax Decree No. 36/1959 provided for the payment of tax on measured and unmeasured land in various provinces.

In 1954, the Cattle Tax Proclamation No. 142/1954 was enacted, and according to this tax law all cattle breeders had to pay an annual tax on each head of cattle: Camels, 0.50 Birr; Horned cattle, 0.25 Birr; Horses, 0.25 Birr; Mules, 0.25 Birr; Donkeys, 0.10 Birr; Goats, 0.05 Birr; Sheep, 0.05 Birr; Pigs, 1.00 Birr and suckling animals are excluded from any form of taxation. This law was amended through Cattle Tax Assessment Legal Notice No. 187/1954. In 1961, another tax legislation, targeting incomes from the exploitation of woods and forests for lumber purposes was enacted as Income Tax Proclamation No. 173/1961. It should be recalled also that Income Tax Amendment Proclamation No. 255/1967 makes certain agricultural activities liable for taxation.

With regard to municipal governance, the mayorship system which includes municipal council and municipal management under a 'Kentiba' (Mayor) or Town Officer was introduced in 1945. The law assigned specific competencies and functions to municipalities. Accordingly, municipalities

were entitled to fix local rates on fares for taxis, carts, and saddles; and on all immovable properties; to assess and collect charge fees for water supply, and for municipal public services such as licenses on trade and professions, use of market places, vehicles and driving license, slaughtering and meat delivery fees, sanitary charges, land survey and registration fees advertising, cattle registration, and to collect rental income tax, as well as health tax. Property taxes on land and buildings were assessed by area or calculated as a percentage of the rental value of the Property.

3.3. Property Taxes During 1974-1991- Regresses

Following the 1974 socialist revolution, the Marxist military regime, known as Derg, enacted a series of radical reform measures across the economy. It was started with the nationalization of all rural and urban lands⁶² and complemented by reforms in the revenue sector. In rural areas, the new Rural Land Use Fee and Agricultural Activities Income Tax Proclamation No. 77/1976, and in urban areas, Urban Land Rent and House Tax Proclamation No. 80/1976 were promulgated consistent with the new political economy. These laws made some tax laws obsolete and replaced them with new ones, others were amended, and new ones were introduced. In particular, the Land Tax Proclamation No. 70/1944 (as amended), Legal Notice No. 257/1962 (as amended), the Education Tax Proclamation No. 94/1947, the Health Tax Decree No.37/1959, and the relevant provisions of the Income Tax Amendment Proclamation No. 255/1967 were expressly repealed. As it can be read from the heading, Proclamation No. 77/1976 introduced two types of levies in the rural area (land use fee and an agricultural income tax) and Proclamation No. 80/1976 levied two kinds of payments in the urban area (urban land rent and house tax). Proclamation No. 80/1976 was amended by Proclamation No. 161/1979 and reinforced by the 1979 Provincial Urban Land Rent and Urban Houses Tax Regulation Legal Notice No. 64/1979. Proclamation No. 77/1976 was also amended by Proclamation No. 152/1978,

⁶² *Supra* note 13

which increases the fees and the rates in rural areas. Peasants Associations (PAs) and Kebele Urban Dwellers Associations (KUDAs) were established as local administrative units through Peasant Associations Organization and Consolidation Proclamation No. 71/1975 and the Urban Dwellers Association Consolidation and Municipalities Proclamation No. 104/1976. These local administrative units were purely policy implementers of the central government and were in charge of implementing land reform, coordinating land redistribution, and collecting taxes. In short, as far as urban revenue sources are concerned, the governing law was Proclamation No. 80/1976 and a legal possessor of urban land was required to pay an annual land rent assessed on the basis of the size of the plot and the quality of its location within the city (categorized as Grade 1, 2, or 3) and for urban houses assessed as a percentage (progressive rate from 1 - 4.5%) of the annual rental value. The proclamation exempts some properties for state and social functions and covers tasks of billing, collection, enforcement and other tax administration responsibilities.

3.4. Property Tax in the Post-1991

The FDRE Constitution decentralized the administration of land to the regional governments while it kept the formulation of land policy at the center.⁶³ Looking at the division of taxation power under Articles 96-99, most land and property-related taxes, fees, and charges were assigned to regional states. However, the Constitution has no clear provision about the power of property taxation. The determination of the power to tax property tax has been one of the critical questions in the post-2011 reform process. While some consider the tax as assigned to the regional states under article 97, others argue that the tax is undesignated under article 99 waiting for the decision of the House of Federation (HoF) and House of Peoples Representatives (HPRs)

⁶³ The Constitution of Federal Democratic Republic of Ethiopia, Proclamation No.1/1995, Federal Negarit Gazeta, (1995) (Hereinafter FDRE Constitution) Article 55 (2) (a) cum 52 (2) (d)

joint session. Still, the literature and some policymakers contend that it's legitimate and timely to snatch this power out of the hands of the regional and federal governments and bestow the power to urban local governments. Recently, in their 1st joint special meeting of the 2nd year of the 6th HoF and HPRs joint session, decided to give the authority of property tax to regional states, which are supposed to devolve the power to local governors as per their constitutional powers.

This being the case, it should be noted that, in the early days of EPRDF, the Derg laws on agricultural taxation and land use fee and urban land rent and house tax remained in force and was used by regional states. Later, regional states continued imposing and collecting various rural land use fees and agricultural income taxes. In urban areas, the urban rent and urban houses tax law of 1976 as well as the regulations issued by City administrations remained in force long after Derg was toppled. While Addis Ababa continues to rely upon municipality tax laws issued during the Derg and Imperial times, some of the regional states have issued their own legislation on fees and taxes following the decentralization of power in the post-1991 period.

In Sum, there is no property taxation in the strict sense of the term, and the existing property-like payments are riddled with legal, technical, and institutional problems. The only referable national legislation for property taxation is the Urban Land Rent and Urban Houses tax Proclamation No. 80/1976. However, this proclamation has no force of law and needs to be significantly revised to reflect the legal, political, economic, and social changes that have occurred over the decades in this country. The existing municipal revenue sources are not property taxes *stricto sensu* and Ethiopia is undertaking property tax reform since 2011 with the general goal of introducing recurrent property tax in the urban centers of the country. So far pilot studies have been carried out, draft prototype legislations are prepared and parliamentary discussions are underway. Property tax law design, which is a critical component of the reform process, involves a number of issues and the following section tries to explore design options.

4. Major Design Issues in Ethiopia's Property Tax Reform

While property tax remains the most important local revenue source across the world, there is no uniform structural design and administrative procedure. Both the law and the practice feature substantial differences across countries. There is also considerable empirical and theoretical literature justifying such different approaches by policymakers. Understanding such alternatives in designing the structural and administrative components of property tax is crucial in countries like Ethiopia undertaking a reform for this category of tax. According to Sjoquist and Sweat, operationalizing property tax requires a mix of choices regarding design issues and questions such as: what property will be taxed (land, improvements, personal property); what is the basis of assessing the tax (market value, rental value, area or something else; who will be the taxpayer (owner or user); what will the tax rate structure be (a flat rate or rates that differ by value, type or location of property); what options will be available to enforce collection (foreclosures, police force), etc.⁶⁴ This is to refer to some of the key components of a property tax system such as determining the tax base, assessing that base, setting the tax rate, and running the system through levels of government. This section highlights some notable legal and practical issues in designing and administration of property tax law. For this purpose, an attempt is made to survey how the various structural and administrative questions are answered in various countries and the literature with a special focus on arguments for and against alternative approaches. In addition, reference is made to the laws in force during the Imperial and Derg governments. Finally, it looks into major design issues as a way to inform the Draft Federal Prototype Proclamation.

4.1. Tax Bases: What shall be taxed?

⁶⁴ David L. Sjoquist and Dan E. Sweat, Foreword, in William J. McCluskey et al. (ed), *A Primer on Property Tax Administration and Policy*, Blackwell Publishing Ltd, (2013) p. xvii.

Property tax is supposed to be levied on the different types of property: real or personal, movable or immovable, private and public, corporeal or incorporeal, tangible or intangible, etc. as recognized by legal systems. Thus, the first important question with respect to the tax base is determining the tax modality and types of property subject to such tax.⁶⁵This issue has attracted different views and countries have no uniform approaches in the determination of property tax base. The general property tax that taxes all types of property (movable, immovable, tangible, or intangible) is common in countries such as the USA but became untenable in other countries as movables, financial assets and other intangibles are inherently difficult to identify and assess.⁶⁶ This is particularly true for developing countries such as Ethiopia. Property tax legislation during the Haile Sillase and Derg regimes taxed only land and buildings. Even within the category of immovable property, an important choice exists between a tax on land and a tax on buildings or both.⁶⁷In some countries, like Kenya, only the land portion of the property is taxed; while in countries, like Tanzania, only buildings are taxed. Many supports taxing land because its value increment is largely contributed by the state and the public, it's most concentrated in the hands of the rich and speculators, it shares the greatest value as a portion of real estate value, and it has a fixed supply and tax encourages good use.

It is also argued that taxing buildings might be counterproductive for it stifles or retards urban renewal and capital formation, it tends to be progressive, and shifting the tax burden to the poor and public/citizens involvement is minimal on building compared to land. Studies indicated that most countries, like

⁶⁵ Richard M. Bird and Enid Slack, *Supra* note 2, P. 12.

⁶⁶ *Id.*

⁶⁷ Harry Kitchen Property Tax: A Situation Analysis and Overview, in William J. McCluskey et als (ed), *A Primer on Property Tax Administration and Policy*, Blackwell Publishing Ltd, (2013), P. 3. Harry Kitchen describes the experience of countries in Choice of tax base as some countries tax land only, few countries tax buildings only, and most countries tax both land and buildings.

South Africa and Thailand, prefer to tax both land and buildings (improvements). There is no uniformity even among those countries that levy tax on both the land and the improvements. Some of these countries such as South Africa value land and buildings together and others like Thailand value the two separately.

In countries where both land and improvements are taxed, the land portion is sometimes taxed more heavily than improvements.⁶⁸ This is to discourage speculation and encourage property developments, especially in urban areas. However, not all land and buildings are the subjects of the same tax. In almost every country, owner-occupied residences and farm or agricultural land and property receive favorable tax treatment, while the non-residential property is subject to higher taxes. There are also exemptions that we will see down the lines. Although few in number, some countries such as South Africa also levy what is known as 'site value taxation'.⁶⁹ These countries prefer to impose a tax on location or site value regardless of other attributes. The literature recommends such a tax be more progressive than a tax on land and improvements.⁷⁰

The Ethiopian legal system classifies all goods (the subject matter of property rights) as either movable or immovable.⁷¹ Furthermore, it considers land and

⁶⁸ *Id.*

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ Ethiopian Civil Code, *Negarit Gazette*, (1960), Article 1126. The reading into the subsequent articles of the civil code and other legislations also reveals the recognition of incorporeal (intangible) things as subject matter of property. Separate legislations are currently developed for the four types of intellectual property rights (IPRs): patents, trademarks, copyrights, and trade secrets. See The Copyright and Neighboring Rights Protection Proclamation No. 410/2004; A Proclamation Concerning Inventions, Minor Inventions and Industrial Designs Proclamation No. 123/1995; Trademark Registration and Protection Proclamation No. 501/2006. Ethiopia doesn't yet develop a

buildings as two separate types of immovables and provides for the private ownership of both.⁷² Accordingly, the imperial government introduced land tax through the first Land Tax Proclamation No.8/1942, which remained in force, in different forms, until 1974. The separate treatment of land and improvements under the civil code was further reinforced in the 1975 land reform, which nationalized all land by two different proclamations (Proclamation No. 31/1975 and Proclamation No. 47/ 1975) and restricted private ownership to improvements over land. The regime further abolished land taxation and introduced urban land rent and house tax through Proclamation 80/1976 and rural land use fee and agricultural activities income tax through Proclamation No. 77/1976. Under Proclamation No. 80/1976 it was only buildings that were the subjects of property taxation. After the downfall of the Derg regime, the FDRE Constitution envisages that ownership of land is vested in the state and the people, while ownership of the building is given to the individual.⁷³ The Constitution assigns the power to levy and collect the various tax and non-tax revenues from land and buildings to the regional states that attempt to devolve power to urban and rural local governments. Thus, land and buildings are separate things and are owned by two separate bodies under the Ethiopian legal system. The determination of tax bases in the ongoing property tax in the country will be guided by these historical and constitutional dictates.

From an interview with Belete and Atsede, it was possible to learn that the determination of the tax base was one of the policy issues in the property tax

separate tax regime to IPRs. The various taxes applicable to IPRs are found scattered in the income tax laws.

⁷² *Id.*, Articles 1130 and 1204. This is an unusual position different from other legal systems such as the French Civil Code, which declares that ownership of surface of land means ownership of all things above and below the land.

⁷³ *Supra* note 63, Article 40(3), (7)

reform process in Ethiopia.⁷⁴ Taxing land remains a debatable issue in the country. In present-day Ethiopia, urban land is jointly owned by the state and the people and exists in at least three forms: old possession, lease holding, and informal holding. The government of Ethiopia remains hesitant to tax usufructuary or holding rights land and tax was restricted to housing since the Dreg time. However, the Draft Federal Prototype Proclamation seems to break this tie. Article 3 of this draft provides that property tax shall be levied on all urban land and buildings located in Ethiopia unless expressly specified by this Proclamation. Moreover, according to Article 6, land use tax should apply to urban leasehold land and land improvements other than buildings and building tax should apply to buildings on urban leaseholds. On the other hand, permit fees shall be charged and collected from all land uses and buildings constructed or to be constructed on all urban land and landed properties outside the leasehold land tenure. The possibility of separate and joint rating of land use tax and building tax is also indicated under Article 7. Thus, the draft tends to favor tax levying on both land and buildings although there can be a separate assessment.

4.2. Property Tax Assessment and Valuation

Once the tax base is decided, a second key question in designing property tax law is how to determine the value to which the tax rate will be applied. This is commonly known as assessment or valuation. The international practice shows that countries widely employ four methods of assessment: area-based assessment (area-based taxation), market value assessment (market value as a tax base), rental value assessment (income-based valuation), and land (or site)

⁷⁴ Interview with Belete Alemayehu, Urban Revenue Reform Project Bahir Dar Coordinating Office, (23 May 2022), Interview with Atsede Hailu, Urban Revenue Reform Project Office, Ministry of Ministry of Urban and Infrastructure, (16 May 2022).

value systems.⁷⁵ A closer look into the experiences shows that countries use these methods independently or in combination

While these methods are widely recognized, scholars such as Enid Slack and Richard M. Bird broadly classify them into two categories: area-based (specific systems) and value-based (*ad valorem* systems) assessments, with the latter again divided into capital, rental, and site value approaches.⁷⁶ Further, as shown in the table below there is no uniform property tax base or methods of assessment that apply in every country.⁷⁷

Table 4: Experience of Selected Countries on Tax Base and Assessment⁷⁸

Country	Tax Base	Basis of Assessment
Tanzania	Buildings, structures, or limited development	The market value of buildings
South Africa	Land and/or improvements	The market value of land or buildings

⁷⁵ Roy Bahl, Property Tax Reform in Developing and Transition Countries, USAID, (2009), P. 6, See also Enid Slack, Why Value-Based Property Taxation? Institute on Municipal Finance and Governance, University of Toronto, (2013),

⁷⁶ Enid Slack and Richard M. Bird, *Supra* note 65, P. 8.

⁷⁷ The conventional consensus is that value systems are best for benefits from services are more closely reflected (in property values than in its size) and it enable to capture the value added by government or public expenditures. On the other hand, countries use area-based systems of taxation because they lack the necessary information, expertise, and resources to determine market values or perhaps because the market-value approach is considered politically unacceptable. Some countries also give the choice to taxpayers.

⁷⁸ Kitchen, Harry, Property tax: A Situation Analysis and Overview, *A Primer on Property Tax: Administration and Policy*, (2012), PP. 1-40.

Thailand	Land or Buildings	The market value of land or buildings
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Under the area-based assessment method, which is widely used in developing countries, each unit of property is taxed at a specific rate per area unit of land and improvements or structures.⁷⁹ The advantage of the area-based system is that it is simple, transparent, and fairly easily administrable compared to value-based systems. This also makes the system affordable to even countries with no or only a fledgling property market. However, it is not free from defects. In the first place, it hardly appears fair for the tax to be imposed based on the size or physical characteristics of a property without considering the quality of any improvements or value increments. It also casts doubt that an area-based system cannot generate adequate revenue growth. It can only generate increased revenue through growth in the number of buildings, or by periodic and unpopular tax rate increases. In other words, there is no automatic growth in the tax base and its buoyancy is limited for it cannot enable tracking market price developments. Scholars such as Roy Bahl argue that developing and some transition countries should focus on administrative considerations and the area-based approach is the most realistic option available for effective administration.⁸⁰ The market value assessment methods start with defining the base as the market value⁸¹ of the property in an open market.⁸² This is known as the capital value of land and improvements or structures. The comparable sales approach, which relies on valid sales of similar properties, is the most commonly used method to estimate market value. Comparisons are often accompanied by adjustments based on the physical characteristics of the site, construction materials used, size, availability of infrastructure services, and homogeneity of zones. This

⁷⁹ Roy Bahl, *Supra* note 75, PP. 10-11.

⁸⁰ Roy Bahl, *Supra* note 75, P. 12.

⁸¹ Market value is the price that would be struck between a willing buyer and a willing seller in an arm's length transaction.

⁸² Roy Bahl, *Supra* note 75, PP. 7-9.

approach is recommended when the market is active and similar properties are being sold frequently. The “depreciated cost approach” and the “income approach” are also used to arrive at market values. The first approach values the property by estimating the land value as if it were vacant and adding the cost of replacing the buildings and other improvements to that value. Such an approach is recommended when the property is relatively new, where there are no comparable sales, and the improvements are relatively unique. In the second approach, valuations are made by estimating the potential gross rental income the property could produce and deducting operating expenditures. This approach is recommended if properties have actual rental income.

The market value assessment method is the most equitable method for it helps to identify the extent to which a property value benefits from public or neighborhood investment, i.e. unearned increment. Proponents of the method also claim that it is easily understandable and makes taxpayers feel a low tax burden with nominal tax rates. Of course, this is not to say that the capital value approach is easily implemented. The key problems with this assessment method are the scarcity of accurate data reflecting market transactions or sales values of properties and under-declaration of prices. In part, the under-declaration is attributable to property transfer taxes that often are levied at high rates. There is likely great variation across as well as within countries in the quality of the data on the sales value of properties and oftentimes these data are supplemented by the “expert judgment” of assessors and real estate professionals. The administrative cost of the system can also be high for valuations are often provided by expert assessors. Recently countries are applying computer models to undertake valuation more accurately and at a better speed. The market value assessment method is used in most developed countries although there is a global trend to shift towards this method in other countries.

In the rental value assessment method, tax authorities define the tax base as the rent reasonably expected in a fair market transaction.⁸³ The justification is that it is appropriate to tax income (a flow) rather than wealth or the property itself (a stock). In general, the rental value assessment method is simple to conceptualize and enforce. Yet, the method can be challenging to use in practice. In the first place, there is usually a scarcity of data rents actually paid. Without such direct evidence, it's problematic to put the method into practice and countries often look for the estimated, not actual, rental value as a tax base.

In some countries, rental values are determined by estimating the market rental values that can be imputed to all properties in a neighborhood based on available rent data from surveys or expert judgment. This method is used mainly for flats and some houses. The other problem is that some properties may not be found in the rental market. This is particularly true for properties such as owner-occupied housing, larger commercial establishments, factories and industrial properties, and vacant land. The same problem can also happen with respect to properties covered under the rent control regime. For such kinds of properties, countries tend to use capital value and cost of acquisition to determine rental value.

In the land (or site) value systems, countries assess and tax the market value of the land alone.⁸⁴ Although the system is introduced very recently, it has been in use in countries such as South Africa. Many support the system for good revenue-raising potential, incentivizing efficient use of land and requiring low administrative costs. However, assessing land value is complex, especially in highly urbanized areas. The system also suffers from the same type of administrative shortcomings as the capital value tax. Finally, limiting the tax base to land may result in some arbitrary rules in assigning tax liability

⁸³ Id., PP. 6-7.

⁸⁴ Id., PP. 9-10.

within multi-unit structures in cases where there is no private or single owner of the land.

The analysis of the experience of different countries leads us to the conclusion that the best system for a given country probably depends on the administrative capacity of the state, the present state of property markets, the availability of transaction data, land and housing tenure, and policy objectives, i.e., what the country wants most to accomplish with the property tax. One can notice various options here as an example. Obviously, valued-based assessment systems are adopted in countries where there are fully functional property markets, whereas, in countries where property or real estate markets are not fully developed, area-based assessment is preferred.

The international practice further shows that developing and transitional economies eventually move to a value-based system as their economies develop and real estate markets emerge. If the overriding policy goal in the country is to treat taxpayers equitably, it's the value-based systems that can work well. In some developing countries, property tax reforms are designed to treat the property tax as an extension of the individual income tax. The idea is that as rental income is often under-declared for income tax purposes, the property tax can be seen as a backup. In this regard, a rental value system is considered appropriate. However, property tax revenue is affected by underreports in rental income tax. On the other hand, in developed countries, property taxes are seen as wealth taxes. In these countries, a capital value or a land value property tax is a reasonable approach. On the other hand, if most of the properties are held in rental tenure, the focus might be on annual rental value, and if tenure is dominated by owner-occupancy, there is a stronger argument for an (improved) capital value base. The area-based system works best in rural areas while the *advalorem* system is good for urban places, especially for large cities. In urban areas where land is subject to speculation or is not being developed intensively, a land value tax might be considered preferable for its ability to encourage efficient land use and internalize social costs. The identification and valuation of the property tax base are difficult, if

not impossible, where land ownership is not in the private sector, where there is a slow or no real property market, and land registries and cadastres are weak, and not regularly updated.

Turning to the Ethiopian tax landscape, we could find some assumptions underlying the ends and process of taxation. For example, the valuation and assessment of annual property tax under Proclamation No. 80/1976 begin with the assumption that land is a property of the state and cannot be sold in the market. Moreover, land rent values were nominal amounts for it was not considered as an investment return but rather as exploitation. In other words, the annual assessed rental value of properties for tax purposes was far below the market rate. Thus, the method of assessment and valuation under proclamation No. 80/1976 was largely area-based. The Tax Administration Proclamation No. 983/2016 also recognizes the fair market value principle although its applicability to the coming property tax law remains questionable.⁸⁵

However, the draft Federal Prototype proclamation under Article 12 (2) (a) provides that the annual tax rating schedule shall take into account the annual value or rental or market value of landed properties assessed in the valuation roll applicable to the concerned urban area.⁸⁶ Thus, the property tax reform intends to adopt the rental or market value method of assessment. The adoption of the *advalorem* system can be supported from the perspective of equitability. However, its feasibility remains questionable given the administrative capacity of the state, the state of the property market, the availability of transaction data, and the land and housing tenure in the

⁸⁵ Tax Administration Proclamation, *Federal Negarit Gazeta*, Extraordinary Issue, Year 22, No 103, No. 983/2016, Article 3.

⁸⁶ FDRE Draft Federal Property Tax Prototype Proclamation, Article 12 (2) (a).

country.⁸⁷ For many experts, it is unaffordable for the Ethiopian tax system and land administration.⁸⁸

4.3. Property Tax Rates

The determination of property tax rates is one of the basic design elements making up the scholarly dialogue and policy debate in this tax regime.⁸⁹ The first major issue on this subject is related to the source of legitimate authority to determine the tax rate. This is to say should the tax rate be set centrally or locally? As also discussed in section four of this study there is a considerable difference among countries regarding the responsibility for determining tax rates. In some countries such as Thailand, property tax rates are essentially set by the central government; in other countries such as South Africa local governments are empowered to fix the tax rate with the range of rates set by the central government; yet in others such as Tanzania, the local government has full right to determine the tax rate.⁹⁰ The choice among these alternative approaches is usually determined by the commitment of the higher government to fiscal decentralization.⁹¹ Thus, it can be a question in Ethiopia as to whether the federal, regional, or local governments assume the role of determining the tax rate. Many agree that local governments need to have control over the property tax rate with due accountability to the local electorate. However, there is a fear that local governments may not have the

⁸⁷ Belete Alemayehu, *Supra* note 74

⁸⁸ Interview with Lakachew wubale, Urban Revenue Enhancement Expert, Ministry of Ministry of Urban and Infrastructure, Addis Ababa, (16 May 2022), Interview with Seleshe Woldegabriel, Municipal Finance Consultant, Addis Ababa, (16 May 2022).

⁸⁹ Richard M. Bird and Enid Slack, *Supra* note 2, PP. 21-24

⁹⁰ Id. P.21. see also, Richard Almy, A Survey of Property Tax System in Europe, Department of Taxes and customs, Ministry of Finance, Republic of Slovenia, (2001), P. 13.

⁹¹ Kurt Zorn, Establishing a Tax Rate, in William J. McCluskey et als (ed), *A Primer on Property Tax Administration and Policy*, Blackwell Publishing Ltd, (2013), PP. 125-140.

required level of capacity or may enter into unnecessary tax competition.⁹² Thus, it's recommended that a maximum rate must be set by higher governments to overcome these problems.

Moreover, static property tax rates would adversely affect revenue buoyancy, especially in an inflationary environment and where there is no regular revaluation of properties. In other words, there shall be room for flexibility in a way it does not invite administrative complexity, arbitrariness, and abuse of power. Regarding the amount and nature of the tax rate, there is a consensus on the need to keep the tax rate generally low, especially in developing countries.⁹³ When it comes to the question of design, property tax can be designed with proportional or progressive rates. Like the case in other taxes, progressive rates are good in terms of equity (those who own more expensive properties have a greater ability to pay), yet it has also limitations as it is difficult to administer taxation and induces tax avoidance.

The other question in property tax is about the choice between uniform and differential rates deepening on the types, uses, ownership, location, or value of a property. In some countries such as Tanzania and South Africa, a uniform tax rate/single statutory tax rate is applied on all taxable properties irrespective of variations. However, others like Thailand apply differential or classified tax rates based on ownership (owned by individuals or by legal entities or state-owned), location (center or periphery), tenure status (vacant/undeveloped or developed), land use (residential commercial, or agricultural use), type of real property (land or buildings), or a combination of two or more of these features.

Differential or variable tax rates among property classes are justified on a number of grounds. The first and the most obvious reason is that benefits

⁹² Roy Bahl, *Supra* note 75, P. 13.

⁹³Richard M. Bird and Enid, Slack, Land and Property Taxation in 25 Countries: A Comparative Review, Cesifo Dice Report 3/2005, (2005), P.35.

from local public services are different for different property classes. For example, although the reality is the opposite presumably for political reasons, scholars recommend that non-residential properties must be taxed at lower rates than residential properties for business capital tends to be more mobile than residential capital.⁹⁴ Farmland and properties are favored in many countries compared to their urban counterparts. However, some argue that differentially higher taxation would distort land-use decisions (residential, commercial, and industrial uses) and efficient use of the factor of production (land and capital).⁹⁵ Experts such as Belete looked into the Ethiopian tax landscape, and hold that it is difficult and unaffordable to implement differential tax rates in Ethiopia today.⁹⁶ Looking further into the Ethiopian tax laws in light of the analysis, one finds different sources of authority for the determination of tax rates. During the imperial and Derg regimes, the tax rate was set by the central government and the rate was largely proportional and differential. For example, Article 6 of Proclamation 80/1976 stipulates that the rate shall be based on the grade or quality of the land. Post 1991 Ethiopia follows a federal system of government that relatively decentralizes the power to levy and collect tax at least to the regional governments. In this regard, Article 11 (1) of the Draft Federal Prototype Proclamation provides that property tax rating at the local level shall take into account estimated annual expenditures divided by the total assessed value of all taxable leasehold rights and buildings. Sub-article (2) further states that subject to sub-article (1) and taking into account reasons for macroeconomic stabilization and balanced development based on the categorization of cities, the initial property tax rate to be imposed by any local government shall not be less than 0.4 % and more than 2.5% of the real property value and the annual increment, excluding inflation. Finally, the law requires the tax rate to fall in the range of 1% and 2.5% of the value of the property at most. Thus, compared to the previous laws, the draft law sets a framework to empower local governments.

⁹⁴ Enid Slack and Richard M. Bird, *Supra* note 65, p. 10

⁹⁵ *Id.*

⁹⁶ Belete Lemayehu, *Supra* note 74

4.4. Exemptions

Like the case in other tax categories, it's common for property tax laws to provide exemptions to some domain of owners or users of property for social, economic, political, or administrative accounts.⁹⁷ In many countries including those discussed in section four, the common exemptions include residential houses, principal residences, public service infrastructure or public utilities, property owned and used for public worship, cemeteries, public educational institutions (schools, colleges, and universities), charitable institutions, public museums and libraries, foreign embassies and property owned by international organizations, public roads, parks, sports facilities, and public hospitals and medical facilities and agricultural land.⁹⁸ One can also find similar exemptions from the laws enacted during the period of the imperial and Derg regime. The perceived social benefits, consideration of economic neutrality, administrative efficiency, and political implications are the most common reasons used to justify exemptions. Yet, exemptions are criticized on several grounds.

The most common challenge is that most of the exemptions tend to be politically driven, substantially erode the tax base, introduce unfairness to the system, and are prone to abuse.⁹⁹ Countries devise some mechanisms to address this concern. Some strictly restrict exemptions to those properties that meet certain criteria such as properties with merit uses (such as schools and churches), properties of low value¹⁰⁰, or properties that are protected from

⁹⁷ David L. Sjoquist, A Brief History of the Property Tax in Georgia, Fiscal Research Center, Andrew Young School of Policy Studies, No. 182, (2008), P.18.

⁹⁸ Roy Bahl, *Supra* note 75, P. 14; Enid Slack and Richard M. Bird, *Supra* note 65, P. 7.

⁹⁹ Richard M. Bird and Enid Slack, *Supra* note 2, P. 24;

¹⁰⁰ Such exemptions are primarily granted to protect low-income families who live in areas that are not well serviced. In the same and related note,

domestic taxation by international treaties (such as foreign embassies). They also place a “sunset clause” on exemptions so that exemptions in the coming tax period are dependent on a successful evaluation if exemptions continue to serve their intended purpose. Such approaches are followed in many countries such as India and Kenya to limit or avoid the danger of blanket exemptions.¹⁰¹

According to Belete, one of the resource persons in the Ethiopian property tax reform process, property tax exemptions shall be designed considering various interests.¹⁰² For him, it shall take into consideration the low stage of property formation and development in most urban centers of Ethiopia. Article 14 of Proclamation No. 80/1976 provided some lists of exemptions from land rent and property tax. These included public roads, squares, recreation, and sports centers, cemeteries, places of worship and their compound, non-profit making private schools, hospitals, charitable institutions, government institutions drawing their budgets from the central treasury, and properties with an annual rental value of less than 300 Birr. A similar list is recognized under Article 14 of the Draft Federal Prototype Proclamation. There are no however qualifications and requirements to limit or avoid the negative impacts of exemptions on revenue, fairness of the system, or economic decisions.

4.5. Property Tax Administration

The structure and quality of the administration of the tax system are crucial to the equitable and efficient operation of property tax. A considerable amount of evidences show that poor tax administration impedes the implementation

properties have low assessed values so that the cost of collection could be as much as the revenue takes, if not more.

¹⁰¹ Roy Bahl, *Supra* note 75, P. 15

¹⁰² *Supra* note 74. This idea is also supported by another interviewee who is also expert in the field. Interview with Mulay Weldu, Tax Policy Directorate Director, Ministry of Finance, Addis Ababa, (18 May 2022).

of the property tax and is the main reason why property tax reforms fail to achieve the expected result in developing and transition countries.¹⁰³ In particular, local governments are often reluctant to make investments in property tax administration for they wrongly see the cost needed as very high relative to the revenue increase.¹⁰⁴ There are some key components of property tax administration such as identification of properties being taxed, preparing records and keep updating valuation, collection, enforcement, and appeals.¹⁰⁵ These elements form parts of conventional recommendations and many agreed that property tax reforms are not likely to be successful without recognizing them.

Building a viable property tax administration requires successful actions of identifying properties taxable in the jurisdiction, determining the owner, and ensuring that such information is periodically updated and consistent. Where these actions are successfully accomplished, assessed values bear little relationship to market value or annual rental value. Looking into the Ethiopian administrative practice, one notices a number of deficiencies in the system. This is mainly because most land and other properties are new, informal, and not titled and reported in the real estate cadastre.¹⁰⁶

Thus, there is a lot to be done on specific parcel identification number physical descriptions, tenure and ownership forms, (such as owner-occupied and non-residential), uses (such as residential, commercial, or mixed), assessment, tax payment history, and constant update on record. Without such parcel information, it's difficult to track changes and apply timely and accurate data for tax purposes. In many developing countries, only partial information is available, the system is not automated and records are not

¹⁰³ Roy Bahl, *Supra* note 75, P. 16, and Richard M. Bird and Enid Slack, *Supra* note 2, PP. 29-31

¹⁰⁴ *Id.*

¹⁰⁵ Roy Bahl, *Supra* note 75, P. 16.

¹⁰⁶ Interview with Atsede Hailu, Urban Revenue Reform Project Office, Ministry of Ministry of Urban and Infrastructure (16 May 2022).

regularly updated.¹⁰⁷ Moreover, there shall be reliable transaction values, adequate qualified valuers, and an efficient assessment process.¹⁰⁸ The other administrative concern relates to collection, enforcement, and appeal. Weaknesses in such areas of administration often result in low performance, low public trust, low compliance, and tax avoidance. In particular, while the tax authority should enforce the tax by using the powers granted, frequent use of draconian measures such as penalties and property seizure, foreclosure, and lack of an independent and efficient appeal system frustrate compliance. A lesson can be drawn from the experience of South Africa and Tanzania discussed in section four above.

Finally, property tax administration, especially in developing and transition economies, requires collaborative efforts across various tiers of government and different government departments.¹⁰⁹ The major activities in property tax administration can be the responsibilities of one or more institutions and can operate at various levels of government.¹¹⁰ For example, projects such as cadastre and computerized property registration systems are naturally expensive national projects that require commitment by the central rather than local governments. The central government is additionally responsible to prepare valuation manuals, deliver training, and provide other forms of technical assistance. This is because central authorities arguably can have better human, material, and budgetary resources. Yet, the full reliance on central authorities is not feasible for local governments shall play their role and eventually assume full responsibility for property tax administration. In many jurisdictions, central and state governments can be responsible for enacting legislation and setting up administrative bodies and their functions. It is generally recognized that the day-to-day or more specific functions are best

¹⁰⁷ Roy Bahl, *Supra* note 75, P. 18.

¹⁰⁸ Interview with Habtamu Menesha, Legal Service Directorate Director, Ministry of Finance, Addis Ababa, (18 May 2022)

¹⁰⁹ Roy Bahl, *Supra* note 75, P. 17.

¹¹⁰ *Supra* note 20, PP.23-67.

undertaken at the local level. This suggests the need to empower local governments through human and material resources to improve administration and service delivery.

Some studies associate low collection performance with governance and political factors. Lack of attention is common when the responsibility for collections is at one level by revenues are shared with the other level of government. Governments also hesitate to aggressively enforce property tax collections to keep the political flavor. On the other hand, unlike other taxes, property tax needs the existence and the synergetic cooperation of different organs (revenue department, land management, and registration department, valuation authorities, urban governance, and judicial organs) and levels of the government (federal, regional, or local).¹¹¹ These institutions should be adequately equipped with material, human and technological resources.

In Ethiopia, the role of all these organs and levels of government is well appreciated as a foundation for property tax reform.¹¹² It is, in particular, suggested that MoFEC and MoUID should have specific responsibilities. The synergy of the Federal, Regional and Local Urban Governments is also well noted under the draft legislation. Ethiopia has enacted a separate tax administration proclamation governing the administration of domestic taxes in general intending to render the tax administration system more efficient, effective, and measurable.¹¹³ Once the ongoing property tax reform is completed, property tax administration including the rights and duties of taxpayers will be regulated with better effectiveness.

¹¹¹ Interview with Mulay Weldu, Tax Policy Directorate Director, Ministry of Finance, Addis Ababa, (18 May 2022).

¹¹² MoUDHC, Concept Note to Reform real Property Tax Legislation, (2013), PP.13 & 15.

¹¹³ *Supra* note 85

Concluding Remark

Ethiopia has initiated property tax reform in 2011 as part of the global post-soviet global phenomenon. The reform has the goal of modernizing the urban property valuation and taxation system across urban centers of the country. The draft and prototype legislations are already prepared and the country is planning to introduce the tax in three pilot cities namely, Dire Dawa, Mekelle, and Bahir Dar. However, the reform process has been unnecessarily delayed and contentious. At the center of this process and the legislative debate are the issues of design and administration. As already articulated in the body of this article, drafting a tax law, especially a tax on land and buildings, poses a number of challenges and frustrating questions. This study was conducted with the belief that there is a lot that Ethiopia could learn from its own past as well as contemporary property tax reforms in other countries.

The international experience is so rich that one finds diverse modalities of practice across countries in designing the key components of a property tax system such as the taxing power, tax base, tax rate, valuation and assessment, and administration. Ethiopia can draw a lot of insights from the reservoir of these experiences. The insights can be consumed at the drafting stage, in the process of enforcing, or for the purpose of amending the law. The Ethiopian practice over the decades is largely weak, yet provides a fertile space for learning from it. This study has documented the various design options and indicated the best alternatives to the context of Ethiopia based on these lessons from other jurisdictions and its own previous legislative regimes. Thus, the Ethiopian government should finalize the reforming process by drawing the hosts of insights to determine the tax base, assessment and valuation, tax rates, and exemptions.