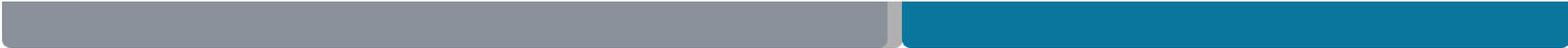




Central Property Tax Assessment – A Bygone Practice?

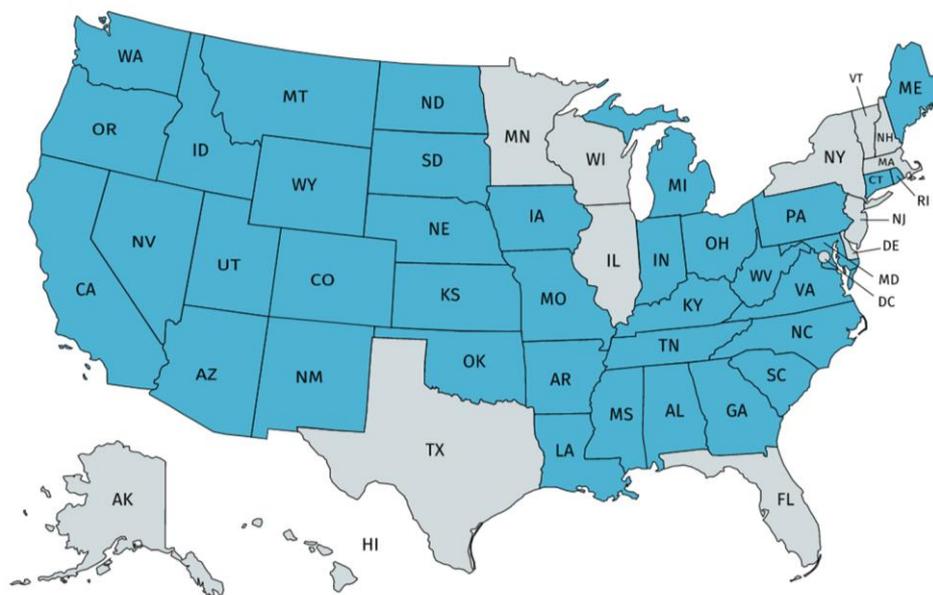


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What is central property assessment?

- In most states, the value of business property is determined by local municipal or county assessors.
- Central property assessment, however, determines property values at the *state* level by the Department of Revenue or State Tax Commission.
- It is typically applied to public service companies or similar businesses.
- 37 states use some form of central property assessment.



The (supposed) benefit of central property assessment

- “Property tax system administration is fairest for the taxpayer when it is consistent throughout a jurisdiction. If different municipalities or other governmental sub-units within the same jurisdiction follow different rules, taxpayers can be disadvantaged. Strong central oversight is necessary for a fair and efficient property tax system.”¹

1. Council on State Taxation (Cost), “The Best and Worst of International Property Tax Administration” (September 2014)

History of central property assessment

- Central property assessment began in the mid-nineteenth century for railroads.
 - It's difficult to value the property in a jurisdiction by looking at just the property in the jurisdiction given its movement.
- 'Unit value' and 'unit valuation' methodologies developed.
- Extended to public utilities.
- Considered reasonable because in exchange for greater taxation, public utilities received monopoly privileges, perhaps eminent domain, etc.

History of central property assessment (cont'd)

- But along came de-regulation...
- New non-monopoly telecommunications and infrastructure emerged.
- Innovation continues to outpace regulation.
- New industries have been lumped into public utility taxation.
- Statutes fail to capture the breadth of new public service companies.

A Kentucky case study

- Ky. Rev. Stat. § 136.120 (1)(a) mentions “railroad[s],” but does not mention the internet.
- Because the statute gives the department discretion to decide whether a business is “predominantly” public service, seemingly arbitrary distinctions can be made.
- The most recent controlling case on this is *Martin v. Producers Line Co.*, 113 F.2d 813 (Ky. 1940).
- 103 KAR 8:090, classifying PSC property, has not been updated since 1938.

KRS § 136.120 defines the following as public service companies:

- 1. Railway companies;
- 2. Sleeping car companies;
- 3. Chair car companies;
- 4. Dining car companies;
- 5. Gas companies;
- 6. Water companies;
- 7. Bridge companies;
- 8. Street railway companies;
- 9. Interurban electric railroad companies;
- 10. Express companies;
- 11. Electric light companies;
- 12. Electric power companies, including wind turbine and solar generating companies;
- 13. Commercial air carriers;
- 14. Air freight carriers;
- 15. Pipeline companies;
- 16. Privately owned regulated sewer companies;
- 17. Railroad car line companies [. . .]; and
- 18. Every other like company or business performing any public service.

Central assessment of public service companies creates market failures

- Public service monopolies are created to (theoretically) provide **more** of goods that the market would otherwise not produce – water, electricity, transportation, etc. primarily due to large, capital infrastructure outlays.
- But when you tax something, you get **less** of it.

Central assessment of new technologies is impractical

- It's exceedingly difficult to value assets that are not ordinarily traded in the market.
- Existing calculation methods cannot keep pace with the rapid development of new technologies.
- Valuing and assessing, as a *unit*, an *aggregate* of individual assets, does not make sense when some of the assets would not be taxable if valued and assessed separately.

Central property assessment is inequitable to public service companies

- It is virtually impossible to maintain uniformity of taxation (constitutionally required) between utility property “centrally assessed” under the unit method, and commercial and residential property “locally assessed” under the summation method. Example: solar panels on a house vs. on an abandoned coal mine.
- Despite the efforts of central property assessment, similar industries are still treated differently.

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