

**Research Study Series
Number 97**

Reforming the Property Tax

Sponsored by
United Nations Development Programme
Under the Economic Reform Programme of Government of India

National Institute of Urban Affairs
Core 4B, I & II Floor, India Habitat Centre, Lodhi Road
New Delhi – 110 003
March 2004

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Preface

Since the abolition of Octroi in most states in India, Property Tax has become the principal source of revenue in urban local bodies in the country. However, the tax yield from this source remains low as the property tax system is besieged by numerous administrative problems, legal issues, and corrupt practices. Large numbers of properties in cities manage to stay outside the tax net due to poor information base and a collection efficiency of more than 60 per cent is rarely achieved.

Considering the poor state of finances of municipal bodies and the need for improving their revenues, it is now increasingly recognised that property tax must be made a revenue productive tax instrument through appropriate reform strategies. The last decade has witnessed considerable interest in Property Tax reform both from the administrative and taxpayer's perspectives. Several cities in the country have introduced innovative practices in various areas related to the tax administration, assessment and collection.

This study was designed to (i) study the problems associated with the property tax assessment system which have adversely affected the revenue productivity of the tax, (ii) analyse the impact of the reform measures already put in place in some of the cities, and (iii) suggest a roadmap for further reforms in the area based on the experience gained from the reforms introduced in the cities. The study was carried out by taking a sample of cities from those that have introduced the reforms as well as from those that are following the traditional system of Annual Rateable Value (ARV) for assessment of property tax.

What has been attempted is an appraisal of the problems associated with the property tax system in the country and possible solutions. It is hoped that this comparative study of the Property Tax practices in the cities selected from across the country would be useful for municipal bodies to structure a holistic framework for reforming the Property Tax system.

We gratefully acknowledges the support from the United Nations Development Programme (UNDP) for sponsoring the study under their programme of supporting the

Economic Reforms of Government of India with a view to provide policy advice to the government to improve provisions of urban infrastructure. Dr A Ravindra, IAS (Retd.) and Mr U A Vasanth Rao, consultants to the study, undertook the main responsibility of conducting the study. Valuable inputs were provided by a number of experts who participated in the national seminar organized at Bangalore in February 2002 as a part of the study. The Chapter on Legal Issues of this report is largely based on Justice G C Bharuka's paper presented at the Bangalore seminar. We are thankful to Dr A Ravindra, Justice G C Bharuka, and Mr U A Vasanth Rao for their contributions.



Vinod Tewari

Director

EXECUTIVE SUMMARY

RAISON D'ETRE FOR PROPERTY TAX REFORM

In the context of the growing urbanization in India, and the mounting pressure on the urban infrastructure and services, the slow growth in municipal revenues is a cause for serious concern. Property Tax has been recognized as the principal source of revenue in urban local bodies. Unfortunately, the tax yield is very poor on account of the legal and administrative problems, which plague the property tax system. It is now increasingly realized that it is possible to make this tax a highly revenue productive instrument through an appropriate reform strategy. The 1990s, especially the post 74th Constitution Amendment phase witnessed considerable interest in Property Tax reform both from the administrative and taxpayer's perspectives.

This study is an effort to address the various issues concerning the property tax and the options available to formulate a reform strategy. The scope of the study includes an analysis of the problems associated with the Annual Rental Value (ARV) system which have adversely affected revenue productivity, review of the impact of reform measures already put in place in some selected cities and suggesting reform measures to redeem property tax from the existing maladies.

Tax Systems and Practices – Study of 13 Cities¹

A study of the tax systems and administrative practices in 13 different cities across India reveals commonalities as well as some differences. The major findings are summarized below:

Method of Assessment

Two clear and distinct methods have emerged in the manner of assessment. One is the traditional ARV system and the other that has come into vogue in recent years is what is

¹ The 13 cities selected for the study are:

1). Ahmedabad (2). Bangalore (3). Bhopal (4). Chennai (5). Hyderabad (6) Jaipur (7) Kolkata (8) Lucknow (9) Mirzapur (10) Ludhinia (11) Mumbai (12) Patna (13) Thiruvananthapuram .

known as the Area-based System or Unit Value System, which links rental values to the locational, usage and structural qualities of the building. The cities that have adopted the Area-based System are: Ahmedabad, Bhopal, Patna, Lucknow, Mirzapur, Thiruvananthapuram, Bangalore and Hyderabad. While Chennai and Mumbai have tinkered with the existing ARV system, in Jaipur and Kolkata, the ARV system has not undergone much change. *In Ludhiana, by a government notification property tax has abolished.* The only State where the capital value system has been introduced by legislation is Karnataka. However, the new system is yet to be implemented.

The main issues to be addressed while considering property tax reform are three fold:

- (a) Tax structure and related legal issues
- (b) Tax administration and
- (c) Policy and Institutional issues.

Tax Structure and Related Legal Issues

Most local governments in India have adopted the “Annual Rental Value” (ARV) as the basis to determine the property tax base. The ARV is defined as the rent actually received or the annual rent a property may fetch from year to year, if let out from a hypothetical tenant. Another method is to capitalize the value of the property (hardly in practice). What actually constitutes the “rental value” or “rateable value” has been the subject matter of considerable debate, especially in the context of the Rent Control law. Until recently, the Rent Control Act became the source code for fixation of ARV and therefore completely downsized the scope of taxing property to their actual potential. The principle of valuation under ARV has also been questioned on grounds of fairness, equity and efficiency. Court decisions, until recently, did not go beyond interpreting and applying the Rent Control Act to valuation under the ARV system. The judicial rulings can be summarised as under:

- i. The standard rent or fair rent fixed under the Rent Control Act constitutes the upper limit of rentals. The Rent Control law makes it illegal for any person to demand or

receive rent in excess of the fair rent or standard rent and doing so is therefore punishable. Hence, 'Reasonable rent' was interpreted to mean the limit imposed by the concept of fair or standard rent as provided for in the Rent Control Acts.

- ii. Where fair rent is not determined under the Rent Control Act, then also, the ARV has to be worked by artificial method of valuation on the basis of annual rent determined as per the provisions of the Rent Control Act.
- iii. Where standard rent has not been fixed for under the Rent Control Act, and whenever, Municipal Act provides a 'non-obstante clause' in the charging section, then the annual rent received by the owner in respect of the building can be deemed to be the annual rent for which the building might reasonably be expected to be let.
- iv. The legality of this 'non-obstante clause' has not been challenged because the provision treats the actual rent received as the annual rent the reasonableness of which can hardly be questioned.

The judiciary's approach to municipal taxes took a turn in the case of Srikant Kashinat Jituri vs Corporation of the City of Belgaum² In this case the court expressed the impracticality of the proposition that though the landlord may actually receive Rs.10, 000 per month as rent, the property tax in respect of the said building can be levied only on the basis of say Rs.500 because that would be the basis of fair rent/standard rent. The court after going through the various decisions rendered, expressed that a time had come to move out from the rental valuation principle to a simple and transparent system.

Experiments to move out of the clutches of rent control were undertaken by a few States, which changed the method of valuation of property to an area-based system and computation for assessment. This method of computing the ARV had no relevance either to the 'actual rent,' 'standard rent' or 'hypothetical tenancy,' yet the Supreme Court, in State of Bihar vs. SK Sinha, upheld this method by holding that "while putting the method of determination of

² SCC1994 (6) 496

Annual Rental Value on a more uniform basis eliminating room for arbitrariness and corruption, the corporation has substantially reduced the rate of tax. We are unable to see any room for legitimate grievance on this account". This decision has provided the much needed elbow room for other cities to reform their property tax system and several cities in the country have successfully implemented the Patna's model of area based system with certain variations.

Though currently the property tax law has evolved substantially, it is important to recognize that many legal aspects of the property tax are not resolved, though the area based system has given some measure of relief to both the taxpayer and Municipal Corporation. It is clear that the rationale for linking property tax with locational and other factors for valuation of the ratable value had more to do with a pragmatic approach than with theoretical positions or debates over different schools of thought. However, this should not prevent a debate on the diverse consequences of this approach in terms of economic efficiency, equity and administrative management and whether in the years to come, there is a need to shift to a different base altogether.

Enhancing the valuation within the ARV system

Despite the limitations caused by the Rent Control Act, some States have attempted to restructure the assessment base. In Mumbai, the assessment base in respect of non-residential properties like commercial banks, factories, industrial estates, office premises, hotels etc., are subject to valuation 3 – 5 times the rental rates in the locality. This is however, not prescribed under the law. Similarly, ad hoc methods are adopted in some cities such as assessments being made on the basis of seating capacity in cinema halls, storage capacity of oil storage tanks and earning capacity in the case of a racecourse. In Kolkata, commercial properties are subject to a surcharge not exceeding 50 per cent of the basic property tax in addition to the usual rates of taxes. All such measures are devised to enhance the revenues but they go against the basic principle of property taxation viz., valuation of property in a locality and converting that capital value to determine property tax either under the ARV or Capital Value System. Some States like Karnataka, Chennai and even Mumbai

have, however, however amended their Rent Control Acts linking the rentals to current market rates.

Effective Tax Rate

The State governments legislate the minimum and maximum tax rates the municipalities can levy on properties. The tax rate varies from State to State and within a State can vary between large and small cities. Apart from property tax as such, municipalities usually levy some other taxes and cesses as a percentage of the Property Tax. These additional levies may be for municipal services or they may be collected on behalf of the Government. For instance, Mumbai levies service charges as a percentage of Property Tax. These charges have registered a steady increase making the current effective tax rate 225 per cent for non-residential premises and 105 per cent for residential premises depending on whether water meter is connected or not. In Bangalore, the corporation levies 34 per cent Cess on Property Tax and collects it on behalf of Government.

The obvious reason for levy of such charges and cesses is to cover some gaps in the revenues of the municipality or the State Government. Collecting taxes for earmarked civic services is not a bad policy at all. In fact, all public policy experts recommend it. But by linking it to property tax, the effective tax rate is pushed up, which is not sound tax policy. Hence, such earmarked charges for services must be charged separately and not in the property tax bill.

Tax Base: How the base is lost

The property tax base may be defined as the extent of coverage of the taxable object viz., the property. If this base is fully captured it can contribute to buoyancy. On the other hand, loss of tax base can result in loss of revenue. This study reveals that only about 50 – 60 per cent of the properties are covered in the cadastre. The tax base can be lost in the following ways.

- a) ***Exemptions:*** The municipal laws provide exemption from payment of property tax to certain classes of properties such as lands and buildings used by religious and

charitable institutions, educational institutions recognized by the Government and hospitals. Charitable institutions that are for the poor and needy in respect of education, shelter and health may be worthy of exemption. But in today's environment, it is not uncommon to see choultries (marriage halls) in the guise of charitable organizations charging exorbitant rent, educational institutions charging huge capitation fee and philanthropic hospitals charging patients heavily. Ahmedabad City Corporation has shown the way to tax religious and charitable institutions by levying tax at the rate of rupee one per square foot. Time has now come to review such undeserved exemptions, which reduce the tax base. In respect of government buildings, only those not used for residential or commercial purposes may be exempted from payment of tax but they must be required to pay service charges.

b) Vacant land (Plot): The law in most of the municipalities provides for levy of tax on vacant plot on the basis of the current market value. This has, however, remained on paper. Very little revenue is derived from this source and there is uncertainty as to how to tax the vacant plot. The Bangalore municipal corporation has formulated guidelines on the basis of zonal classification of the city, which seems to be paying dividends. This issue deserves urgent attention as a large number of vacant plot are out of the tax base.

c) Vacancy remission: All the corporations covered by this study except Ahmedabad and Kolkata have a provision for granting remission or refund of tax paid for the period the property was kept vacant (generally for 60 days or more). Though well intentioned, such a provision is capable of large-scale misuse. In large cities, a number of apartments of other buildings are purchased for speculative or investment reasons and are kept vacant for years. Such vacant properties are not assessed thereby depriving the legitimate revenue to the corporation.

d) Rebate for owner occupied properties: Residential properties occupied by owners generally qualify for a rebate ranging from 25 – 50 per cent. Preferential treatment for

certain classes of properties is not based on economic criteria and needs to be reviewed.

e) Time lag between revisions: All municipal laws provide for revision of assessment once in 4 – 5 years. In practice, revision is hardly undertaken as per this periodicity, the gap between one assessment and another range from 20 – 30 years. When the Area-based scheme was introduced in Bangalore in 2001, it was observed that no revision had taken place for 28 years. Such long gaps between revisions are bound to result in considerable narrowing of the tax base.

f) Non-inclusion of new areas: Urbanisation in India has resulted in rapid growth in the periphery of large cities. These peripheral settlements fall outside the limits of the municipal corporation but enjoy the facilities of the city's infrastructure. They usually come under the jurisdiction of smaller municipalities or Panchayats and either escapes taxation or are taxed at a lower rate. Even in the case of new areas developed by the City Development Authority and transferred to the City Corporation, action is not taken to register the new properties for several years. A survey undertaken, as part of this study, in one of the newly added areas to a City Corporation limits revealed that about 70 per cent of the properties had escaped assessment for over six years.

g) Unauthorized properties: Unauthorised constructions are common in all cities in India but they are not taxed on the ground that assessing such buildings would amount to regularizing them. However, assessment need not be equated with regularization. The right view to take would be that property tax is payable irrespective of any authentic title on the part of the owner or occupier, just as income tax is payable even on illegal income. Illegal structures enjoy civic amenities as much as legal structures and there is no reason why they should not be taxed.

h) Leased municipal properties: A number of municipal properties leased to individuals or institutions are not subject to tax as they are owned by the

municipality. Many of them are used for commercial purposes and thus a good tax base is lost. The law should be amended to make provision for taxing the lessee or occupier in all such cases.

Appeal Process

All Municipal Acts have made a provision for appeal against the assessment. However, there is a difference between other tax regimes and the property tax. In other tax regimes like sales tax and income tax, assessments are generally concluded on a return based account-based system, where the role of the assessor is to verify the returns with reference to the accounts maintained by the assessee. In the case of property tax, the assessor determines the assessable value of the property and the appeal process gives taxpayers the opportunity to challenge the assessable value, on the grounds of reasonableness, if they so wish. Therefore, potentially every proposal for assessment of a property can become a subject matter of appeal.

With the recent trend in self-declaration of property tax scheme adopted by various cities, the property tax assessment has become return based and automatically acceptable except for a percentage of cases selected for random scrutiny. As such, the number of appeal cases must logically reduce since the mass of the returns filed are accepted except for 5-10 per cent random scrutiny. However, as the predominant practice prevalent in the country is the assessment made by the assessor, the appeals systems should be designed to facilitate the taxpayer's right to appeal.

In a number of municipalities in the country, appeal against the assessment made by the revenue officials/Commissioner lies before the Standing Committee consisting of elected representatives who decide the appeal by passing a resolution. The next level of appeal lies to the District Judge, which is the final fact finding authority. There are differences amongst States in the constitution of committees and subsequent appeals before the Civil Courts. Whatever be the system of appeal, currently the taxpayer across the country does not find the property tax appeal mechanism fair and free from subjectivity. In the circumstances, it would be in the fitness of things to create a separate Tax Tribunal or a bench in the State Appellate Tribunal to adjudicate the tax appeals.

Property tax administration

Property tax administration universally is problematic, more so in developing countries because of the lack of qualified staff, archaic style of record keeping coupled with low preference for technology, absence of effective interface with other governmental agencies and in some measure the lack of political will to enforce good governance. International experience has shown that successful property tax reform must be comprehensive, covering all aspects of property tax administration namely, coverage, valuation, collection, enforcement and taxpayer service. Before attempting reform, if just coverage and collections are carefully monitored it could yield excellent results.

a. Coverage: Failure to list and assess all properties is one of the main causes of low tax yield. Comprehensive and periodic coverage of properties will broaden the tax base, enhance revenue and bring in equity in tax administration. This can be achieved through carrying out field surveys, tax mapping and use of modern technology like GPS. Self-reporting of property particulars by tax payers can also be resorted to. This practice is already in vogue in cities where self-assessment scheme has been introduced.

b. Billing and Collection: Assessment is a job half done. The circle gets completed only when the tax is actually collected and remitted. Property tax collection is particularly challenging in developing countries that do not have a culture of paying taxes fully and voluntarily. The problems of billing and collection of tax are:

i. Generally the mode of service of bills is through the bill collector of the tax office. Bills are not always issued in time. However, computerization of tax information in most corporations has helped in speedy generation of tax bills.

ii. The procedure for collection of tax has been somewhat cumbersome. Some municipalities insist on taxpayers appearing personally and paying the tax by cash/cheque. Some have made provision for payment at designated Banks. But the

entries in the Bank passbook are not accepted as proof of payment of tax for which a receipt has to be obtained from the tax officer. The self-assessment scheme, which requires the taxpayer to calculate the tax due and remit the tax using a prescribed form, seems to be a convenient method, more so once the information is computerized.

- iii. Poor collection efficiency appears to be the Achilles heel of municipal finance. Property tax collection ratio across the country, barring some exceptions, has hovered around 40 – 50per cent.

It is worth noting that with more or less similar powers to enforce collection, other tax regimes in the country like Income Tax, Central Excise and State Sales Tax are able to collect generally over 90percent of the tax due. The position in other developing countries is, however, not very different from India. The poor collection efficiency has been attributed to:

- 1) lack of taxpayer's confidence or understanding in how the tax is levied, collected and used,
- 2) lack of appropriate collection and enforcement mechanisms and
- 3) lack of political will.

Recent reform efforts have shown that it is possible to improve collection efficiency by effective enforcement. New Delhi Municipal Corporation increased the tax collection to 90 per cent by introducing measures such as discounts for early payments and freezing Bank accounts of defaulters. Cities like Bangalore, Mizapur and Hyderabad have also shown improved performance in recent years.

- c. **Audit:** Tax audit should be driven by the desire to capture maximum amount of revenue. Assessment files must be audited with cross reference to information obtained from other departments and field surveys. Focus should be on large tax payers, especially industrial and commercial establishment and also coverage of properties, particularly those that have

escaped the tax net. Currently, audit systems are not well established in municipal bodies. This is an area that needs special attention including training of auditors.

d. Training and Human Resources Development: Administrative efficiency in urban local bodies has suffered on account of neglect of human resource development. Unlike in the Revenue Services at Central and State levels, the Revenue staff in municipalities hardly receive any training. Reforms and changes in tax systems and procedures should first be understood well by the officials in charge of implementing them. Upgrading internal skills is therefore of prime importance. It would be useful for every State to set up a Municipal and Urban Training Institute. Initially, the State Administrative Training Institutes can include training of municipal staff in their programmes. A central institute like the NIUA can act as a nodal agency to guide training activities in States.

Policy and Institutional Issues

Property tax reform to succeed and sustain will have to be considered in the context of overall local government reforms. Municipal revenues account for a paltry 0.6 per cent of the country's GDP. Given the encouraging growth of the urban economy, there is tremendous potential for enhancing local revenues. A strong institutional framework is essential to realise this potential and upgrade urban infrastructure and services. State Governments to be in tune with the spirit of the 74th constitutional amendment must decentralize adequate fiscal and administrative powers to ensure that finance matches functions. Institutional capacity building is essential for effective delivery of urban services.

Urban Land policy reforms become important if the full value of urban property is to be captured. States which have not repealed the Urban Land Ceiling and Regulating Act, 1976, must do so early to release more land to the market. Stamp duty and registration charges need to be rationalized to minimize the temptation for undervaluation. Policies relating to land use, especially in case of exemptions granted to certain uses, call for a review. All these are closely related to increasing property tax revenue.

Political support is the sine qua non for the success of any reform process. A highly visible tax like property tax involves a diversity of interests covering various sections of the population. It is, therefore, essential to gain political acceptance for the reform measures both at the state and the local government levels. It is also important to educate the stakeholders, the tax payers, about proposed changes in tax systems and procedures before they are actually put in place. People understanding the benefits of reform can go a long way in ensuring voluntary compliance. That perhaps is the ultimate test of a good tax system.

Choice of Tax Design

A good property tax policy should ensure that the property tax structure has an inbuilt mechanism for maintaining elasticity of the tax by periodical revaluation. Secondly, the system must be transparent to the tax payer. He must know the basis of valuation and the valuation indexes adopted for periodic revaluation. The tax payer must be convinced that the index value relatively reflect the value of the property. Thirdly, the system must not be costly to administer. Lastly, the system should ensure horizontal equity, i.e it should treat similar properties in the same way. With these as benchmarks for a good and efficient property tax system, a suitable design has to be chosen from the following options:

- (i) A tax based on the annual or rental value of the property.
- (ii) A tax based on the capital value of the property
- (iii) A tax based on the site value.
- (iv) A combination of the above two or three methods.

An Approach to Reform the ARV System

For the ARV system to remain tax productive, it is essential that the rental values for computation of tax should represent the current market value. As the problems of rent control come in the way, the solution seems to lie in either abolishing rent control or de-link property tax from rent control regulations. It is possible to amend the Rent Control Act as Karnataka has done and redefine the Standard Rent as the rent calculated on the basis of a certain percentage of the cost of construction and the market price of the land on the date of

commencement of construction. Some enhancement linked to inflation is also an accepted calibration method for periodic revision. The other (avoidable) option is to raise the tax rate to the levels required.

Capital Value System

While ARV reflects the income from a property in its current use, capital value reflects the market's assessment of the income to be derived from a property in future including income generated by more intensive use of the property. The tax base comprises the assessed value of land and improvements i.e., the value at which a willing buyer and seller would agree in a free market. It follows that the capital value is extremely elastic and the property tax will have a base that will grow with the economy. The capital value system is in vogue in U.S and a number of European and Latin American countries. If it has to succeed in Indian conditions, certain pre-requisites would have to be fulfilled. First it is essential to create an updated credible database to derive the value of land and building. This depends on a well-developed property market with multiple sources of information instead of placing reliance solely on sale statistics with Sub-Registrars, which generally reflect undervaluation. Secondly, the tax rate should be carefully prescribed after analyzing the quantum jump due to the shift to valuation process to the tax payer/Municipality in comparison with the previous system³. Thirdly, there may be problems from tenanted properties as the owner may find it legally difficult to pass the burden to the existing tenant. Shifting the tax burden to the occupier, who will reap the benefits of improvements in the locality, is worth considering. Finally, any shift to the capital value system needs to be preceded by lot of preparation by way of training the staff and educating the public.

Site Value Taxation

Under this system, tax is levied only on the capital value of the land, the structures are not taxed. Its chief merit is its potential in improving the efficiency of urban land use. Secondly,

³ In Karnataka, an analysis of the amended provision shows that the tax rate under the capital value system (0.3– 0.6percent) could, if implemented increase the taxes for residential properties while the Commercial properties will pay less than previously assessed. In the process, it is projected that the City Corporation will collect far less than what it is currently collecting.

the administrative task is simplified, as valuation of structures is not involved. The main disadvantage of the system is that it narrows the tax base and requires a higher tax rate to produce the same revenue. Some cities in Australia, New Zealand and Kenya have adopted this system. It has not been tried anywhere in India so far. But it is worth a detailed study considering the simplicity of the system both in technical and administrative terms.

Hybrid Model: Area-based/Unit Value System

The Area-based system which combines the features of the above three models has shown encouraging results in cities like Ahmedabad, Bangalore, Hyderabad and Patna. There is an attempt to make the process transparent and objective by basing the valuation on certain parameters like location, usage and building characteristics. But the system needs to be further simplified. The classification of structures in Bangalore appears complicated while in Ahmedabad, the formulae for calculating the tax is too elaborate to be easily understood. The long-term buoyancy potential is yet to be tested. But the immediate success of the Area Based system is that it has pushed the revenue upwards. Most cities which adopted this system, have introduced the self-reporting system, thus shifting the onus of reporting the assessable value of the property in terms of the parameters provided under the system and the tax payable thereon. Since the owners have to file the self-reporting forms within a specified time, the level of compliance increased and in turn increased revenue. The self-reporting system did away with the Municipal staff's onerous task of service of the property tax bills. Even collection of tax was made simpler by increasing the number of collection centers and also facilitating payments at commercial banks. The negative aspect of the self-reporting scheme is that it could result in wrong reporting and consequently result in lower taxes. However, strict enforcement is required to prevent such attempts. On the positive side, the citizens have found that the self-reporting scheme has reposed faith in them and secondly, for the first time they were made aware how to compute the valuation of their property for property tax and that such valuation was no longer at the discretion of the revenue staff. For these reasons, the area based system found immediate acceptance not only by the citizen but also the judiciary who found the new system was not injurious to public good. Another positive side to the area based system is that in the valuation process it has included both the

locational and quality of building. These features here, makes it possible to gradually shift to a capital value system. The reforms introduced till now in some cities, have no doubt achieved some initial successes. In short, it suggests that major reforms need to be incremental. The impact of these reforms can be summed up as follows:

- Successful in the short run.
- Revenues have increased significantly.
- The problem of a badly outdated valuation roll has been addressed.
- The taxpayer acceptance of the reform measures.
- Preparing groundwork for an ultimate shift to a capital value system

Sustaining the reform process

Sustaining the reform initiated would require conscious act of the government to ensure:

- a) *The long run revenue elasticity of the new system:* The revenue elasticity can be ensured by calibrating the rates periodically and implementing the revision of rates once in 4-5 years. A central valuation committee can be form to ensure its objectivity. If the valuations are not periodically revised, the new system will lose its initial buoyancy.
- b) *The transparency of the system:* This is an important attribute of a taxing system. If taxpayers understand how they are taxed, they are more likely to comply with the system. Under the ARV transparency was compromised, but the chief attribute of the area based system is its transparency of valuation methods, though these methods are to be fine tuned.
- c) *The administrative ease and costs effective tax collection system:* The cost of collection should be at the minimum. The area based system with its self-reporting system has ensured minimizing its role in the collection of tax by opening up collection centers and payment at the designated banks. However, the administration should ensure through random check that there are no cases of wrong reporting. Secondly it is the

administration job to ensure that all properties, especially new properties are in the tax roles.

- d) *Horizontal equity*: Property tax should be horizontal equitable, which in brief, means that similar properties must be taxed similarly. This is more easily said than done and therefore calls for a lot of intelligent exercise by the municipal staff to ensure horizontal equity.

Sustaining the reform would, therefore, mean calibrating the rates at periodic intervals, removing inequities, periodic evaluation of the system and ensuring taxpayers service and education.

What is a Suitable Model for India?

In the light of experience of the ARV system and the reform measures already introduced in some cities, the following suggestions are made.

- a) **Initial Phase**: Take steps to de-link property tax from the rental value system. In the meantime introduce the Area-based system, on a combination of factors such as location, usage and quality of building.
- b) **Transitional Phase**: Develop a good database of market value of land. Observe the operation of the property market, obtain information from different sources – sale statistics of Registration Department, Real Estate Agents, Developers etc., and formulate index value. After the Area-based system has worked for some time and as and when the necessary database is in place, prepare for shifting towards capital value system. Also, the site value system can be tried in some cities, as it appears extremely feasible in the Indian context. During this phase, officials should be well trained in valuation methods, information must be computerized and people educated about the changes in tax system.
- c) **Final Phase**: Introduce capital value system or site value system depending on the experience gained and the suitability of the system for the particular City/State.

Chapter 1

Introduction

Why Property Tax Reform?

Taxation at the local level is primarily viewed as a benefit tax for providing services. Generally, the local governments have advantages in delivering public services according to the diversified preferences of people residing in different jurisdictions, but they are often constrained in their ability to raise revenues. According to the principle of fiscal assignment in multilevel fiscal systems, in order to minimize distortions, local governments can raise revenues mainly from relatively immobile and non-redistributing tax bases. Thus, revenue from taxes on land and immovable property, user charges and fees has been the mainstay of local government revenues across the world. Unfortunately, these principal sources of discretionary revenue over the years have become non-productive, besides being relatively non-buoyant.

Property tax has been recognized as the most appropriate tax handle for the local governments. It is the principal source of revenue in urban local bodies virtually in every part of the world (Dillinger, 1991). The financial support provided by the property tax can be substantial. In developing economies the property tax is less significant especially when compared to GDP; nevertheless, the property tax often represents 20 percent of own source revenue for local governments (Bahl and Linn, 1992). Property tax can be revenue productive provided it is administered properly. Unfortunately, the tax yield is extremely poor as the property tax system is besieged by host of administrative problems, legal issues, and corrupt practices. In some countries, the Central and State Government has not devolved property tax power to local authorities, nor has it taken initiative to reform the tax itself. In some other countries, even when the authority to levy property tax is granted to local governments or when the central government is interested in property tax reform, progress has been slow due to perverse incentives, inappropriate property policy design and lack of proper administrative systems, trained personnel and linkage between revenue and expenditure powers. (Roy Kelly, 1999)

In India, urban local bodies are constitutionally established as democratic institutions based on the principle of self-government and to represent people's desires and strengths. Hence, Local government is fundamental, a part the national government hierarchy—the lowest in the hierarchy, yet closest to the citizens and in the best position for participatory decision making process in enhancing the civic needs of the community. The urban bodies, to function as independent entities and to take independent decisions, need a discretionary source of revenue. Constitutionally, they can raise revenues mainly from taxes on land and immovable property, user charges and fees. When local people pay taxes to the local government they become concerned about how the amounts are spent, and expect accountability from local officials. Ideally, as mentioned earlier, the local government must have a tax base that is most easily administered and identifiable, whose valuation is not capable of being misrepresented either by the taxpayer or the administrator and on which the tax rate is set by the local government. Property tax stands out as the ideal tax within their respective jurisdictions. Property tax belongs to the class of general benefit taxes. They are indirect user charges for municipal services whose benefit is collective and not confined to identifiable individuals. Generally, most corporation along with the property tax collect other taxes/cess such as drainage tax, conservancy tax, lighting tax, fire tax, tree tax, general tax etc. These additional levies in the property tax bills signify the probable market prices for those services. At the end of this section we have tabulated the sources of revenue and distribution of expenditure in the sample cities.

Despite property tax being voted as is 'ideal' local tax, it suffers from the lack of adequacy, buoyancy and acceptability resulting in low performance and heavy dependency on inter-governmental grants. State governments across the country are not able to meet their own financial commitments and hence local bodies no longer can expect generous financial assistance to service the civic needs. The availability of funds, through budgetary allocations is declining and is likely to decline further due to fiscal stress. But at the same time, the requirements of funds are on the increase to cater to the economic development policies of the Center-State government whereby business and industrial activities are concentrating in and around the cities. Therefore, the challenge for the municipalities is to tie up the fiscal

resources to meet their obligations. This inevitably requires reform and restructuring of the property tax system.

Assignment of revenue: Why property taxes for local governments?

The primary wealth of any city is in real estate. Such property being visible, immobile and difficult to avoid the incidence of tax, if administered well can represent a non-distortionary and highly efficient fiscal tool [McCluskey 1999]. But the question remains whether there is an economic argument that property tax is the best tax handle for the local government or whether there are other alternative ways to generate revenues for local governments. This takes us to the different bases for taxing individuals as against business. Principally, there are three major bases for taxation, which are:

Consumption tax: a tax, which measures the ability based on local consumption of goods and services. This base generally falls in the purview of the State. Examples of such consumption tax are the local sales tax as prevalent in India, the retail tax as in the US or the value added tax as in European countries. Strictly, consumption tax excludes wealth, salary, savings, interest rent and dividends.

Income: This tax base measure ability of spending on consumption and is generally administered by the national government. This ability to spend derives from income from wages, all forms of investment income such as rents and royalties, dividends and interest, and capital gains.

Wealth: Such taxes measure ability to pay based on current wealth, no matter how or when it was acquired, without consideration of either current consumption or income. The primary example is the property tax, but estate and succession duties also reach this tax base.

None of these bases are without their share of criticism. All of them are criticized, chiefly, on the grounds that they ignore the ability to pay. Income tax is criticized because some affluent people and corporate houses manage their affairs in such manner that they do not have any taxable income and avoid the incidence of tax. Sales tax is criticized as unjust because even

poor, just as much as the rich, have to bear the same burden of sales tax. Property tax is criticized as iniquitous because it can appear confiscatory on people with low incomes and relatively high property wealth, such as low-income pensioners with valuable homes.

Conceptually, property tax is not really a tax on income; it is a user charge and also a tax on capital or wealth and there are different views about its effects on investment as in the case of other taxes on capital like estate and succession duties. Generally property tax is viewed as a charge that should relate to income, assets and capacity to pay of the owner. This mindset has to change because property taxes should more appropriately be regarded as payment for services provided. This brings us to the serious issues related to equity-whether the tax should be progressive or only proportional, if it is only a user charge, all citizens who enjoy similar benefits due to actions taken by the taxing authority should pay tax only in line with benefits received. From the equity viewpoint, persons with property but low income also have to pay property tax annually, not just when they realize returns from the property during sale or other transactions as in the case of stamp duty etc. On these issues, there is no consensus among economists all over the world. However, the general belief is that property tax is not as regressive as sales tax or income tax. Hal Hovey¹ has in a snapshot approach cited an interesting example of how property tax affects one at different point in time. Looking at property taxes and household income at a single point in time and then looking over longer periods can produce different conclusions about regressivity. For example, when a family stays in one house for a lifetime, property taxes will appear high relative to income in the early working years and after retirement, but low relative to peak earning years. In a year of unemployment, property taxes will appear high, even if they are not high in relation to income over all years in the labor force. So the snapshot of all families taken at a single point in time may produce a different impression during their lifetime of receiving income and paying taxes.

Many developing countries seem to favour fiscal decentralization and local government reforms to improve their service delivery, efficiency and accountability. An important precondition for effective decentralization is devolution of independent tax powers to implement the expenditure functions of sub-national governments so that at the margin there

¹ The Property Tax in the 21st Century May 1996

is linking of revenue and expenditure decisions. Ideally, municipal governments must have full control in setting the tax rate, concluding assessment, enforcing collection and appropriation of the tax collected for its discretionary use. The choice of municipal taxes depends on a number of factors, the most fundamental being their productivity and suitability to meet civic obligations. Core municipal services cannot wait until the revenue ends are tied up through government grants. Hence, the municipal taxes should be such that they ensure sufficient revenue potential to discharge core municipal functions. Public finance literatures dealing on the choice of municipal taxes have the following guidelines what would be the criteria for imposition of tax:

- i. The tax base should be immobile, to allow municipality to vary the tax rates without the fear that the base will get shifted;
- ii. Tax yield should be adequate to meet the revenue needs of the municipality and also it must ensure buoyancy
- iii. The tax yield should be predicable and not susceptible to cyclical fluctuation;
- iv. The tax should be both easy and cost effective to administer;
- v. The tax burden as far as possible should not be exported to non-residents
- vi. It should be fair and be acceptable to the taxpayer

Richard Bird's table [1994] helps to facilitate the choice of municipal taxes:

<i>Criteria</i>	<i>Property tax</i>	<i>Income tax</i>	<i>Sales Tax</i>	<i>Business Tax</i>
Immobility	+	-	-	-
Adequacy	-	+	+	?
Buoyancy	-	+	+	+
Stability	+	-	-	-
Non-exportability	+/-	+/-	+	-
Visibility	+	+	+	-
Fairness	+	+	?	-
Acceptability	-	-	?	+
Administrative ease	?	+	?	+

'+' Denotes good, '-' denotes bad, '?' uncertain '+/-' denotes good when not exported, bad when exported.

Though the table may not fully apply to the tax regimes in India due to the difference in the structure from Western or European countries, yet it provides the criteria for selecting the choice of tax suitable for municipality. To administer the tax base economically and

efficiently, public finance policy experts are unanimous that the tax handles available under the Constitution, must be assigned to appropriate levels of government. If tax handles are inappropriately administered it will not survey with that level of government. The local governments were at one time administering several other tax regimes like, the Octroi, tax on Entertainment and Profession Tax. Since the local governments were not adequately equipped to handle these taxes several State governments shifted these regimens to other departments, mainly to the Sales Tax Department, and administered as a State subject. The classic case is that of Octroi. This regime was a tax on the entry of goods into a local area and was a good revenue handle given to the local government as the tax levied on goods was on ad advolurium basis and hence the elasticity of revenue was ensure. But due to its inefficient and antiquated method of assessment besides the associated harassment to trade bodies this regime came to be abolished in several States by the late 1970s.²

After the abolition of Octroi, property tax emerged as the principal source of revenue for urban local bodies. In the last four decades, a number of committees have made recommendations about improving the property tax system. But there has been a general inertia about implementation of suggested reforms for a variety of reasons. Many municipal bodies have made attempts to reform the property tax system, but action has fallen short of the intentions and periodic pronouncements. While the assignment of revenue powers continues to be problematic, urban local bodies have not done any credit to themselves by raising resources satisfactorily from the sources of revenue assigned to them either. They were content to undertake agency functions of the State governments, however, their performance in raising revenues through the instrument of Property Tax assigned to them, left much to be desired. So, casual observation would suggest that the “good” local tax is not getting the job done³. The dismal performance of the property tax is an established pattern, not just in India but in all developing countries.

² Octroy was replaced by “Tax on Entry of Goods Act” and came to be administered by the State Sales Tax Department. This ‘Entry tax’, unlike Octori, was account based and assessed on the basis of tax returns filed.

³ Prof. Roy Bahl: Property Tax in developing Countries: Where are we in 2002?

Why is property tax reform difficult?

The disadvantage for a reform of the property tax is its unpopularity with the property owners. The biggest challenge to reform is perhaps to ward off this image. Property owners are angered that they are not adequately compensated in terms of civic services provided. On the other hand, the municipal administrators argue that this anger is not proportionate to the tax imposed on them and a sequel to this argument is that even the political opposition is disproportionate to its tax yield. This argument is borne out from the fact that property tax accounts for only 0.6 per cent of the average tax burden. Hence, a doubling of this burden should not quite matter to an average taxpayer as this would be a very small burden compared to the tax burden from direct taxes like the income tax and hidden taxes like sales tax and central excise duty where taxes are merged in the prices of goods and services.

This brings us to the question why is property tax so unpopular? Experts attribute this “unpopularity” to the fact that the tax on property is a very visible tax. Unlike sales tax or excise duty, where citizens do not really know how much tax they pay for the goods purchased as the taxes are generally hidden within the price of the goods sold in respect of property tax, the citizen clearly knows the tax liability. Secondly, unlike income tax, everyone who owns property pays property tax and the levy is not measured by the ability to pay principle. The second major cause for the tax being unpopular with property owners is that the assessment is very often subjective and the revenue staff exercise enormous discretion during the assessment process. The mode of assessment is often questionable and the redressal process is tedious.

There is also a second problem. The tax imposed is not adequate to cover the cost of public goods provided. This deficit is difficult to resolve because of the inherent obligation of the local government to provide these services, irrespective of revenue receipts from own sources. Intergovernmental transfers are often used to offset this deficit rather than raise taxes. Beyond a point property tax is inelastic. But, the cost of providing civic services increases each year. Unless taxpayers are reasonably satisfied with the civic services provided, nothing can convince them of any increase in the property tax. Hence, it is difficult

to sell property tax reform measures without linking delivery of services. Therefore, the property tax system spells out an element of justice, in other words citizen expect *quid pro quo* in form of municipal services for the taxes paid by them. Appropriate changes in the system and a will to implement the changes can provide the much needed finances for local service delivery. Property Tax may bristle with problems but it continues to be important and has the potential to yield far higher revenues.

Reform issues

The following issues need to be addressed to reform the property tax system:-

- a) Legal issues
- b) Tax structure and Administration
- c) Institutional and Policy issues

Legal issues

The genesis of the problem of property tax comes from the very nature of the base used for levying the tax. The problem starts with the definition of the rental value itself. The municipal enactment defines the basis of computation of property tax as “the gross annual rent of land and building at which they might be *reasonable be expected* to let from year to year....” The term ‘reasonable rent’ has not been defined under the Act. In its absence, it has led to series of litigation, which has marred the property tax beyond repair. Therefore, this base, the annual rental value, has outlived its usefulness a long time ago, particularly in view of the irrelevance of the rent control Acts that prescribe the method for computing the rental value. The States need to legislate new laws or make suitable changes in the current laws to overcome the hurdles in the reform process. In the process of formulating new legislation adequate care need to be taken to meet the requirements of Article 14, 21,300A and 265 of the Constitution. Chapter 2 gives an overview of the legal and legislative history of property tax tracing the problems compounded over the years and the recent views the Courts have taken on the area based system.

Tax Structure and administration

The structure of property tax reform should address four basic issues. (i) Tax base (ii) Tax rate (iii) Coverage, and (iv) Collection. The first two involve legal and policy issues and the other two administrative issues. The low yield of property tax emerges from the lack of professionalism in tax administration. The coverage is poor, and those on record are inappropriately assessed. To compound these inefficiencies, the collection of tax is under 50 percentage. These issues are individually discussed in detail in the chapters that follow.

Institutional and Policy issues

It is a paradox of the Indian urban economy that while the urban areas contribute over 55% to the country's GDP, the municipal revenues account for a paltry 0.6%. Municipal revenues across the country have been growing slower than the central or the state revenues. This is because unlike Central and State governments, local governments do not have buoyant tax handles. In fact, the States have assigned meager revenue handles to the urban local bodies, and even those that have been assigned have been withdrawn according to the fiscal exigencies of the State governments.⁴ When the States withdraw the tax powers of local bodies, they do not adequately compensate the latter for the loss of revenue though the expenditure responsibility continues. The failure to give adequate revenue – raising authority to municipalities is a serious barrier to usher in true fiscal decentralization.⁵

A strong institutional framework is a pre-requisite for the success of any reform measures. To embark on a significant change in the structure of the local governments, the Constitution 74th Amendment passed in the year 1992. This gave constitutional status to the urban local governments and provided the framework for introduction of local reforms. Decentralization of governance was the outcome of this amendment. But the success of the decentralized governance lies in the gaining control over economic activity, and more specifically in the area of government finances. (Nirvikar Singh, 1996). However, it is now one decade since the 74th Constitution bill has been passed, yet there has not been much progress in the clarification of functional responsibilities between the States and the municipal governments

⁴ At the end of this chapter we have annexed tabulated information on the revenue and distribution of expenditure in selected municipal corporations.

⁵ M. Govinda Rao and Nirvikar Singh (1999) –Local government Reform in India – Assignments, Institutions and Incentives” Working paper, Center for Economic Development and Policy Reform, Stanford University.

and matching of financial resources with functional devolution. If the spirit of Constitutional Amendment has to be realised, there has to be effective decentralisation of fiscal powers. A lot depends on the State Governments both in respect of decentralising functional authority and giving revenue raising powers to the local governments. The inter-governmental relationship will have to be clearly defined to achieve functional efficiency.

Urban land problems act as a serious constraint in capturing the full value of a property. Real estate markets are distorted not just by property taxes. A distorted land market and non-availability of reliable land prices is a major hurdle in the decision making process. Reforms are also needed in areas like land ceiling, rent control legislation, floor space index, securitization of mortgages and stamp duties. The Urban Land Ceiling & Regulation Act, 1976 although repealed in Parliament years ago has not yet been repealed in some States. The high rates of stamp duty and charges on related transactions result in undervaluation and loss of revenue. In the recent reform to the Stamp duty Act effected in Karnataka, Maharashtra and Tamil Nadu there has been downward revision of stamp duty. However, the rate of Capital gain Tax fixed at 20% has remained stationery. The provision in the Income Tax Act, until recently, required permission of the Government to sell land and buildings where the value exceeds Rs. 25 lakhs. This has had an adverse effect on the real estate market. Fortunately, this requirement has been currently withdrawn. The exemptions granted to a number of institutions, especially religious and charitable institutions need to be reviewed. In respect of Government properties although the service charges can be levied, the practice varies from State to State and the fundamental issue of levying tax on Government properties needs to be resolved. Finally, the political dimension in ensuring the success of tax reforms will have to be recognised. A highly visible tax, the Property tax involves a diversity of interests covering various sections of the population. It is, therefore, essential to gain political acceptance of reform measures and also communicate the benefits to the public at large so as to ensure the support of stakeholders in bringing about the required change.

Scope of the Study

The 1990s saw a sudden surge of enthusiasm in the country to reform the property tax. New approaches were devised and suggested by economists and administrators. Two schools of thought emerged. One favoured the capital value system of valuation and the other the area based valuation system. Both these propositions have their merits and demerits. While the capital value system has not been put to practice in any of the States, the area based system has been tried out in a few States with some success. The question still remains as to which system is best suited to the Indian context. This study is an effort to address broadly the various issues and options available from the perspective of policy makers and administrators in evaluating and designing appropriate property tax reform strategy. The object is to investigate the reasons why property tax is not revenue productive in most of the States, and what is required to make this tax an important source of local government revenue. Property tax reform can be better achieved in the context of wider restructuring in the sources of municipal revenue. The objective of such a reform is not only to increase property tax revenues, it should lead to improvement in equity, reduction in arbitrariness, and minimise the compliance and collection cost.

Objectives

The specific objectives of the study are:-

- i. To examine the problems associated with the annual Rental Value system in terms of administrative, procedural, legal, and behavioral constraints which have adversely affected the revenue productive of property tax,
- ii. To analyse the impact of the reform measure already put in place in few selected cities, which could throw light on legal sustainability of the alternative system of property tax as also its impact on revenue yield,

- iii. To suggest reform measures to redeem property tax from the existing maladies so that property taxation could be objective, non-discretionary, elastic, productive and at the same time simple to administer.

Data for the Study

The analysis presented in the study is based on the critical examination of legal provisions of the tax base and laws relating to annual rental value and primary data on assessment method, tax base, billing and collection etc. collected from 13 selected municipal corporations in the country. The corporations were selected from two groups of States. Group I consists of States where the Annual Rental Value system is still in operation and Group II States which have adopted Area Base system. The samples have been taken for from Group I and Group II States.

Group I States: States that have still retained ARV system

	State	City
1.	Rajasthan	Jaipur
2.	Punjab	Ludhiana
3.	West Bengal	Kolkata
4.	Madhya Pradesh	Bhopal
5.	Tamil Nadu	Chennai
6.	Maharashtra	Mumbai

Group II States: States that have adopted the Area Based system

	State	City
7.	Bihar	Patna
8.	Uttar Pradesh	Lucknow
9.	Uttar Pradesh	Mizapur
10.	Gujarat	Ahmedabad
11.	Karnataka	Bangalore
12.	Andhra Pradesh	Hyderabad
13.	Kerala	Thiruvananthapuram

A detailed questionnaire was sent to all the selected cities under Study. All the cities responded to the questionnaire, however, some of the information sought was either inaccurate or not answered. Despite these shortcomings, the information received provided

the basis for answering some of the questions about the property tax system and its administration.

Organisation

Chapter 1 gives an introduction to the issues relating to Property Tax, the need for reform and the scope of the study. Chapters 2 provide a brief overview of the legal issues. Chapter 3 analyses the tax base tax rate and valuation. An appendix at the end of the report is made, with reference to the relevant provisions of the selected cities, in respect of the method of assessment, collection efficiency, appeal provision and the issues pertaining to tax administration. This chapter is elaborate, since the existing provisions in the Municipal Act in different parts of the country make it easy for comparing the system. Chapter 4 makes this comparative study supplemented with statistical details and specific reference to the cities discussed. Chapter 5 deals with an agenda for a Property Tax reforms. Annexure ii at the end of this chapter gives an outline for implementing property tax reform.

What has been attempted is an appraisal of the issues plaguing property tax system in the country and possible solutions. It is hoped that the comparative study approach to the Property Tax practices across the country would be useful for local bodies to structure a holistic framework for reforming the Property Tax system.

Annexure 1.1
Sources of Revenue and Distribution of Expenditure in Sample City Municipal Corporations

Corporation	Mumbai @		Calcutta		Bangalore*		Hyderabad**		Ahmedabad		Lucknow		Bhopal		Ludhiana		Chandigarh		(Rs. in Lakh) Mirzapur	
	1998-99	1999-00	1998-99	1999-00	1998-99	1999-00	1998-99	1999-00	1998-99	1999-00	1998-99	1999-00	1998-99	1999-00	1998-99	1999-00	1998-99	1999-00	1998-99	1999-00
Own Tax Revenue	65209	71116	12664	14331	9038	11582	4543	8112	11901	11665	1838	2098	889	1039	1772	2234	0	0	30	52
Property Tax	18093	19465	12593	14187	8926	11339	3374	4267	11901	11665	1734	1981	730	762	1694	2213			16	27
Other Taxes	47116	51651	71	143	112	243	1169	3845			104	117	159	277	78	20			14	25
Shared Taxes	112517	129301	1411	476	1632	2186	6443	7055	26427	30919			10	15	8246	11956			4	6
Own Non Tax Revenue	122116	131400	4971	6138	11809	11368	6254	4115	1799	2067	885	752	1611	1904	1854	1761	2529	3899	26	51
Grants	7031	2029	15767	21253	13641	10774	1112	575	7373	11984	4308	4634	2215	3543	331	674	7440	7450	558	458
Block Grants (SFC & TFC)			11601	18049	6527	5924	182	304	1789	2084							4800	4800		
Specific Grants			4167	3204	7113	4850	930	271	5584	9900	4308	4634					2640	2650		
Capital Receipts	73250	51179	3606	3128	2118	1942	4574	5622			79	1			42	456				
Revenue Expenditure	348876	378269	42954	0	29010	31167	12976	16022	41892	51830	6928	7274	4858	5923	11749	17760	10793	11684	418	626
Establishment (gen adm., salary, tax collection, estb.)	17843	18811	7754		3499	4276	7865	8802	5545	7306	2838	3415	2185	2647	1060	1114	4572	5144	352	514
Core Services (Wtr suppl., Sanit, street lighting, Roads, burial grounds)	179422	179673	29072		3773	3404	1993	6170	14811	17410	2396	2321	2259	2604	9184	14332	4968	5273	56	106
Social Services (Education and Health)	44556	44621	3199		6790	10760	37	59	11380	14643	217	266					1253	1267		
Other Services	107055	135164	2928		14947	12728	3082	990	10156	12471	1478	1273	413	672	1505	2315			10	7
Capital Expenditure	6258	6915			9584	15425	6468	8581							50	228	892	31	8	21
Own Revenues	187325	202516	17635	20469	20847	22950	10797	12227	13700	13732	2723	2850	2500	2943	3626	3995	2529	3899	57	103
Grants and Tax devolution	119548	131330	17178	21729	15273	12960	7555	7630	33800	42903	4308	4634	2225	3558	8577	12629	7440	7450	562	463
Total Revenues	306873	333846	34813	42198	36120	35910	18352	19857	47500	56635	7031	7484	4725	6501	12203	16624	9969	11349	619	567
Total Receipts	380123	385025	38419	45326	38238	37852	22927	25479	47500	56635	7110	7485	4725	6501	12246	17080	9969	11349	619	567
Revenue Expenditure	348876	378269	42954	0	29010	31167	12976	16022	41892	51830	6928	7274	4858	5923	11749	17760	10793	11684	418	626
Capital Expenditure ##	6258	6915	0	0	9584	15425	6468	8581	0	0	0	0	0	0	50	228	892	31	8	21
Total Expenditure	355134	385184	42954	0	38594	46592	19444	24603	41892	51830	6928	7274	4858	5923	11799	17988	11685	11715	425	647
Deposits and Advances (Net)					866	1836														

Note: Core services exclude water supply and sanitation for Mumbai and Bangalore

* Excludes Deposits and Advances, MP grants, Repayment of Loans is included in Capital Exp

Capital Receipts includes recovery of Loans and Borrowings

** Excludes Personnel and Misc. Deposits as it is of Public Account

@ Entertainment Tax Revenue is included in other tax revenue not in Shared Taxes as not available separately, and Octroi is included in shared taxes though administered by Mumbai corporation, for comparability of shared taxes with other states.

Source: Compiled by the authors

Sources of Revenue and Distribution of Expenditure in Sample City Municipal Corporations

Corporation	Mumbai @@		Calcutta		Bangalore*		Hyderabad**		Ahmedabad		Lucknow		Bhopal		Ludhiana		Chandigarh		(Rs. In lakh)		
	1998-99	1999-00	1998-99	1999-00	1998-99	1999-00	1998-99	1999-00	1998-99	1999-00	1998-99	1999-00	1998-99	1999-00	1998-99	1999-00	1998-99	1999-00	1998-99	1999-00	
	1998-99	1999-00	1998-99	1999-00	1998-99	1999-00	1998-99	1999-00	1998-99	1999-00	1998-99	1999-00	1998-99	1999-00	1998-99	1999-00	1998-99	1999-00	1998-99	1999-00	
1. Own Tax Revenue	65209	71116	12664	14331	9038	11882	4543	8112	11901	11665	1838	2098	889	1039	1772	2234	0	0	0	30	52
a) Property Tax	18093	19465	12593	14187	8926	11339	3374	4267	11901	11665	1734	1981	730	762	1694	2213	0	0	0	16	27
b) Other Taxes	47116	51651	71	143	112	243	1169	3845	0	0	104	3845	159	277	78	20	0	0	0	14	25
2. Shared Taxes (Octroi considered as shared tax in respect of Mumbai and Ahmedabad)	112517	129301	1411	476	1632	2186	6443	7055	26427	30919	0	0	10	15	8246	11956	0	0	0	4	6
3. Own Non Tax Revenue	122116	131400	4971	6138	11809	11368	6254	4115	1799	2067	885	752	1611	1904	1854	1761	2529	3899	26	51	
4. Grants	7031	2029	15767	21263	13641	10774	1112	575	7373	11984	4308	4634	2215	3543	331	674	7440	7450	558	458	
5. Capital Receipts	73250	51179	3606	3128	2118	1942	4574	5622	0	0	79	1	0	0	42	456	0	0	0	0	
6. Revenue Expenditure	348876	378269	42954	0	29010	31167	12976	16022	41892	51830	6928	7274	4858	5923	11749	17760	10793	11684	418	626	
7. Capital Expenditure	6258	6915	0	0	9584	15425	6468	8381	0	0	0	0	0	0	0	0	228	892	31	21	
8. Own Revenues(1+3)	187325	202516	17635	20469	20847	22950	10797	12227	13700	13732	2723	2850	2500	2943	3626	3995	2529	3899	57	103	
9. Grants and Tax devolution (2+4)	119548	131330	17178	21729	15273	12960	7555	7630	33800	42903	4308	4634	2225	3558	8577	12629	7440	7450	562	463	
10. Total Revenues (8+9)	306873	333846	34813	42198	36120	35910	18352	19857	47500	56635	7031	7484	4725	6501	12203	16624	9969	11349	619	567	
11. Total Receipts (10+5)	380123	385025	38419	45326	38238	37852	22927	25479	47500	56635	7110	7485	4725	6501	12246	17080	9969	11349	619	567	
12. Total Expenditure (6+7)	355134	385184	42954	0	38594	46592	19444	24603	41892	51830	6928	7274	4858	5923	11799	17988	11685	11715	425	647	
Property Tax share in Own Tax Revenue	27.75	27.37	99.44	99.00	98.76	97.90	74.26	52.60	100.00	100.00	94.34	94.44	82.12	73.33	95.62	99.09			52.61	51.83	
Property Tax share in Own Revenues	9.66	9.61	71.41	69.31	42.82	49.41	31.25	34.90	86.87	84.95	63.69	69.52	29.20	25.89	46.72	55.40			28.15	26.33	
Property tax share in Total Revenues	5.90	5.83	36.17	33.62	24.71	31.58	18.38	21.49	25.05	20.60	24.66	26.47	15.45	11.72	13.88	13.31			2.59	4.80	
Property tax share in Revenue Expenditure	5.19	5.15	29.32	30.77	30.77	36.38	26.00	26.63	28.41	22.51	25.03	27.23	15.03	12.86	14.42	12.46			3.83	4.34	
Property tax share in Total Expenditure	5.09	5.05	29.32	23.13	23.13	24.34	17.35	17.34	28.41	22.51	25.03	27.23	15.03	12.86	14.36	12.30			3.76	4.20	
Population in lakh***	155	159	127	130	53	55	51	52	42	44	21	22	14	14	13	14	8	9			
Per capita Property Tax	117	122	99	109	168	206	66	82	281	267	82	90	54	54	129	163	0	0			
Per capita Own Tax	420	446	99	110	170	211	89	155	281	267	86	96	65	74	135	165	0	0			
Per capita Own Revenue	1208	1271	138	158	392	417	211	234	323	314	128	130	183	209	276	295	313	457			
Per capita Total Revenues	1978	2095	273	325	679	653	359	380	1121	1294	330	341	347	462	929	1228	1235	1332			
Per capita Total Receipts	2451	2416	302	349	718	688	448	488	1121	1294	334	341	347	462	932	1262	1235	1332			
Per capita Revenue Expenditure	2249	2374	337	0	545	566	254	307	988	1184	326	331	356	421	894	1312	1337	1371			
Per capita Total Expenditure	2290	2417	337	0	725	847	380	471	988	1184	326	331	356	421	898	1329	1448	1375			

* Excludes Deposits and Advances, MP grants, Repayment of Loans is included in Capital Exp

** Excludes Receipts includes recovery of Loans and Borrowings

*** Excludes Personnel and Misc. Deposits as it is of Public Account

@@ Entertainment Tax Revenue is included in other tax revenue not in Shared Taxes as not available separately, and Octroi is included in shared taxes though administered by Mumbai corporation, for comparability of shared taxes with other states.

**** Population for 1998-99 and 1999-00 is arrived at by using compound annual growth rate between 1991 census and 2001 census on 2001 census figures.

Source: Compiled by the authors

Finances of Municipal Corporations

Corporation	Mumbai @		Calcutta		Bangalore*		Hyderabad**		Ahmedabad		Lucknow		Bhopal		Ludhiana		Chandigarh		Mirzapur	
	1998-99	1999-00	1998-99	1999-00	1998-99	1999-00	1998-99	1999-00	1998-99	1999-00	1998-99	1999-00	1998-99	1999-00	1998-99	1999-00	1998-99	1999-00	1998-99	1999-00
Own Tax Revenue	411	461	99	114	164	217	88	160	272	275	84	99	63	76	131	170	0	0	16	27
a) Property Tax	114	126	96	113	162	213	65	84	272	275	79	93	52	56	125	169	0	0	8	14
b) Other Taxes	297	335	1	1	2	5	23	76	0	0	5	5	11	20	6	2	0	0	8	13
Shared Taxes	710	838	11	41	30	41	125	139	604	730	0	0	1	1	610	912	0	0	2	3
Own Non Tax Revenue	770	852	39	213	214	213	121	81	41	49	40	35	114	140	137	134	290	472	14	26
Grants	44	13	123	169	248	202	22	11	168	283	196	218	157	260	25	51	854	903	296	236
a) Block Grants (SFC & TFC)	0	0	91	144	119	111	4	6	41	49	0	0	0	0	0	0	551	582	0	0
b) Specific Grants	0	0	33	25	129	91	18	5	128	234	196	218	0	0	0	0	303	321	0	0
c) Capital Receipts	462	332	26	25	38	36	89	111	0	0	4	0	0	0	3	35	0	0	0	0
Revenue Expenditure	2201	2451	336	0	527	585	251	317	957	1223	316	342	345	434	870	1355	1238	1416	221	323
Establishment (gen adm., salary, tax collection, Core Services (Wtr suppl., Smit, street lighting, Basic Municipal services), Social Services (Education and Health)	113	122	61	0	64	80	152	174	127	172	129	161	155	194	78	85	525	623	186	265
Other Services	1132	1164	227	0	69	64	39	122	338	411	109	109	160	191	660	1093	570	639	30	55
Capital Expenditure	281	289	25	0	123	202	1	1	260	345	10	12	0	0	0	0	144	154	0	0
Other Services	675	876	23	0	271	239	60	20	232	294	67	60	29	49	111	177	0	0	5	3
Capital Expenditure	39	45	0	0	174	289	125	170	0	0	0	0	0	0	4	17	102	4	4	11
Own Revenues	1182	1312	138	163	379	431	209	282	313	324	124	134	178	216	268	305	290	472	30	53
Grants and Tax devolution	754	851	134	173	277	243	146	151	772	1012	196	218	158	261	635	963	854	903	298	239
Total Revenues	1936	2164	272	336	656	674	355	393	1085	1336	320	352	336	477	903	1268	1144	1375	328	292
Total Receipts	2398	2495	300	361	694	710	444	504	1085	1336	324	352	336	477	906	1303	1144	1375	328	292
Revenue Expenditure	2201	2451	336	0	527	585	251	317	957	1223	316	342	345	434	870	1355	1238	1416	221	323
Capital Expenditure #	39	45	0	0	174	289	125	170	0	0	0	0	0	0	4	17	102	4	4	11
Total Expenditure	2240	2496	336	0	701	874	376	486	957	1223	316	342	345	434	873	1372	1341	1419	225	333
Deposits and Advances (Net)	0	0	0	0	16	34	0	0	0	0	0	0	0	0	0	0	0	0	0	0

Note: Core services exclude water supply and sanitation for Mumbai and Bangalore

Source: compiled by the authors

Chapter 2

Legal Issues on Property Tax -An Overview

Historical Background

The Municipal laws in India have generally adopted the rental value of the properties as the basis for imposition of property tax. From the rental value the “annual value” or the “rateable value” of a property is derived for the purpose of calculating the property tax payable. The “annual value” or “rateable value” of a property is arrived at either by:

- (i) the actual rent received from a tenant

- (ii) where the property is not tenanted, to estimate the rateable value by an artificial method of valuation, i.e. on the basis of the gross annual rent, which the property may fetch from a hypothetical tenant

- (iii) where neither of these modes are not available, then, the law provides that the value of land and building is capitalized and on gross value so arrived a fixed percentage is taken to arrive at the net value to which the property tax rate is applied.

The term “rateable value” is synonymous with the term “taxable value”, “taxable turnover” or “taxable income” under other tax regimes. The word “rate” used in the Municipal Acts across the country, in the context of property tax, comes from England. In order to trace its legislative history, it would be of interest to know at least briefly, what exactly the word “rate” meant in England, in the context of their local taxation. In 1869 a law called the Valuation (Metropolis) Act was enacted in England. The provisions of this Act were applicable to the city of London. In this Act, for the first time the terms like “Ratepayers”, “Gross Value” and Rateable Value” were used and defined. Hence it would be appropriate to consider that the 1869 Valuation (Metropolis) Act as the source code for most of the statutory terms used in the rating laws, especially in the colonial countries. In fact, these terms still continue to be used in more or less the same form in the municipal legislations in

India. However, from the very inception of the Valuation (Metropolis) Act of 1869, there were disputes about the valuation methods used for arriving at the “rate” and the norms for deriving it for taxing property. An analysis of the legislative history and the commentary¹ on this enactment reveals that the term “Rate” always had the meaning of a tax on annual value or rateable value of land or building and that the annual value or the rateable value was arrived by three norms, namely either by actual rent received for land or building, or the hypothetical rent, if the land or building was not let, and if these two situations were not applicable, then a residual clause, by valuation based on capital value, of land and building, from which annual value was derived. On the value so derived, a suitable percentage was factored to arrive at the net value on which the property tax was computed. These commentaries paved the way for the enactment of Rating and Valuation Act, 1925. Though the Valuation (Metropolis) Act of 1869 brought about several changes for the proper application of the law, it was the Rating and Valuation Act, 1925 that made the first attempt in the direction to promote simplification and uniformity in the valuation of property for the purpose of rates (tax) and collection of rates (tax) by consolidation of rates (taxes).

Legislation in India

In India, it was the British Rule that brought in the concept of levying tax on properties, in various parts of Indian territories, for generating funds for the municipal bodies. This process started in 1884 with Bengal Municipal Act, 1884, Madras Municipalities Act 1884, Bombay Municipalities Act, 1888, Calcutta Municipalities Act, 1889, North Western Provinces Oudh Municipalities Act, 1900, Bombay District Municipalities Act, 1901, Central Provinces Municipalities Act, 1903, Madras Municipalities Act, 1904, U.P. Municipalities Act, 1916, Punjab Municipalities Act, 1912. Most municipalities have retained the original Act though they have made some changes. In some of the municipal statutes relating to property tax, the levy was termed as “tax” and in others as “rate” but despite these differences in the nomenclature, the base of levy was essentially the Annual Rateable Value (ARV) or Annual Letting Value (ALV) of the land and building.

¹ Faraday ‘On Rating’ 5th Edition page 165

The method of determination Annual Rental Value (ARV) is on the basis of rental value of land and buildings. In theory, the system arriving at the ARV is seemingly easy and straight forward. But in practice, the system is anything but easy. The problem starts with the definition of the rental value itself. The municipal enactment defines the basis of computation of property tax as “the gross annual rent of land and building at which they might be *reasonable be expected* to let from year to year....” The term ‘reasonable rent’ has not been defined under the Act. In its absence, it conveyed the meaning that if a property was rented then the actual rent received should be the factor to determine ARV, if self-occupied, ARV should be derived on the basis of comparing prevailing rent for similar tenanted properties. In the absence of similar tenanted properties, the rent should be derived in terms of a “hypothetical rent” which meant that if such property were to let out to a hypothetical tenant, what rent would the hypothetical tenant pay. In short we have the following matrix: (1). Where the property is actually let (2). Where the property is not let, however similar rented properties in the vicinity are available for comparison and (3) in the absence of similar property in the locality, the use of a proxy- the hypothetical tenant. In theory such a matrix would operate well if there was a free and undistorted rental market. But a plethora of problems piled on to defeat this simple matrix—understating of actual rent by collusion between landlord and tenant, rent splitting and above all the application of rent control laws which changed the concept of reasonable rent.

Rent Control policy was brought in as a temporary measure during the First World War, but this temporary measure became permanent with each State enacting Rent Control Act prescribing fair rent or standard rent. The Rent Control Act became the source code for fixation of ARV and therefore completely downsized the scope of taxing property to their actual potential. For over 5 decades the Rent Control Act overshadowed the taxing powers of the Municipal Act and thus adversely affected the buoyancy and elasticity of this tax. Thus, from the inception, the property tax levy in the country never did have a smooth sailing. The applicability of the principle of valuation has often been questioned for its fairness and more importantly what actually constitutes the ‘rateable value’ is a question that has been agitating the minds of the legislators, tax administrators, citizens, and the judiciary. Nobody has a final word on this issue including the highest court in the country.

Judicial Pronouncements

What perhaps set in motion serious legal discussions on property tax laws was the ruling of the Supreme Court in the year 1962, when the highest court for the first time interpreted the concept of Annual Rateable Value while delivering judgment in the case of Corporation of Calcutta vs. Smt. Padma Debi.² In this case, the Supreme Court held that where municipalities are governed by the Rent Control legislation it is *not actual rent or rent receivable from hypothetical tenant which has to form the base for determining Annual Rental Value (ARV) but the standard or fair rent which has to form the basis for determining the Annual Rental Value*. This interpretation of the highest court, overnight diluted the property tax base and affected its elasticity. The Rent Control law makes it illegal for any person to demand or receive rent in excess of the standard rent. The provisions under the Rent Control Act make it punishable for landlord to receive anything above the standard rent or permitted increase of rent. For instance, section 7 of Madhya Pradesh Accommodation Control Act provides for fixation of the standard rent; section 5 bars recovery of any rent over and above the standard rent and as per Section 6 no person shall claim or receive any rent in excess of the standard rent while section 43 makes receipt of any rent in excess of the standard rent punishable with imprisonment or fine. According to several commentaries on this judgment of the Supreme Court in this case was not based on any statutory or constitutional requirement. A subsequent three-member bench of the Supreme Court in a judgment delivered in 1994³, have questioned the efficacy and the appropriateness of the principle evolved in Padma Debi's case.

While the municipalities were tied to the verdict rendered by the Supreme Court, in the case of Padma Debi, the Supreme Court in Municipal Corporation of Indore Vs. Rathnaprabha rendered in the year 1976⁴ and again in the case of Indian Oil Corporation Vs. Ahmedabad Municipal Corporation rendered in 1995⁵, brought in some relief by interpreting the non-obstante clause contained in the taxing statute of the Municipality Act. In some Indian States, the property tax statute contains a non-obstante clause like "*notwithstanding anything*

² Reported in 1962 (3) SCR 49

³ Srikanth Kashinath Vs. Corporation of the City of Belgaum (1994) 6 SCC 572

⁴ Municipal Corporation of Indore Vs. Rathnaprabha (1976) 4 SCC 622

⁵ Indian Oil Corporation Vs. Ahmedabad Municipal Corporation 4 SCC 96

contained in any other law for the time being in force, be deemed to be the annual rent for which such land or building or premises might reasonably be expected to let from year to year” with reference to its use. The Supreme Court in these two cases held that since the relevant section contained a non-obstante clause the municipality need not take cognizance of the Rent Control Act and could deem the annual rent from a building or premises that which might reasonably be expected to let from year to year. These cases, thus distinguished the judicial principle evolved in the case of Padma Debi, and held that fair or standard rent as the ceiling for fixing Annual Rental Value is not applicable where the Municipal Acts contained the non-obstante clause. This distinction is clearly brought out by the Supreme Court in the case of East India Commercial Co. Pvt. Ltd Vs. Corporation of Calcutta⁶. In this case the Supreme Court, while strongly advocating against the applicability of fair rent doctrine for determining the Annual rateable Value/Annual Letting Value held:

- (i) When the Municipal Act requires the determination of the annual value, that Act has to be read along with Rent Restriction Act which provides for the determination of fair rent or standard rent, reading the two acts together the rateable value cannot be more than the fair or standard rent, which can be fixed under the Rent Control Act.
- (ii) The exception to this rule is that where standard rent has not been fixed for under the Rent Control Act, and whenever, Municipal Act provides a ‘non-obstante clause’ then the annual rent received by the owner in respect of the building can be deemed to be the annual rent for which the building might reasonably be expected to be let.

The various judicial pronouncements on property tax laws could probably be crystallized into just three questions: (i) whether the valuation arrived at is appropriate and in conformity with the rent control laws, (ii) whether in respect of any land or building, where standard rent is not fixed under the Rent Control law, the ARV shall “notwithstanding anything contained in any other law for the time being in force be deemed to be the annual rent for which such land or building or premises might reasonably be expected to let from year to year” with reference to its use and (iii), which is a matter of equity whether, in the absence of specific provision in

⁶ AIR 1998 SC 1789

the property tax law, a tenant of a building is entitled to file and maintain an appeal against the order assessing the property tax.

It would be of interest to briefly scan through the various judicial pronouncements on the three questions, before we shift the focus to subsequent judicial pronouncements rendered on a different and innovative method of valuation of property engineered by some States who metamorphosed the traditional rental valuation approach into a hybrid version - a mix of rental and capital valuation method which, on legal scrutiny, even the Supreme Court did not find the new system of valuation offensive.

Valuation in accordance with the Rent control laws

Between early 1960 and early 1990, the Supreme Court had consistently held that the application of ratable value must be in accordance with the Rent Control Act. Each of these decisions adversely effected the property tax elasticity. It would be of interest to very briefly state the observations made by the Supreme Court in some of the cases rendered during this period. The Supreme Court in Corporation of Calcutta vs. Smt. Padma Debi on considering the definition of the annual value and the provisions of the West Bengal Premises Rent Control (Temporary Provisions) Act, 1950 had held that *charging a rent higher than the standard rent is not only unenforceable but the landlord would be committing an offence under the said Act*. Accordingly it was held that the rental value of the building couldn't be fixed higher than the standard rent under the Rent Control Act.

In Guntur Municipal Council vs. Guntur Town Rate Payers Association etc⁷ the Supreme Court had clarified that where the Rent Controller had not fixed fair rent; the municipal authorities will have to arrive at their own figure of fair rent. What is *fair rent* has been defined under Section 4 of the Act, it therefore follows that *fair rent* is *standard rent*, and what *standard rent* means has been set to rest in Padma Debi's case as discussed earlier.

⁷ AIR 1971 353

In *Dewan Daulat Rai Kapoor vs .New Delhi.Municipal Committee & Others*⁸ the Court has ruled that for the purpose of rateable value, it is the “standard rent” that should be adopted and not the actual rent. In other words, the Corporation is not entitled to go by the actual rent received but only to the standard rent because the landlord is not entitled in law to receive anything more than the standard rent. Secondly, even where the standard rent is not fixed an effort must be made by the assessing authority to ascertain the standard rent in accordance with the Rent Control Act and then adopt it as the annual rent for which such building, land or premises might reasonably be expected to fetch from year to year with reference to its use. *Diwan Daulat Raj Kapoor* case arose under the Punjab Municipal Act, 1911 (applicable to Delhi) and Delhi Rent Control Act, 1958 considered the decision and followed the ratio in *Padma Debi, LIC and Guntur Municipal Council* in view of the fact that definition of annual value in Section 3(1)(b) of the Punjab Municipal Act, 1911 was similar to those in the enactments considered in the above decisions. It did not contain the non-obstante clause as contained in Madhya Pradesh Accommodation Control Act. The court distinguished *Ratnaprabha’s* case saying that it was based wholly and exclusively upon the non-obstante clause found in the MP Accommodation Control Act and therefore distinguishable. But the court expressed doubt on the judgment whether Section 138(b) was correctly interpreted because it was difficult to see how the non-obstante clause in that section can possibly affect the interpretation of the word annual value of any building the only effect of the non-obstante clause would be that even if there is anything contrary in any other law for the time being in force that should not detract from full effect being given to these words according to their proper meaning. But the judgment added that they did not want to proceed further in their arguments because in the instant case the Punjab Municipalities Act or section 116 of the Delhi Municipal Corporation Act, 1957 there was no non-obstante clause.

In *Indian Oil Company’s* case the Supreme court expressed that the decision rendered in the case of *Rathnaprabha* could not have the effect of overruling the decision in as much as a co-equal bench could not overrule it and could only refer it for reconsideration to a large bench which it did not do. In a more recent decision in *Morvi Municipality vs. State of Gujarat & Others*⁹ The Supreme Court followed and applied the ratio of the decision in *Padma Debi*

⁸ AIR 1980541

⁹ AIR 198652

and Diwan Daulat Raj Kapoor, and distinguished the decision in Ratnaprabha on the same basis as explained in Diwan Daulat Raj Kapoor, namely, the presence of *non-obstante clause* in MP and the absence of such in other cases.

From the point of view of property taxation, these decisions had an adverse impact. They affected the elasticity of the tax and its buoyancy. Appropriate legislation could have altered the situation but unfortunately legislation took a back seat as any meaningful amendment meant, de-linking property tax from the rent control laws or to amending the rent control laws to approximate rents at current market rental rates. An amendment to bring in such legislation would have far reaching consequences across the country, which could affect the tenants' interest in more ways than help the municipalities raise revenue. Thus, the legislators in their wisdom felt that any move to change the laws would be politically unwise and therefore left the field open for over 5 decades to judicial interpretation -some which went in favour of revenue and some against.

While adverse judicial pronouncements in respect of other Central and State taxing statutes have resulted in quick remedial measures by way of amendments to the statute, municipalities historically have not adopted a pro-active role in this regard resulting in the failure to evolve a mature property tax law for the country. The simple explanation for this laxity could be attributed to the fact that, higher governments did not find property tax, assigned to the last tier in the hierarchy, a subject worth pursuing for amendments, on account of its low revenue generating capacity, and higher governments found it easier to compensate the municipality through grants and other funds for their sustenance rather than upset taxpayers over this innocuous instrument of revenue. In other words, the political difficulties these cases present are obvious, for they affect groups that are among the most influential in the electorate.

However, despite this attitude of least resistance adopted by the municipality, a stray silver line shone on this tax instrument assigned to the Municipalities, when the Supreme Court interpreted the 'non-obstante clause' contained in the some of the Municipal enactments. The words "notwithstanding anything contained in any other law for the time being in force"

helped in some measure to apply the actual rent received instead of applying the standard rent as decided in the case of Municipal Corporation, Indore and others vs. Smt.Ratnaprabha and others and reaffirmed in Indian Oil Company Ltd vs. Municipal Corporation and others.

In the background of the various judicial rulings briefly delineated above, the following features emerge from the Municipal laws in the country:

- i. The standard rent or fair rent fixed under the Rent Control Act constitutes the upper limit of rentals. The Rent Control law makes it illegal for any person to demand or receive rent in excess of the fair rent or standard rent and doing so is therefore punishable. Hence, 'Reasonable rent' was interpreted to mean the limit imposed by the concept of fair or standard rent as provided for in the Rent Control Acts.
- ii. Where fair rent is not determined under the Rent Control Act, then also, the ARV has to be worked by artificial method of valuation on the basis of annual rent determined as per the provisions of the Rent Control Act.
- iii. Where standard rent has not been fixed for under the Rent Control Act, and whenever, Municipal Act provides a 'non-obstante clause' in the charging section, then the annual rent received by the owner in respect of the building can be deemed to be the annual rent for which the building might reasonably be expected to be let.
- iv. The legality of this 'non-obstante clause' has not been challenged because the provision treats the actual rent received as the annual rent the reasonableness of which can hardly be questioned.

The various interpretations of the Courts led to lot of difficulties in the matter of assessment of property tax. For instance, under the Karnataka Rent Control Act, the determination of fair rent is based on the entries made in the Municipal Tax Register. The revision of Municipal Tax can only be done as per the Rent Control Act, which in turn is dependent on the

Municipal Tax Register. In fact the Supreme Court has observed in the case of Srikant Kashinath Jituri Vs. Belgaum Corporation¹⁰

“We feel completely to express our doubts about the view taken by this Court in several earlier decisions that the property tax must be determined on the basis of fair rent alone regardless of the actual rent received. Probably a time has come when the said principle has to be reviewed.”

Perhaps this observation is the turning point for mooted changes in the legislation. In this case the court expressed the impracticality of the proposition that though the landlord may actually receive Rs.10,000 per month as rent the property tax in respect of the building can be levied only on the basis of say Rs.500 because that would be the basis of fair rent/standard rent according to the relevant Rent Control Act notwithstanding the fact that no such fair rent/standard rent has actually been fixed. The court after going through the various decisions rendered expressed that a time had come to move out from the rental valuation principle to a simple and transparent system.

The government has several options to deal with the problems of rent control. One obvious choice is to abolish rent control or de-link property tax from rent control regulations. As a solution to a property tax administration, however this action would be disproportionate to the problem. Rent control laws whether desirable or not are well intended national policy. From the property tax perspective the term “rent” in rent control regulation is the only reference point to determine the distribution of the tax burden. Abolishing rent control under these conditions would, in effect, be using a major change in housing policy to address a relative minor problem in local tax administration.¹¹ The other option to overcome the rent control problem is to increase the tax rate to levels required or to add surcharge on tax for the different civic services provided. A simple solution is to amend the Rent Control Act to fix rent on the basis of “hypothetical market rent”. Karnataka State and few other States have amended the Rent Control Act to bring in the market rent concept.

¹⁰ AIR 1995 SC288

¹¹ William Dillinger- Urban Property Tax Reform – Guidelines and Recommendations (1991)

Effect of the recent changes in the rent control legislation

It is pertinent to mention that the rent control law has always been regarded as the chief villain coming in the way of enhancing the tax base. This is no longer true. Several states have amended their Rent Control Acts linking the rents to current market rates. The amendments made to the Karnataka Rent Control Act are briefly discussed to highlight that Rent Control Act is no longer a stumbling block but progressive enough to help increase the property tax base.¹²

Section 109 of the Karnataka Municipalities Act 1976 as it then stood, provided that the ratable value of a building should be the basis for assessment of property tax. The ratable value was defined as the annual rent at which the building can be expected to be let. The Courts interpreted ratable value to mean the fair rent that is fixed as per the Rent Control legislation. The fixation of fair rent as per Karnataka Rent Control Act, 1961 had to be made under Section 14 of the Act which prescribed the adoption of the rent on the following basis:

- i). prevailing rates of rent.
- ii). the rental value entered in municipal records,
- iii). other circumstances of the case.

Further, the enhancement of the rate of rent was also restricted that at no stage there could be enhancement beyond 100 per cent. In short, the Rent Control Act provided for a very vague basis for assessment of the rent.

With enactment of the Karnataka Rent Act, 1999, the position has under gone a sea change. Section 7 defines Standard Rent, which stipulates that the rent at 10 per cent per annum on the cost of construction of the building at the time of construction and the market price of the land. This Standard Rent is further enhanced as provided in Schedule III. Further, the Schedule III provides that, in case of buildings constructed after 1st January 1995, the rent can be increase by 75 per cent of annual inflation rate based on the wholesale price index. Secondly, the

¹² Economists have always argued that property tax valued under a rental system is the easiest both to the taxpayer and the tax collector but for the problem with the Rent Control Act coupled with the courts interpreting that the 'standard rent' in fixing the ratable value. With standard rent now being defined under the amended Rent Control Act, the ARV system appears to have been given a new fillip.

maximum enhancement permitted is limited to the built up area of the building. It provides for 25 per cent where the built up area is up to 160 square meters and if it is more than 160 square meters, the enhancement can be 100 per cent. With this amendment, it is clear that the Rent Act, 1999 provides for a realistic mode of fixation of fair rent. Thus under the changed circumstances of the Karnataka Rent Act, 1999, even if the assessment has to be made on fair rental value, the same would provide a reasonable basis to tax property unlike the earlier Rent Control provisions. States like Tamil Nadu and Maharashtra have also made similar changes to the rent control law. In 1997, the Supreme Court held that the existing provisions of the Bombay Rent Act relating to standard rent are unreasonable and unconstitutional. In response to the 1997 apex court's directive to frame a "fair" law regarding the issue of rents frozen at 1940 levels, the State has now permitted a four per cent increase in rent every year after the initial five per cent increase. Landlords are also permitted to reasonably increase rent if they carry out any structural repairs of the building. Though this has been legislated, there is a strong opposition from the tenants and they have challenged the legislation which is still pending.

Area bases system and the legal benediction

In the 1990s one did see a change in the judiciary's approach towards property tax laws. Perhaps judiciary recognized property tax to be the chief source of independent and discretionary revenue to the local bodies to discharge their civic obligations, and thus was drawn towards suggesting for changes in the age old system. Inspired by these observations in the court's order few States attempted to move away from the clutches of the rent control laws, by changing the method of valuation of property to an area-based system. Initially, the flat rate floor area basis for the levy of property tax could not sustain the judicial scrutiny. The Supreme Court in the case of Lokmanya Mills vs. Barsi Borough Municipality¹³ and N.M.C.S. & W.Mills vs. Ahmedabad Municipality¹⁴ has deliberated the issues. In the first case, Rules were found to be invalid since the parent Act did not permit adoption of such a basis. In the second case, it was found to be discriminatory in nature and thus hit by Article 14 of the Constitution. However, subsequent attempts made by few other States after improvising the area based system withstood judicial scrutiny. The two infirmities mentioned in the area base system in

¹³ AIR 1961 SC 1358

¹⁴ AIR 1967 1801

the above two cases were found to be appropriately cured in the case of State of Bihar Vs. S.K.Sinha¹⁵. In this case, the legislature had permitted the State Government to devise the mode of determining Annual Rental Value and the State Government framed Rules by classifying properties on area-cum-use-cum-construction type and applied certain percentage of rates per square foot of the carpet area for determining the ARV. This method had no relevance either to the actual rent or hypothetical tenancy. The Supreme Court upheld this method of determining Annual Rental Value by holding that “while putting the method of determination of Annual Rental Value on a more uniform basis eliminating room for arbitrariness and corruption, the corporation has substantially reduced the rate of tax. We are unable to see any room for legitimate grievance on this account”.

Encouraged by this decisions other cities soon took advantage to bring in the necessary changes to the valuation process for levying property tax. Patna, Ahmedabad and Mizapur brought in amendments to incorporate the area based system, while cities like Bangalore and Hyderabad have brought in the changes without any amendment to the Act. The issue that the area based system was brought about without the required amendment to the Act was challenged in Bangalore’s innovation which was upheld by the Karnataka High Court¹⁶ on the grounds that the amendments to the Act were not necessary since the scheme had only changed the method of assessment within the existing provision and secondly the scheme was optional. “ It is true that the Commissioner while making assessment cannot deviate from the law laid down by the Supreme Court and this Court but situation acquires a different complexion when the Corporation in the best interest of its revenue as also that of the tax payers and to mitigate the prevailing vices of arbitrariness and corruption in its administrative machinery comes out with an optional scheme like the impugned one, which even on a judicial review cannot be found to be prejudicial to anybody’s interest”. Hyderabad pushed its scheme in the light of this decision and it did not face any legal challenge.

Legal sustainability

Though, currently the area based system has evolved substantially after its first success in Patna’s case, the question is will such innovations sustain legally? The advocates against the

¹⁵ AIR 1995 SC 885

¹⁶ Reported in ILR200KAR3772 BMNK vs. Bangalore Mahanagar Palike

area based system have argued that the attempts to insulate the Annual Rental Value from the provisions of the Rent Control Act which provides for “actual rent received” as the basis for determination of ARV, will not withstand the scrutiny of law¹⁷. They propound the decisions of the Supreme Court which have held that the annual fair rent alone could form the basis of assessment of property tax. The advocates in defence of the area based system are categorical that there are different methods of arriving at the annual value of any land and building and there is no rule of law as to the method of valuation to be adopted for determining the annual value,¹⁸ and that the legislature can select any of the method and so long as the Court is convinced that the method adopted by the legislature is not “capricious, fanciful, arbitrary or clearly unjust” The two views clearly state their preferences. One view is that the existing ARV system cannot be tinkered so long as it is linked with the Rent Control Act. Hence, the clamor is to completely overhaul the system and bring in a capital value system which will keep the tax buoyant as it will keep pace with on market values. The other view is that without disturbing the Rent Control Act, one can tinker with the method of assessment and value the property on an area based principle. This option is viewed as a compromise formula as it is politically difficult to do away with the rent control laws while it is easier to adapt to an area based system.

The Supreme Court in *State of Bihar vs. SK Sinha* had examined the arguments on both the divergent views discussed above, and approved the Patna model of property tax on the grounds that it is non-discriminatory, it contains simple classification and is introduced with good intention to provide relief to taxpayers. The Karnataka High Court assigned the same ratio laid down by the Supreme Court in the said case, while deciding the public interest litigation filed against the Bangalore model and went further to state that “ It is true that the Commissioner while making assessment cannot deviate from the law laid down by the Supreme Court and this Court but situation acquires a different complexion when the Corporation in the best interest of its revenue as also that of the tax payers and to mitigate the prevailing vices of arbitrariness and corruption in its administrative machinery comes out with an optional scheme like the impugned one”.

¹⁷ Gangadhar Jha Case Laws on Property Tax and implications for Reforming the Tax Base [NIUA (2002)]

¹⁸ RM Kapoor Area linked System for Property Tax Reform in India- [Times Research Foundation (2002)]

The courts have come to the rescue of the area based models in the country, only on the grounds of the system being non-discriminatory, simple classification and are introduced with good intention to provide relief to taxpayers, and therefore the scheme survived. For the area based system to sustain legally it must continue to have the same image. The cities that have introduced the area based system have heavily drawn on the support of the taxpayers that scheme introduced is with good intention to provide relief to taxpayers. This apart, these cities have packaged the scheme well and provided the necessary information at the doorstep of the taxpayer. Simultaneously, the taxpayers were made aware that the quality of civic services and infrastructure would improve. Taxpayers perceived these initiatives as citizen friendly and hence accepted the system though it meant that they have to pay twice as much under the new scheme. When taxpayers accept the scheme, there is little scope for any legal challenges. But if compliancy sets in then there could be problems associated with its prime theme of being “non-discriminatory. Tax administration should calibrate the rates carefully and periodically and the policy adopted should neither be arbitrary nor clearly unjust. This alone will help to sustain in the years to come. An inherent problem with property tax is that calibrating rates is not automatic. It requires the conscious act on the part of the government to take administrative or legal action periodically to keep the tax buoyant. If these requirements are not fulfilled, then the innovative system will soon collapse and the current judicial benediction may be jeopardised.

Legality of Capital Value System

Tax on property is listed under Entry 49 of the State List in the Seventh Schedule to the Constitution of India. It merely specifies “taxes on lands and buildings” This enables the State to legislate taxing lands and buildings. Hence, the derivation of valuation of land and buildings for property tax is not just restricted to only rent received. It could be derived in other ways as well. The Capital Value system adopted by Karnataka State has derived the value on the basis of the market value of the land and the historical cost of construction of the building. The land values are determined based on the guidance value issued by the Department of Stamp & Registration and the cost of construction on the rates specified by the Public works Department. This legislation also came up for judicial challenge as being hit by Article 14 of

Constitutional challenging the validity of the method adopted to derive value for taxing property. The Hon'ble High Court of Karnataka upheld the constitutional validity of the legislation. Upholding the constitutional validity is one issue, but the engines of success of this new legislation are contained in the application of the norms specified therein. The biggest issue will perhaps be the issue of equity. The tax base is stated to be the notified rates as per the Department of Stamps and Registration and not the market value. The average rate of Rs.400.00 taken for the cost of construction, at current prices, across the city for all buildings, is arbitrary and serious questions of equity will come up. In short, the net result of the system devised on land value and the valuation of building, will shoot the tax incidence several folds. There is no circuit breaker to cap the increase to desired levels. Circuit breakers are designed to limit property taxes to a designated percentage to protect against a tax overload. It is necessary for Karnataka State to build sufficient safeguards in the new legislation to take care of these inequities before actual implementation.

In conclusion, it is important to recognize that many legal aspects of the property tax are not resolved though the area-based system, getting a legal benediction has given some measure of relief to both the taxpayer and Municipal Corporation. There is no one magic formula or a system that a city can copy from another city or country. This is because of the dynamics of property market, differences in institutional and regulatory framework from one economy to another. In the Indian context, valuing the property tax base on an area based system in the cities mentioned earlier proved that these measures have been extremely useful in achieving successful reform without a major overhaul of the property tax system. It is clear that the rationale for linking property tax with locational and other factors for valuation of the ratable value had more to do with a pragmatic approach than with theoretical positions or debates over different schools of thought. However, this should not prevent a debate on the diverse consequences of this approach in terms of economic efficiency, equity and administrative management.

Chapter 3

Property Tax System in the Sample Cities

We have divided this chapter into two sections. In the first section, we have examined the property tax system prevalent in the 13 sample cities taken for study. Here, we have outlined the 5 basic components of property tax viz. method of assessment, tax base and its coverage, tax collection, appeal process and tax administration. For immediate reference, the operations of these components in respect to the sample cities have been summarised in a tabular format in Annexure 1 at the end of this chapter. We have also extracted the relevant provisions of the Municipal Act for each of these components at the end of the report¹. In the next section we have outlined the recent innovations brought about in the property tax system in some of the sample cities and have evaluated the success of these innovations.

Procedure for assessment

A study of the 13 sample cities reveals that the predominant method adopted to arrive at the valuation is the Annual Rental Value (ARV) or the Annual Letting Value (ALV) method². This system of assessment, prevalent from colonial times, has constrained the elasticity of the property tax. However, in the search for an alternative system of valuation, some cities have attempted reforms in the method of assessing properties, keeping annual rental value as the base, and have succeeded in improving the valuation base and consequently the tax productivity. While some cities have attempted reform without any major amendment to Municipal Acts, some cities have brought the changes in the method of assessment by a legislative process.

The sequence of an assessment of property in almost all the city municipalities in the country involved a standard procedure. When a property is to be assessed for the first time, the owner of the property furnishes the details of the property to the jurisdiction tax office. Based on the information furnished a spot inspection is normally conducted by the tax inspector. On receipt of the inspection report, the details of the property are entered into a property tax register and the new property is assigned a municipal number and assessed to tax. This register contains all the

¹ Please see Appendix 1 at page

² The term ARV and ALV are synonymous.

details of the property viz. the name of the owner, the location of the property, its built up area, type of construction, its usage - residential or non-residential and whether it is owner occupied or tenanted and if tenanted, the rent collected. Any changes in the property like change in ownership or additional construction or change in the usage etc. is entered in this register. Hence, this register forms the “fiscal cadastre”³ of the municipality. In the recent innovation in property tax made in few cities the taxpayer has the benefit to report the property in a prescribed format and compute the taxes payable. This procedural shift of reporting the property by the taxpayer himself has paid dividend to the municipality, which we have discussed later in the section.

Tax Base and Coverage

The property tax base may be defined as the extent of coverage of the taxable object-viz, the property in a given jurisdiction. Thus the terms ‘tax base’ and ‘coverage’ refer to the taxable object, (tax base) what helps to keep this base buoyant (revision of valuation and coverage) and the extent of tax on land & buildings (tax rates). The canons of taxation prescribe- *to avoid high rates, keep the tax base as broad as possible, keep the structure simple and transparent and ensure ease in administration.* To maximise the tax-base it follows that the administrative capacity must be enhanced to make for a systematic coverage of all properties in a given jurisdiction including capturing details of additional improvements/construction made on existing properties to enhance its value.

While it is true that the important strength of the property tax is to have kept it operative since colonial times, it is equally significant to mention that its weakness is that the base is restricted to specific asset, viz. property and in property only to the extent of building and land for urban uses, and not agricultural. The property tax base the world over is attributable to land and buildings though some countries do tax select items of personal property, such as certain equipment, inventories, and automobiles.

Under the Constitution of India, property tax revenues are assigned to the local government. The Municipalities draw their powers to levy Property tax from Entry 49 List 11 of the Constitution.

³ A fiscal cadastre refer to records maintained by the Corporations about taxpayers and properties (land parcels, buildings, and other assessable property)

This entry contemplates a levy of tax on lands and buildings or both as units. Such tax is directly imposed on lands and buildings and bears a definite relation to it. An annual tax levied by a State on 'Land and Building' on their annual value, payable by the owner, the annual value being determined by estimating the expected gross annual rent of the 'land and building' less allowance and deductions for repairs and taxes, falls under this entry. However, the State Government retains the power to legislate what should be the taxable objects for the municipal bodies, how to assess, demand and collect the taxes, enforcement for recovery of taxes, the maximum and minimum tax rate and to the power to grant exemption to certain class of properties.

Billing and collecting the tax

Assessment is a job half done. The circle gets completed only when the tax is actually collected and remitted. The annual cycle of property taxation generally begins with the issue of bill by the taxing jurisdiction. The basic record for the issue of the bill is the Assessment Register or the Property Tax Register⁴. This register contains detailed information about the owner(s), size of the property, location of the property, and the extent of construction, classification of the property, the usage whether owner occupied or tenanted, date when the property was first assessed, changes to the property that may have taken place after the property was first assessed.⁵

The property tax register is perhaps an adaptation of the registration system followed in the case of land records. The land record systems in the country have evolved for over one hundred and fifty years, resulting in a historical record of land development and ownership. This adaptation by the municipalities is not inconsistent for the purposes it is used, and hence should not be given up but should be made approximate to the fiscal systems like it exists in most European countries. The entries in the property register, which is more or less uniform in most municipalities, adequately support the property-based taxes and with modest computerization could successfully transform the traditional property tax register into a vibrant management information system.

Apart from the property tax register, municipalities maintain a *mutation register*. This register records the details of ownership of the property and how the property came to be

⁴ The register where the property assessments are recorded is generally called the *property tax register*. However some of the City Corporations have called this register as *assessment register*. The reason for the difference in the terminology is that some Corporations have assigned the term *property register* to all the properties belonging to the Corporation and therefore to differentiate, the register recording private properties assessed to tax as the *assessment register*. For easy comprehension we have used the term Property tax register throughout to mean the assessment register.

acquired. A property can undergo mutation if there is a transfer of the property by way of sale, lease, inheritance or division by partition. Municipalities maintain another record which contains the historical information of all the registered parcels of land and building in a tax jurisdiction. Any change in the ownership is first entered in this register and then entered in the property tax register. After the changes are made the tax bill will henceforth be raised in favor of the new owner. The municipalities, in fact, consider the mutation register as the first property entry register. However, this register does not usually record alteration and additional construction made by the existing owner. These changes to the property are reflected in the property tax register when the owner or the municipal staff reports new or additional construction.

Though the information contained in property tax register is not elaborate it is sufficient to raise the bill annually on the person liable to pay the assessed tax each year. From this register amounts outstanding are culled out manually and entered in a separate register. This register, along with the property register, forms the basis for the preparing the annual demand, collection and balance (DCB) for each year.

The property register is generally maintained according to the taxing jurisdiction. Most municipalities have divided the city into 3 or more zones and under each zone a number of range or circle offices have been established. The primary duty of collecting the property tax rests with the circle /range offices. Generally, once the property tax is assessed by the competent officer of the municipality, the assessed value and the tax amount continue to be in force until such time the property is reassessed due to additional construction, change in the ownership, change in the usage or if the municipalities have increased the tax rate or have effected a general revision of rateable values of all properties according to the jurisdiction.

Since the tax amount is fixed for a number of years, it is easy for the tax office to prepare the bill automatically at the beginning of each year. In fact the Demand mentioned in the "DCB statement" that is prepared at the beginning of each year, is prepared on the basis of the demand that is generated from the property tax register plus an addition for probably new properties during the year. The demand for the year under the property tax generally does not fluctuate unlike the demand in Sales Tax or the Central Excise or the Income tax, where the revenue for the year fluctuates with the business environment. If the business is good there is increase in the taxes and on the contrary if the business is bad and prices are low, there is low reporting of taxes.

Therefore theoretically the collection of property tax can be predicated more or less accurately and it also follows that the collection can be consistent with the demand.

Appeals and reforms

Like any other tax regime, property tax system also has a provision of appeal against the assessment. However, there is a difference between other tax regimes and the property tax. In other tax regimes like sales tax and income tax, assessments are generally concluded on a return based account-based system, where the role of the assessor is to verify the returns with reference to the accounts maintained by the assessee. In the case of property tax, the assessor determines the assessable value of the property and the appeal process gives taxpayers the opportunity to challenge the assessable value, on the grounds of reasonableness, if they so wish. Therefore, potentially every proposal for assessment of a property can become a subject to appeal.

With the recent trend in self-declaration of property tax scheme adopted by various cities⁶, the property tax assessment has become return based and automatic acceptance except for a percentage of cases selected for random scrutiny. Under this self-declaration scheme of taxation, appeal may arise due to consequential revision of assessment made based on information gathered on random scrutiny. With the advent of the self-declaration of property tax scheme, the number of appeal cases must logically reduce since the mass of the returns filed are accepted except for 5-10% random scrutiny. However, the predominant practice prevalent in the country is the assessment made by the assessor, the appeals systems should be designed to facilitate the taxpayer's right to appeal.

In a number of the Corporations in the country, appeal against the assessment made by the revenue officials/Commissioner lies before the Standing Committee consisting of elected representatives. The Standing Committee consists of Councillors who will decide the appeal by passing a resolution. Thereafter an appeal lies to the District Judge, which is the final fact finding authority. There are differences amongst States in the constitution of committees and subsequent appeals before the Civil Courts.

⁶ Though most of the cities refer to the innovations as 'self-assessment', it is not self-assessment in its true sense but a system of 'self-reporting' of property details in a prescribed manner.

Property Tax Administration

The State Government normally appoints the Municipal Commissioner. The post of Commissioner in large City Corporations is usually filled up from the Indian Administrative Service and generally in the rank of Secretary to State Government.

The Municipal Act provides for the appointment of senior officers to assist the Commissioner in the rank of Joint/Deputy Commissioners usually from the Indian Administrative Service and the State Administrative Services or from the municipal cadre. Most municipalities have their own cadre and recruitment rules which prescribe the qualifications required for each post. Recruitment to Municipal services is made by a selection committee appointed for the purpose by a resolution of the Corporation. Very few municipalities have any element of direct recruitment at key levels. Generally the municipal salaries are lower than those of the state government. While top posts in health, engineering and town-planning have specialists on deputation, there is no thought given to the appointment of tax specialists for Property tax administration.

Recent Innovations in Property Tax System in Sample Cities

Having outlined the five components of the property system in the country in the previous section, we have in this section summarised the manner in which the innovations were brought about in the selected cities.

Ahmedabad Municipal Corporation

In 1999, the Ahmedabad Municipal Corporation formulated and introduced a new area-based property tax assessment system. These reforms aimed at bringing transparency in administration and rationalising the existing tax structure. The Municipal Act was amended to accommodate the new system. The amendment provided for the Corporation to determine the rate of tax per sq m of the carpet area. The Corporation can determine different rates for residential and non-residential buildings apart from fixing the minimum and maximum rate for them. The classification of property and the tax applicable are formula driven. The immediate outcome of the amendment was that it de-

linked the Act from the Rent Control Act. All properties came under the tax net and only a few properties were exempted. The following are the factors that determine the tax applicable:

The location Factor (F₁)(Land valuation) - The Corporation has been divided into 4 areas classified as A to D and rates for each area are prescribed. The rules empower the Commissioner to classify the area in the city in which the residential buildings are situated taking into consideration the market value of the land in the area. Similarly, the Commissioner is empowered to classify the non-residential buildings into 4 groups namely I, II, III and IV having regard to the market value of the land in the area. It is also provided that both these categories of classifications are subject to revision once in every 4 years. The Corporation has adopted the value of land from the Stamp Duty Valuation organization.

Age factor (F₂) (Depreciation) - The buildings are grouped into four bands - 10-20 years, 20-30 years, 30-40 years and exceeding 40 years respectively. The rate for each band is specified and decreases with age of the building. The rules provide that the Commissioner can determine the age of the building based on information available with him or obtained from appropriate sources.

Type of building (F₃)(Class of building in the location) - The buildings are categorised into independent bungalows, row houses/ tenements, apartments, building situated on village site and buildings situated in chawls⁷. The tax rates for each of these descriptions of buildings have been prescribed.

Occupancy factor (F₄) By this is meant whether the building is owner occupied or tenanted. The tax payable on a tenanted property is two times that of an owner occupied building.

⁷ Chawls are tenements in slum areas.

The Act provides that when an addition is made to an existing building whereby the carpet area⁸ of that building is increased, such additions will be treated as a separate building and the length of its existence will be computed from the year in which the addition was made.

The assessment of property tax under Ahmedabad Municipal Corporation has been put to formula as under:

$$PT = \text{Area (sq. mts.)} \times \text{Rate} \times (F_1 \times F_2 \times F_3 \times F_4)$$

The Corporation outsourced the job of carrying out a survey of all properties to determine the location/age/type and use of building.

Bangalore City Corporation (Bangalore Mahanagar Palike)

Bangalore City Corporation from 1st April 2000 introduced an optional scheme of self-assessment of property tax. This scheme was brought about without amending the existing Act or the Rules as it was done within the ambit of section 109 which, prescribed that the Commissioner can determine the gross annual rent at which the building /land may at the time of assessment reasonably be expected to let from month to month or year to year. Under the scheme the method of assessment was based on 4 parameters viz:

- (i) ***Location of the building*** (Estimated market value of the land notified by the Government under section 45B of the Karnataka Stamp Act, 1957). Accordingly 6 zones were created based on the guidance value classifying all the areas in the city.
- (ii) ***Type of construction*** (Capital cost of construction) Here the construction cost was prepared in 5 bands, as follows:

⁸ Carpet area means the floor area of a building excluding the area over which a wall whether outer or inner is erected.

- I. RCC roof type building, per square foot
 - a. Exceed Rs.250/-,
 - b. More than Rs.150 but less than Rs.250,
 - c. Less than Rs.150/-
- II. Tiled and sheets of all kinds.
- III Thatched house/hut

(iii) **Age of the building** (Depreciation factor): Under Rule 46 (2) of the Taxation rules the depreciation table is provided. The rule provides minimum depreciation of 10% for building less than 5 years .The maximum depreciation allowed is 70% for buildings exceeding 55 years.

(vi) **Status (Usage factor)**: The buildings are further classified into tenanted or self-occupied. If the property is owner occupied, then a 50% rebate in the rate is provided for.

The city is divided into 6 zones and 5 residential and 11 non-residential classifications. The rate of expected rents for each zone and category is pre-set for rented and self-occupied properties.

The property tax payable under the self-assessment scheme is a two-line formula driven calculation depending on the location as under (for residential property):

$$rv = ba*(zrr*10m)-d$$

$$pt= rv*20\%+34\% \text{ cess}$$

(Where *rv* is ratable value, *ba*=Built-up area, *zrr* =zonal rental rate fixed/sft/month *m*=months, *d*=depreciation, *pt* = property tax, and 20% = Tax rate).

For hospital, cinema theatres, industries, marriage hall and star hotels the scheme offered 25% of the total built-up area as allowance for utility and such extent was subject to tax at 50% of the rate prescribed. The formula for hotels, hospitals, industries would therefore be:

$$rv = ba = 75 \% * r * 10 \text{ mts} = t1$$

$$*ba = 25 \% * r/2 * 10 \text{ mts} = t2$$

$$t1 + t2 - d = t3$$

$$pt = t3 * 25 \% = pt + 34\% \text{ cess}$$

(Where rv is ratable value, ba=Built-up area, (75% area @ full rate) r= rental rate fixed/sft/month m=months, t1 = total 1 r/2 (25% area @ 50% of the rate) d=depreciation, t2=total 2, t3=total 3, pt = property tax, and 20% = Tax rate).

Under the type of construction, an explanatory note specified that the cost of construction meant “the cost of building if constructed at the prevailing markets rates.” However, in respect of non-residential properties the cost of construction is not taken, only the rates are factored into the zones where such properties are situated. Under commercial properties, nursing homes, wedding halls, hotels (including Star hotels) cinema theaters, industrial buildings are classified differently and different rate were prescribed. These categories are given a 25% rebate on the total built-up area towards utility/ service area, and are subject to 50% of the prescribed tax rate.

The scheme also provides a cap on the maximum and minimum tax payable, which specifies that if as per the prescribed rent, there is an increase in tax from that of previous year, such increase will be restricted to two and a half times. On the other hand if there is a decrease from the taxes paid in the previous year, then such decrease would be restricted to 25%. The scheme also contemplates 5% scrutiny of the self-assessment declaration received.

Introduction of Capital Value System

The Karnataka Municipal Corporations Act has been amended replacing the ARV system with Capital Value System (CVS). Though this has come into effect from April 2002 in all

city corporations in the State including Bangalore, it is yet to be fully implemented. The self-assessment scheme brought in during April 2000 is replaced by a mandatory return based CVS system. If no return is filed, or the return filed appears incorrect, the Commissioner can assess the property to tax after making necessary enquiry.

Section 112 A (1) provides for 5% rebate for those who file the return in time and pay the tax on the basis of the return. The Commissioner has the discretion to levy a penalty of 50% of the property tax assessed for non-filing of return and in the case of willful incorrect filing of wrong return a penalty not exceeding twice the amount of difference between the tax assessed and the property tax paid. It also provides for 50% rebate for owner occupied buildings. Unauthorized buildings are liable for twice the property tax.

Under the CVS each parcel of land and building will be valued together. The properties are categorized into 6 categories. The land value will be based on the estimated market value of the land notified by the Government under section 45B of the Karnataka Stamp Act, 1957. The capital value of the building is the estimated cost of erecting the building minus depreciation at the time of assessment, and determined as far as may be based on the method adopted by the Public Works Department. The tax rate prescribed is not less than 0.3% and not more than 0.6% of the capital value assessed for land and building. The tax assessed is to be paid once annually by the 30th June

City Corporation of Mizapur (Nagar Palika Parishad, Mirzapur)

Mizapur brought about reform in property tax system within the existing provision of the UP Municipalities Act, 1916. No legislative amendment was made to bring about the self-assessment of property tax. The changes were made under the provision that enables Commissioner to call for property information from property owners and from the provision that the Commissioner can fix the reasonable rent for different properties on the basis of the reasonable rent the property commands in a given area. A mass appraisal system after actual survey of the wards was applied to determine the reasonable rental values for various classes of property, in a given area.

The method of assessment for both the classes of properties varies. In the case of class (1) mentioned earlier, the Corporation, with the help of the city engineering department has surveyed all the properties under this category and has taken the actual measurements. The City engineers have determined the present cost of construction on the basis of government circulars. Depreciation has been worked out as per PWD norms. For properties falling under class (2) the rent stated and recorded during survey were accepted and annual value determined accordingly. For owner occupied properties the rent of the existing rental properties in the neighborhood was taken as the basis. Average rent of rental properties should be worked out ward wise to be used as a classification factor. In case of ward where there were no rental properties, the average rent of the adjoining ward is to be applied. The average rent per square foot per year for all the rental properties in each ward was prepared. The wards were divided into 7 groups. The scale for average rent has been worked out as to be: Rs.0-5, Rs. 5-10, Rs.10-15, Rs.15-20, Rs.20-30, Rs.30-40 and above Rs. 40

Based on these averages, worked out for each of the ward, a computer programme was used to determine the annual rental value for residential, commercial and mixed properties as per the land use. Further refinement was made to valuation so arrived at, to take into account the type of construction, type of material used for flooring, location and in the case of multi-floor units (apartments) the valuation factor reduced for each level of floor.

The location factor was initially considered but given up because of the certain inherent difficulties, namely good buildings had come up in small lanes and older properties are located on the main roads. This fact would put the newer properties at a disadvantage over the older properties located on the main roads since the stated rent on lanes would be higher as they are more current than the older properties who would be obviously stating lower rents.

The municipal administration also surveyed 1188 institutional properties for which separate yardstick was formulated on the cost of construction as per Public Works Department schedule of rates.

Patna City Corporation

In the year 1993, the assessment rules were revised without altering the annual rental system as the base. The powers of the Commissioner were used to determine the method of assessment. The annual rental value was defined as the “rent that a holding is capable of fetching over a period of one year”. For finding out the rent fetching capability of a holding, an area-based assessment was introduced.

The rules laid down the criterion for assessment which included (1) Location of the holding, (2) use of the building (3) type of construction and (4) measurement of the carpet area. The assessment rules also provided the manner in which the carpet area is to be calculated and rental value to be fixed.

Location factor: Different areas of the city were classified on the basis of Principal Main Road, Main Road, and all other roads not falling in either of the two categories. The Corporation notified the rate per square foot for the locations. The corporation notified 24 Principal Main Roads, 88 Main Roads and the rest notified as “others”.

Usage factor: three groups are made (1) commercial or industrial holding, (2) residential holding and (3) all other not falling in the (1) and (2) category.

Type of construction factor: The buildings are classified into 3 categories. (1) pucca building with RCC (2) Pucca building with asbestos sheet and (3) all others not covered in (1) and (2) category.

The calculation of ARV and property tax is determined by the following formula:

$$\mathbf{ARV = C \times V}$$

$$\mathbf{PT = ARV \times R}$$

Where C=Carpet area and V= Value per sq. foot and R= rate of tax

Though the Act provides differential rates for residential and non-residential properties, the Corporation has kept a single rate. The rate fixed is 9 per cent of the ARV.

Thiruvananthapuram Municipal Corporation

The city is divided into 3 zones. The actual rent is determined considering various parameters for each zone. The property is classified into residential and non-residential. Residential building if tenanted is assessed as commercial building and 60% of the actual monthly rent is taken for the calculation of ARV. In respect of commercial properties, the Act makes no distinction whether they are owner occupied or tenanted.

Location factor: The location parameters are very detailed. Each factor is graded based on the location attributes. Two parameters are made: *(The figure in the bracket represent the points for each attribute)*

I. Access grading access from national highway (9), state road (8), district road (7), Other PWD road (6), Corporation tarred road (5), Corporation metalled road (4), non-metalled road (3), passage/footpath (2), and where there is no proper access (1).

II. Distance from the building from the main PWD road: At road side (10), at roadside < 50 meters (9), 50-100mts (8), 100-150 mts (7), 150-250 mts(6). 250-500 mts (5). 500-1km (4). 1Km. -2 Km. (3) 2Km.-4Km.(2) and more than 4 Km.(1)

Type of construction: Under this the criteria are the type of notified are:

Flooring: the graded points are for granite,(10) marble,(9) spartec tiles(8), mosaic (7), red oxide (6), cement (5) and earthen (1).

Roof: concrete above 100m (10) below 100m (8), partly terrace and tiled (7) Tiled with ceiling (5) tiled without ceiling (4) Asbestoses (3) Tiled partly (2) and thatched (1)

Quality of doors and window: High quality wood i.e. teak, rose, mahagani (5) Ordinary wood i.e. Anjili, Jack wood (4) inferior quality/reuse (1)

Number of floors: 5 floors and > (10) 4 floors (8) 3 floors (6) 2floors (4) floor (1)

Number of bedrooms in the house: 9-10 (10) 7-8 (8), 5-6 (6) 4(4) 3 (3) 2(2) 1(1)

Whether bath attached and if so the kind of flooring used: marble (8) glazed tile (6) Mosaic (5), cement (3), separate pucca bath (2), separate kutcha bath (0)

Sanitary convenience: Sewerage area (10) septic tank (5) ESP tank (0)

Electricity: Centralized AC (8) and ordinary AC (7), just electrified (4) no electricity (0)

Water connection: from government source (5) from own source (3), no source (0).

Grading of houses and rate per square meter: based on the total graded points for respective description of property, the expected rent is determined for the three zones. This rate ranges from a peak of Rs.13/- to a low of Re.1/- per square meter..

Municipal Corporation of Hyderabad

Hyderabad Municipal Corporation amended the Rules to bring in an area-based property tax with effect from April 1990. This amendment was challenged in the High Court and hence could not be implemented. However, without offending the litigation pending, Hyderabad Municipal Corporation introduced the self-assessment of property tax scheme during Jan 2000 taking advantage of the provision contained in section 213 of the Act, which stipulates that “the Commissioner may call for information or returns from the owners or occupier or enter and inspect assessable premises”. The Commissioner issued notice to the owners asking them to fill up the required details. The taxpayers were given an opportunity to calculate their own tax under a self-assessment scheme. In effect the amendment contained in the 1990 Rules were introduced. Under the scheme the owners were to fill up the form giving the property details like:

Location of the property: Though this has been specified in the scheme, there is no zoning of the properties. The criterion sought is what would be the reasonable rent the property would fetch in that area.

Built up area: For the purpose of calculation of the built-up area the plinth area is taken. In case of apartments higher the floor it was presumed lower would be the rent receivable.

Type of building: Type of building is classified into 3 types of roof and 3 types of flooring. The type of roof: (1) RCC (2) tiled/sheet of all kinds, (3) and thatched roof. The type of flooring classified is (1) partly Marble/granite (2) Mosaic/ceramic (3) Tiled/polished stone others.

Year of construction: Though this is prescribed the property owners are given a flat rate of deduction of 10% on the ARV.

Usage: Residential buildings are classified into owner occupied and tenanted and commercial buildings are classified into 10 categories.

Calculation of annual rental valuation: On these parameters the owners were asked to calculate the property tax on the basis of rent paid per square foot. If the rent paid was less than the prevailing market rate, then the prevailing market rate has to be paid and the difference to be recovered from the tenant. If the premises is self-occupied, the monthly rent expected if let out per square foot prevailing for similar property in the vicinity.

Tax rate: The tax rate was within the permissible limit of the section 99. For residential properties the scheme provides a graded rate as under:-

Rent less than Rs. 50/- per month – no tax

Rent between Rs. 51 to Rs.100 per month – 17% less 10% depreciation on value.

Rent between Rs.101 to Rs.200 per month – 19% less 10% depreciation on value.

Rent between Rs.201 to Rs.300 per month – 22% less 10% depreciation on value.

Rent above Rs.301 per month- 30 %less 10 % depreciation on value.

The property tax is calculated on the following formula:

$$PT= PA \times MRV \times 12 \text{ months} \times R-D$$

(Where PA=plinth area, MRV= Monthly rental value per sq. foot, R= expected monthly rent, D= depreciation)

The tax rate for non residential is kept uniform at 30%. Apart from the property tax levied a uniform 8% is levied towards library cess.

The scheme also provided for random scrutiny of 25% of the self-assessment forms received. Those that have filed very low rent would be taken up for detailed verification. The scheme does not specify what would happen in case property owners did not file the self-assessment declaration. However it is presumed that by the operation of the appropriate section, the Commissioner can make the assessment adopting the parameters of the scheme.

Immediate results of the reform

There are many ways to evaluate the success of the reform made in the cities under study. The most obvious is revenue yield. The following table shows the pattern of revenue collection pre-reform and post reform.

City	Revenue from PT the year previous to reform (Rs in crs)	Revenue from PT in the year of reform (Rs in Crs)	Revenue Trend during subsequent years (Rs. in Crs.)							
			94-95	95-96	96-97	97-98	98-99	99-00	00-01	01-02
Patna	1992-93	1993-94								
	Rs. 1.00	Rs.1.6	1.2	2.2	4.8	4.5	3.5	5.1	5.1	
<i>Collection ratio (%)</i>	10.4	19.4	15.4	17.9	24	30.67	21.20	20.27	21.61	
Hyderabad	1998-99	99-00	00-01	01-02						
	53.51	70.71	87.27	130.29						
<i>Collection ratio %</i>	66.57	74.77	78.02	88.06						
Bangalore	1999-00	00-01	01-02	02-03						
	118.00	157.50	162	195						
<i>Collection Ratio %</i>	63.78	79.14	92.5	97.5						
Mizapur	1998-99	1999-00	00-01	02-03						
	0.3	0.52	0.83							
<i>Collection Ratio %</i>	19	31	47							
Ahmedabad	1998-99	1999-00	00-01	01-02						
	122.48	119.45	97.82							
<i>Collection ratio %</i>	18.68	15.61	12.46							

From the revenue point of view the table shows very encouraging results. At the same time the table shows that if the reform process is not sustained by periodic revision of rates and improve the collection factor the innovations too will not sustain. This is the key lesson that one learns from Patna the city, which set in motion the area bases system a decade ago. In the first few years the revenue collection rose dramatically and peaked in the year 1996-97. Thereafter, one can see a steady fall in the tax productivity. The collection ratio prior to the reform, 1992-93 was 10.4 and in the year 2000-01 is at 21.61. This clearly shows that long run sustainability of the innovation depends upon calibrating the rates for the locational factors adopted and also to step up collection and coverage ratio. Patna stands out as an example for other cities, how despite criticism reform that was put in place was not able to sustain over the years. The amended Rules in the Act permit revision of value only after approval of the State Government. No timeframe has been prescribed in the Rules. Thus, in the last 10 years there is stagnation of valuation and consequently has effected the tax buoyancy.

It is too early to say how the experiments in other cities will behave over a period of time, but they have shown some encouraging results. In Hyderabad, property tax increased from Rs.58 crores in 1998-99 crores to Rs.82 crores in 1999-2000, and increased to Rs. 98 crores in the

year 2000-01. In Bangalore, the increased was by 33 percent between fiscal year 2000 and fiscal year 2001. Mizapur, a smaller city compared to the rest discussed here, with a population less than 100,000 has shown excellent results in terms of the revenue collection. This success could be attributed to the fact that the coverage of properties increased and the rental rates revised. Ahmedabad has shown a decline in the collection after the reform was brought about. In fact, in the year prior to reform the collection was much higher. This may not be a serious concern at the moment as this fall may be due to the fact that the coverage of properties under the new system is not complete. Unlike other cities, Ahmedabad did not adopt a self-reporting scheme. They went about surveying every property in the jurisdiction to collect physical data of the 4 factors prescribed in the new legislation. Though this work was partly out-sourced, the task is yet to be completed and as on date only 40 percent of the properties have been covered. As a result, the collection under the new scheme has fallen. It is quite possible that once the survey is completed and the bills are issued, the revenue will shoot up dramatically. But one does contemplate that Ahmedabad city too could have adopted the scheme of self-reporting with provision for severe penalties for wrong reporting. This would have gained public goodwill besides would show immediate results in terms of the collection. It is also pertinent to mention that in all the cities the revenue increase was due to revision in value and not so much due to collection of arrears. In Bangalore, it is estimated that one-third of the revenue increase was due to revision in value and that about three-fourths of all property owners experienced increases in their property tax payment. Collection of arrears did not contribute to this increase. It is seen that both Bangalore and Hyderabad have very largely improved their collection ratio. While the collection ratio in Bangalore stands at a peak of 95% Hyderabad has achieved 87%. Mizapur has achieved remarkable collection ratio from a low of 19 per cent in the year 1998-99 to a high of 47 per cent in the year 200-01.

In all the four cities, the base of the property tax was changed in some respect, approximating capital value. While 3 cities brought in amendments to their respective Acts, Bangalore City Corporation felt that the passage of such an amendment would have taken a pretty long time. Hyderabad too anticipated that any amendment would not only take time but would end up in litigation at it happened during 1992-93. Like Bangalore, they too took the advantage of the

provision of the Municipal Act, which enables the Commissioner to call for information from property owners, or alternatively he can inspect the property and determine the annual rateable value. In the self-assessment scheme of both Bangalore and Hyderabad, the Commissioner determined the rental rates based on a mass appraisal system. This experiment worked well for both the cities. In Bangalore, this method of mass rental valuation was upheld by the High Court on the ground that the reform brought about was only a change in the method of assessment and that it was in the interest of public good. Patna's reform measure was brought about by an amendment to the Act. This amendment was challenged, which was ultimately upheld by the Supreme Court on the grounds that the enactment was in the background of bringing in transparency in administration and removal of the harassment and exercise of official discretionary powers. Mizapur too followed the amendment route and managed to implement without facing any legal challenges.

From the recent experience in these cities, it is clear that the reform process in Municipal Corporations can be done with amendment to the existing Act as was done in Patna and Mizapur or without amendment as was done in Bangalore and Hyderabad. What is essential is the way the reforms initiatives are packaged and communicated to the public. Bangalore and Hyderabad cities focused largely on public acceptance of the new scheme. The scheme right from the initial stages was implemented with close involvement of the taxpayers. Payment clinics were opened to assist the taxpayer to fill up the tax form besides investing a lot of time in taxpayer educational program. The taxpayers had all the information with them and for the first time they knew how their property was being assessed to tax. Transparency was the key word in the scheme and this image enhanced taxpayers' acceptance of the scheme.

The area based system makes property tax a function of cost of acquisition whereby identical properties, acquired at different point in time, in the same area may attract differential taxes, given the same quality and volume of municipal services. This is because of the mindset, which usually perceives property tax as a charge that should relate to income, assets and capacity to pay of the owner. This is a wrong perception because property taxes should more appropriately be regarded as payment for services provided. Once this transaction is

recognised, there is no case for charging identical properties at differential rates. In all these cities, there is a distributional issue because the scheme adversely affects properties acquired at historically low values. Tax rates on these will go up, although Bangalore currently, has put a ceiling of 250 per cent of the tax paid previously. This is purely transitional measure and it is quite possible that some property owners might find the new taxes unaffordable. But such transition pains are inevitable whenever distorted markets are reformed.

Notwithstanding a relatively successful hybrid system in practice, the system has been subjected to some serious criticism. Notable among them is from Bagchi⁹. The important objection raised by the critics of the hybrid system is a concern regarding the objective manner of assigning weights to factors such as location, type of usage, quality of construction etc. to qualify the system to be scientific. The advocates¹⁰ of the hybrid system answer this fear by stating that the formula based system is scientific and that the factors relating to location are based on actual guidelines adopted by the Department of stamps and registration, the rental values are based on the accepted system of mass appraisal, and the cost of construction based on the valuation principles of the Public Works Department. The advocates of the capital value system in the country, notable among them, Rakesh Mohan¹¹, Bagchi, Gangadhar Jha¹² and Abhijit Datta¹³ have crystallized their arguments that the area based system does not link the tax to a base that is generally understood and secondly the tax base has limited scope for expansion since it is linked to rent and other factors rather than the market value of the property as contemplated under the capital value system. In the area based system the except the tax rate, all other factors remain constant and this will depress the buoyancy over a period of time.

Will these innovations survive?

The area based system in the country has the potential to succeed for the reason the rates fixed satisfy a popular belief that taxation decisions are official acts and the rates fixed are at

⁹ Amaresh Bagchi "Reforming the Property Tax Base: Need for a new Direction" EPW November 22, 1997

¹⁰ RM Kapoor, Area Linked System for Property Tax Reform in India, Dr. A. Ravindra, Reforming the Property Tax "Self Assessment of Property Tax" – Bangalore, PU Asnani Reforming the Property Tax- Ahamedbad

¹¹ Indian Thinking on Property Tax Reform (1983) See in Abhijit Datta's Property taxation in India, IIPA, New Delhi

¹² Enhancing Municipal Fiscal Capibility: Issues in local Resource Mobilization, NIUA (1988)

¹³ Rent Control and Municipal Property Tax Base: Reform Attempts in India (1998)

least transparent and not based on the official discretion exercised in the traditional approach of estimating the hypothetical rent. As against the traditional approach, the area-based system is less problematic because an official authority approves both the tax base and the table of rates. Tax payers can calculate their own tax liabilities and make direct payments based on formulas provided by the tax administration.

The impact of these reforms can be summed up as follows:

- Successful in the short run.
- Revenues have increased significantly.
- The problem of a badly outdated valuation roll has been addressed.
- The taxpayer acceptance of the reform measures.
- Preparing groundwork for changing to a capital value system by establishing an index value system that uses methods akin to those used in establishing the market value of properties.

How to sustaining the innovations

Despite these encouraging signs of successful reform carried out in the four cities, the question still remains whether these cities can rely on the revenue potential of property tax for the next several years? Property tax reform is an on going process and not a one time event. There should be continuous effort each year to assess new properties, in addition to discovering all changes in ownership and new construction, revision of valuation at the appropriate time, issue of bill and the follow up with collection of the tax. The following form the benchmark to sustain this hybrid reform¹⁴:

- the long run revenue elasticity of the “self-assessment” system,
- the transparency of the system,
- the administrative costs of maintaining this system,
- and horizontal equity.

¹⁴ Dr. Roy Bahl: Unpublished paper on Property Tax Reform-Bangalore. His views have been summarised where the context requires.

Ensuring elasticity

Municipal budgets will grow over time, and it is necessary that the property tax, as the principal source of locally raised revenue also grows. Ordinarily, property tax revenues can grow because of (a) adding new properties to the tax rolls, (b) increasing the values of those on the existing roll, (c) increasing the collection rate, or (d) raising the tax rate. An inherent difficulty with the property tax is that none of these four sources of revenue increase are automatic. All require the taxing government to take some administrative or legal action.¹⁵

The first requisite is to have a workable and fixed revaluation schedule embedded into this hybrid system to maintain the elasticity of the property tax. Capturing the increase in the value of properties should be done each year and creation of tax base drawn from market data for construction values and site value. Though the property valuation is revised once in 4-5 years, it is sound policy to have guidance value published every year. These criteria can be developed initially from survey research with the assistance of expert appraisers. Designing and building the property tax database is a formidable task. It will involve making changes in the property value indexes which will be the basis for revaluation of all properties in the next scheduled revision. In most States, the Stamps and Registration Department have established valuation cell for regularly calibrating the property value. City Corporations must be part of this valuation team. If the market element is introduced into this hybrid area-based system and revaluation is made periodically in a span of 4-5 years, it could be the easiest way to herald the value-based system.

Transparency

Transparency is a desirable attribute of the local property tax. If taxpayers understand how they are taxed, they are more likely to comply with the system. The previous administrative regime did not produce a transparent system. The new property tax system does introduce some transparency. The new value concept is an easier to understand. The tax payer is provided with a tax manual which the tax payer can read and calculate the footage value from

¹⁵ Ibid

a table provided. A taxpayer can actually work out the tax liability based on a schedule of values, tax rates, and depending on the location, usage and the physical characteristics of the property. The taxpayer can make the payment at a bank, thus removing the interface with the tax official. These features of the hybrid system paved way for the property owners to accept the new formula.

Administrative Costs

The reform process set in motion in these four cities gets mixed reviews in terms of the costs required to operate and maintain it. The administrative costs may well turn out to be less burdensome than those that would be incurred under a more conventional property tax system. Mass appraisal can significantly lower the costs of administering a property tax system. It can be a less expensive approach than, for example, surveying rents in every neighborhood or mapping and valuing every property. In addition, the shift to a self-reporting system also potentially reduces some administrative costs in the long run. For example, the need for collectors and inspectors is much reduced. This is not to say that the reform of property tax can be accomplished without significant investment in administration. But such investments are necessary elements for reforms.

Survey and coverage

The coverage of the property tax should be improved. An important task is to do a physical survey of all properties in the city, and then to put in place a process to maintain this roll. This survey would involve a significant one-time cost. The current GIS technology could be utilized once the physical survey is completed. The continuing update could be greatly enhanced by crosschecking with other registration systems. This might include coordination of property tax registration with electricity and water connections, business licenses, building permits, property transfers, etc. At present, such cross checking is not routinely done. Because these data sets are not already integrated, and the numbering systems are not unique, this could be an expensive and difficult task (even if all agencies concerned were willing to

cooperate). However, such an administration investment could yield a significant return in additional revenue.

Opportunity to update old records

One useful outcome of the introducing of self-reporting system is that the revenue officials would now be free to do a variety of work like updating the property records, survey of new properties, collection of old arrears, discovery of new properties for valuation and assessment. The revaluation of properties would take place after a lapse 4-5 years, and hence the revenue officials during this interval can be given performance targets in each of these areas of work. A concerted effort would increase the number of properties each year, increase revenue, reduce bad debts, preparation of delinquent list each year, step up enforcement for a random check of self-assessment returns filed. This period could also be utilized for the preparation of tax map and creation of a data base for property valuation. A periodic increase in the index values and increased coverage of the tax base are necessary to maintain significant growth in property tax revenues.

Horizontal equity

The property tax should be horizontally equitable. That is, it should treat similar properties in the same way. Or, if properties are to be treated differently, the reasons for this differential treatment should be justified. When properties are taxed differently, some parts of the population are burdened more than others. In all the cities where innovations were attempted the valuation roll and the rate structure together offer a number of differential tax treatments. In short, horizontal equity was at stake. For instance, the Bangalore City Corporation's innovation taxed all houses in a locality on a square foot basis and the actual construction cost was not given much importance. So the question of equity arose - that the scheme taxed poor quality construction and a posh construction at the same rate. It is important that this concern for horizontal equity is addressed if the area-based system is to gain credibility on the principle of the ability to pay. One of the ways to address this equity problem is to set separate treatment for unique and high value properties like star hotels, factory buildings and posh dwelling units. The valuation by mass appraisal technique should not be applied to but,

they must be assessed independently by a method of valuation which is 'property specific' i.e. a regular assessment of the property takes place by issues of notice calling for objections against assessment and passing of formal orders adducing therein the reasons for finally determining the valuation.

The advantages of de-linking these high value properties from those valued under the mass appraisal are two fold. First, such properties in a city may not exceed 8-10 percentage of the total properties in a city and hence their valuation process can be completely quickly. Secondly, such structures account for a very large share in the tax base. Therefore, with care and intelligent exercise these inequities in the system can be calibrated to a large extent. This requires adequate training for the staff on how to derive valuation and apply them equitably.

Annexure I.1

Abstract of the Method of Assessment of Property & Tax Rates

City	Ahmedabad		Bangalore		Bhopal		Kolkata		Chennai	
	Residential Non-residential	Owner	Residential Non-residential	Owner	Residential Non-residential	Owner	Residential Non-residential	Owner	Residential Non-residential	Owner
<i>Taxpayer</i>	Building in particular and land rarely	Building in particular and land rarely	Building in particular and land rarely	Building in particular and land rarely	Building in particular and land rarely	Building in particular and land rarely	Building in particular and land rarely	Building in particular and land rarely	Building in particular and land rarely	Building in particular and land rarely
<i>Taxable object</i>	The assessment is made on the basis of multiplying the extent of the property with 4 factors attributed to the building viz. location, age, type and occupancy. Each of the factors was assigned a value. The multiples of these gave the assessable value on which tax is levied.	The ARV for residential and non-residential properties is derived by taking into account the location of the property plinth area, type of construction, usage and a deduction for age of the building. However for certain class of commercial properties like cinema theaters, wedding hall, industrial sheds, star hotels and nursing hospitals are not tax basis of location but on different basis and tax rates.	Properties assessed to ALV based on location of the property (Market value) carpet area, type of construction with deduction for age of the building	Properties assessed to tax on the basis of gross annual rent including services charges.	Properties are assessed to tax on the basis of gross annual rent.					
<i>Method</i>										
<i>Assessment procedure</i>	Assessed by the revenue authorities.	Self-assessment	Self-assessment	Assessed by revenue authorities	Assessed by revenue authorities					
<i>Tax Rate</i>	Residential Graded rates between 15% to 30% + Cess 15%-25% Water & 18%(Conservancy) & graded Educational cess between 3% to 10% Non-Residential Graded rates between 15% to 22% + Cess 15%-22% Water & 18% (Conservancy) & graded Educational cess between 7% to 20%	Residential PT 20% Cess 34% on PT Non-Residential PT 25% Cess 34%	Residential ALV upto Rs 6000 Nil 6000-12000 6% 12001-20000 8% >Rs.20000 10% Non-Residential ALV upto Rs 6000 Nil 6000-12000 6% 12001-20000 8% >Rs.20000 10%	(annual Value)x11%+ $\frac{AV}{600}$ For non-residential properties the same formula but with an addition of 50% towards surcharge	Graded rates: Re 1 to Rs 500 -3.75% Education Cess 2.5% + library cess 0.18% Rs.500 to 1000 -6.75% Education Cess 2.5% + library cess 0.33% Rs.1001 to 5000 - 7.75% Education Cess 2.5% + library cess 0.38% >Rs. 5000 - 9% Education Cess 2.5% + library cess 0.45%					
<i>Provision for enhancement</i>	Rule 20 provides the enhancement of tax if erroneously valued through fraud, accident or mistake.	No specific provision under the Act, but commissioner revises if erroneously assessed.	If on re-assessment of any return filed is found variation beyond 10% the owner is liable for penalty equal to 5 times the amount of property tax payable.	Section 180 provides revaluation in all cases of under reporting. No penalty is prescribed.	If any property is not assessed or under assessed for any half-year or year, the commissioner, can assess for the last three years and demand payment within 15 days.					
<i>Provision for revision</i>	At least once in four (4) years. Revision made during the last 20 years: 1986 1993	At least once in 5 years. Last revision made in the year 1976	At least once in 5 years No general revision made since 1976.	Once in 6 years.	Once in 5 years. Revisions made during the last 20 years: 1977-78 1993-94 1998-99					
<i>Plans for reforms the system</i>	Area based system of assessment.	Act amended to introduce the capital value system. However yet to implement.	Retaining the ARV, the corporation incorporated the area base system recently.	Reforms planned but nothing concrete has emerged.	Retaining the ARV, the corporation incorporated the area base system recently.					

Abstract of the Method of Assessment of Property & Tax Rates (Cont.)

City	Hyderabad	Jaipur	Lucknow	Ludhina	Mizapur
Category	Residential Non-residential	Residential Non-residential	Residential Non-residential	Residential Non-residential	Residential Non-residential
Taxpayer	Owner	Owner	Owner	Owner	Owner
Taxable object	Building in particular and land rarely	Building in particular and land rarely	Building in particular and land rarely	Building in particular and land rarely	Building in particular and land rarely
Method	ARV based on location of the property (Market value) carpet area, type of construction with deduction for age of the building	On the basis of gross annual rent.	The annual rental value is derived having regard to the location and type of building.	On the basis of gross annual rent.	ARV based on location of the property (Market value) carpet area, type of construction with deduction for age of the building.
Assessment procedure	Self-assessment	Assessment by revenue authorities	Self-assessment	Assessment by revenue authorities	Self-assessment
Tax Rate	Graded rates: Residential: Less than Rs.50/- per month no tax Rs.51 to Rs.100/- Tax rate 17% Rs.101 to Rs.200/- Tax rate 9% Rs.201 to Rs.300/- Tax rate 22% Non-residential Tax rate is @ 30% 10% is given towards depreciation. On the property tax a uniform 8% towards library cess is levied.	Tax rate fixed is 6.25% for both categories of properties.		Residential properties: 10% + fire cess @3% if building height exceeds 35'. Commercial properties: If ARV is > Rs.1200/-50% If <Rs.1200-24% A fire cess @10% if building height exceeds 35'.	Both for residential and non-residential properties the tax rate is 19% + water tax @10% of the tax levied. A rebate of 5% is given if tax is paid in advance.
Provision for enhancement	Director of Municipal Administration can revise the properties that are under - assessed when brought to his notice.	No provision for enhancement once assessed.	Rule 4(a) provides revision of minimum monthly rent once in two years.	Section 154 provides the enhancement of tax if erroneously valued through fraud, accident or mistake. No penalty is prescribed.	No provision for enhancement once assessed
Provision for revision	At least once in four (4) years 1964 1991(stayed by court) 1994(Court passed adverse order & matter referred to Supreme Court)	Provides revision once in three years.	Refund of tax if the building has remained vacant or unproductive of rent for sixty or more days consecutive days during a year.	Section 104 provides enables the Commissioner to alter the valuation each year. However no revision of assessment has taken place for the last 20 years. However alterations, additions and new properties are being assessed every year	Revision at least once in five years. Revision made during the last 20 years: 1982 survey conducted but implemented in the year1993- partially completed. 1997 fresh survey was done with the assistance of ICDP and notices have been issued to property owners.
Plans for reforms the system	In the year 2000 brought in an area based system of valuation of properties for assessment.	Reforms planned but nothing concrete has emerged.	Retaining the ARV, the area base system has been incorporated in the Act recently	Reforms planned but nothing concrete has emerged.	In the year 1998 introduced the area based system.

Abstract of the Method of Assessment of Property & Tax Rates (Cont.)			
City	Mumbai	Patna	Thiruvanthapuram
Category	Residential Non-residential	Residential Non-residential	Residential Non-residential
Taxpayer	Owner	Owner	Owner
Taxable object	Building in particular and land rarely	Building in particular and land rarely	Building in particular and land rarely
Method	On the basis of gross annual rent.	The annual rental value is derived having regard to the location, type of building and usage.	On the basis of gross annual rent. But has moved to derive the ARV on the bases of location, type of construction, electricity load, sanitary convenience and water connection.
Assessment procedure	Assessed by the revenue authorities.	Self-assessment	Assessed by revenue authorities.
Tax Rate	Graded: if metered water supply:- Residential 85% on ARV Non-residential 112.5% on ARV If non-metered:- Residential 187.5% on ARV Non-residential 320.5% on ARV	Holding Tax @ 2.50% of ARV Latrine Tax @ 2.55% of ARV Water Tax @ 2.00% of ARV Health cess @ 1.25% of ARV Educational Cess @ 1.25% of ARV	18% on ARV for both residential and non-residential.
Provision for enhancement	The Act provides for enhancement if erroneously assessed or under-assessed.	The Act provides for enhancement if erroneously assessed.	The Act provides for enhancement if erroneously assessed.
Provision for revision	No provision for enhancement once fixed on the basis of rental value at the time of first assessment.	Revision once in four years.	Revision once in five years. No revision has been made since the last 20 years.
Plans for reforms the system	Has proposed to introduce Capital Value System, but nothing concrete has emerged.	In the year 1996 brought in the area bases system by legislation.	Have moved to area based system of assessment, but implementation is slow.

Annexure I.2
Types of properties exempted from property tax in the cities under study

City	State Govt. Office blds.	Central Govt. Office blds.	Public place of worship	Charitable institution purposes like orphanages, home for the disabled, destitute.	Burial ground	Charitable Hospitals	Education Institutions	Student hostel	Trade union Office	Minimum ARV	Concession for Self Occupied	Animal Center	Retired defence force	Consular Mission	Estimated loss
<i>Ahmedabad</i>	x	x	x	x	√	x	x	x	x	x	√	x	x	x	
<i>Bangalore</i>	√†	√†	√	√	√	√	√	√	√	x	√	√	x	x	>Rs.1 Crs.
<i>Bhopal</i>	√	√	√	√	√	√	√	√	x	√	√	√	√†	x	About 5% of the net demand
<i>Kolkata</i>	√	√	√	√	√	√	√	√	x	√	√	x	√	√	About 5% of the net demand
<i>Chennai</i>	√	√	√	√	√	√	√	√	x	√	√	x	x	x	>Rs2 crs
<i>Hyderabad</i>	√	√	√	√	√	√	√†	√	x	√	√	x	x	x	NA
<i>Jaipur</i>	√	√	√	√	√	√	√	√	x	√	√	√	√	x	NA
<i>Lucknow</i>	√	√	√	√	√	√	√	√	x	√	√	√	√	x	NA
<i>Ludhiana</i>	√	√	√	√	√	√	√†	√	x	√	√†	√	√†	x	>Rs.4 crs. ††
<i>Mizapur</i>	√	√	√	√	√	√	√	√	x	√	√	√	√	x	1% of net demand
<i>Mumbai</i>	√	√	√	√	√	√	√	√	x	√	√	x	√	x	1% of net demand
<i>Patna</i>	√	√	√	√	√	√	√	√	x	√	√	√	√	x	NA
<i>Thiruvanthapuram</i>	√†	√	√	√	√	√	√	√	x	√	√	√	√	x	NA

Conditions apply: †
†† Includes exemption on self occupied properties
NA: Information not furnished

Annexure 1.3

Abstract of the procedure of Billing and Collection of Tax

City	Ahmedabad	Bangalore	Bhopal	Kolkata	Chennai
<i>Mode of service of notice</i>	Demand notice is served by the bill collector directly on the property owner.	Property tax has to be paid along with the submission of the self-assessment declaration. Defaulters are issued with notice.	Property tax has to be paid along with the submission of the self-assessment declaration. Defaulters are issued with notice.	The bills are sent by post.	The bill collector serves notice of demand.
<i>Collection</i>	Payment is collected through Zonal Tax collection counters.	Payment at Banks, or ward offices.	Payment is collected through Zonal Tax collection counters.	Collection of tax is against the bill in 14 treasury Counters spread all over the city.	Payment to be made at the ward offices
<i>No of installments allowed for payment of tax.</i>	2 (half-yearly)	2(half-yearly)	2 (half-yearly)	4 (Quarters)	2 (Half-yearly)
<i>Monitoring of collection</i>	By wards themselves-through defaulters list	By wards themselves-through defaulters list	By ward officers themselves - through defaulters list	By ward officers themselves - through defaulters list	By ward officers themselves -through defaulters list
<i>Penalty /rate of interest</i>	18% per annum for delayed payment	First 30 days no interest Thereafter,5% per annum	For delayed payment 15% surcharge is payable	Default of quarterly payment penalty ranging from ½% to 15% is levied. Simple interest @ 12% if ARV is less than Rs.1 Lakh and above Rs.1 Lakh 18%	No provision for penalty for non-payment. Only recovery action contemplated.
<i>Recovery provision</i>	Attachment of rent, Issuance of distraint warrant & disposal of distraint property, attachment & sale of immovable property.	Issuance of distraint warrant & disposal of distraint property, attachment & sale of immovable property	Issuance of distraint warrant & disposal of distraint property, attachment & sale of immovable property.	Attachment of rent, Issuance of distraint warrant & disposal of distraint property, attachment & sale of immovable property	Issuance of distraint warrant & disposal of distraint property, attachment & sale of immovable property

Abstract of the procedure of Billing and Collection of Tax (Cont.)

City	Hyderabad	Jaipur	Lucknow	Ludhina	Mizapur
<i>Mode of service of notice</i>	Through bill collector.	Through bill collector	Self-assessment/ through bill collector	Through bill collector	Through bill collector
<i>Collection</i>	Through designated banks, and at ward offices	At ward offices	Ward offices	Ward offices	Collection at authorized bank and at ward offices.
<i>Number of installments to pay the tax.</i>	2	2	2	2	Tax is payable in one installment and after the service of the bill.
<i>Monitoring of collection</i>	By wards themselves- through defaulters list	By wards themselves-through defaulters list	By ward officers themselves - through defaulters list	By ward officers themselves -through defaulters list	By ward officers themselves - through defaulters list
<i>Penalty /rate of interest</i>	18%	No provision for levy of penalty but to initiate recovery action	18%	12% < 3 months 18% > 3months	18%
<i>Recovery provision</i>	Issuance of distraint warrant & disposal of distraint property, attachment & sale of immoveable property	Issuance of distraint warrant & disposal of distraint property, attachment & sale of immoveable property	Issuance of distraint warrant & disposal of distraint property, attachment & sale of immoveable property	Issuance of distraint warrant & disposal of distraint property, attachment & sale of immoveable property	Issuance of distraint warrant & disposal of distraint property, attachment & sale of immoveable property
City	Mumbai	Patna	Thiruvanthapuram		
<i>Mode of service of notice</i>	The notice is served by inspectorial staff.	The bill is serviced by the bill collector.	The bill is serviced by the bill collector.		
<i>Collection</i>	The payments are received at the Ward Offices.	At ward offices	At ward offices		
<i>Number of installments to pay the tax.</i>	Tax is payable in two installment.	Tax is payable in two installment.	Tax is payable in two half-yearly installments		
<i>Monitoring of collection</i>	By Ward offices	By ward offices	Directly monitored by Revenue officer and the secretary.		
<i>Penalty /rate of interest</i>	15 days time to pay the tax thereafter penalty up to 20% pm is leviable.	18% pa	2% per month is collected for delay in payment. If the tax is paid within that half year, then the interest is waived. If delayed for a year then 24% interest is charged.		
<i>Recovery provision</i>	Recovery by issuance of distraint warrant & disposal of distraint property, attachment & sale of immoveable property	Recovery by issuance of distraint warrant & disposal of distraint property, attachment & sale of immoveable property	Act provides for prosecution & attachment for the default of payment.		

Annexure 1.4

Abstract of Appeal provisions

City	Ahmedabad	Bangalore	Bhopal	Kolkata	Chennai
<i>Nomenclature of the Taxation Appeal Committee/ Standing Committee</i>	No provision for TAC	Taxation Appeal Committee	No provision for TAC	Municipal Assessment Tribunal	Taxation Appeal Committee
<i>Constitution of the appeal committee</i>	NA	Constituted from the elected representatives only. Chairman and 4 members	NA	Chairman, Member of the WB Higher Judicial Services, and members not exceeding five (5), which normally includes persons with engineering background. No provision to include elected representative	Judicial Officer not below the rank of a Sub-Judge.
<i>Time limit for passing appeal petitions</i>	NA	90 days from the date of filing appeal	NA	No time limit	To depose within 5 months from the date of filing
<i>Second appeal</i>	Direct to City Civil Court	City civil court/ high court. If the BMP is aggrieved, then revision is available with Divisional Commissioner.	District Court.	High court under writ jurisdiction	Appeal before the Principal Judge, City civil court.
City	Hyderabad	Jaipur	Lucknow	Ludhiana	Mizapur
<i>Nomenclature of the Taxation Appeal Committee/ Standing Committee</i>	No Appeal forum	Board/Committee of the Government	The Board committee	House Tax Assessment Committee	
<i>Constitution of the appeal committee</i>	NA	By the government		Two councilors & the Commissioner or his authorized representative.	
<i>Time limit for passing appeal petitions</i>	NA	No time limit	60 days	No time limit	
<i>Second appeal</i>	Direct to Chief Judge – Small Causes Court	District Collector.	Magistrate- Civil Court	Before the Divisional Commissioner.	
City	Mumbai	Patna	Thiruvanthapuram		
<i>Nomenclature of the Taxation Appeal Committee/ Standing Committee</i>	No provision for TAC	Chief/Executive Officer	Taxation appeal Committee		
<i>Constitution of the appeal committee</i>	NA	Appointed by government	Elected representatives.		
<i>Time limit for passing appeal petitions</i>	NA	60 days	No time limit		
<i>Second appeal</i>	Before the Small Causes Court.	District Judge	High Court.		

Chapter 4

Policy and Practice-An Analysis

This chapter is devoted to an analysis of the law and practice of the property tax system in the sample cities in particular and the country in general. The comparative approach that has been attempted in tabulating related provisions of the municipalities under the study¹, throws up certain commonalities and at the same time, a lot deviations from what is actually mandated in law.

1. Valuation process

In the selected cities under study, two clear and distinct methods emerge. In Jaipur, Chennai, Ludhiana, Kolkata, Bhopal and Mumbai the traditional ARV system still continues. Mumbai has attempted to make some changes in the valuation process for certain properties keeping the rent as the base, but with very limited success. This is perhaps due the fact that there is neither legal sanction for the method adopted nor any leeway within the existing provisions of the Act. Ahmedabad has completely de-linked the assessment of property from the Rent Control Act but Patna, Lucknow, Mizapur, Bangalore, Chennai, Hyderabad, and Thiruvananthapuram have linked rental values to factors like the location of the property, its usage and the quality of construction. This area-linked system is a hybrid derived from the principles of rental value, site value and the capital value system. Though each of these cities has adopted this hybrid system, there are differences in their approaches and implementation in the respective cities².

The hybrid system enhanced the tax base by including certain factors like the location of the property, usage, extent and type of construction. However, the key factor that has enhanced the property tax base is location and the extent of built up area. All these cities, to factor rates for location of the property, have adopted the guidance value for land published by the Department of Stamp and Registration. Since the guidance value is a government published

¹ Please see Annexure I summarised & tabulated in chapter 3. For detailed compilation please see Appendix I at the end of the report.

² The details of each of these innovations are discussed in chapter 3 part 2.

document, it has removed the discretion of both the taxpayer and the tax collector. However, the quality of building is still a subjective matter. This has been minimized by creating 'valuation band' for different category of construction or depending on the schedule of rates as per PWD norms. Most of the cities have adopted a self-reporting system and have prescribed tax returns form in which the taxpayer has to fill up all the factors himself and apply the tax rate and compute the tax payable and remit at designated centers or commercial banks.

The first impression that one gets from the shift to an area based system from ARV is that it the taxpayers have accepted the system and thus has contributed to its success. The immediate gain from this system is that these cities saw an increase in the tax revenue and the taxpayer saw the system as far better than the earlier one. There are still some concerns whether these innovations will succeed. This has been discussed in detailed in chapter 3³. One of the concerns for the area based system is the very method adopted. In Ahmedabad the net rental or capital value of the property from all its features/factors is not arrived at. Instead the tax is directly derived on the basis of the 4 attributes multiplied by the tax rate. This is an important distinction from innovations brought about in other cities. It is relevant to consider whether it is prudent to arrive at the tax directly from the four factors rather than fixing a value for the property based on valuation principles. The other cities under study have fixed the rental rates of the property per square foot depending on the locational and other factors and have arrived at the ratable value.

While deriving the rental rates, Patna, which heralded the innovation, did not go in for any elaborate valuation principles. Perhaps, because of its over simplification of valuation method based on the roads and other factors of usage, quality and extent of construction being incidental to the locational factor, the scheme was acceptable to the citizens. To cap this innovation, the Supreme Court, though found that the system did suffer from inconsistencies, finally observed that the new system was not offensive to public good and thus upheld the scheme for its professed intention of being hassle-free for the taxpayer. In the Bangalore model the rental rates for residential and non-residential property for different areas has been specified and has also categorised the type of buildings and the usage. There are 16 categories

³ Please see chapter 3 part 3 of this report.

of buildings, 5 residential categories and 11 non-residential categories. While the residential buildings have some element of capital value attached to the rental value, the commercial buildings do not have such attributes. This move was perhaps to gain support from the predominant residential associations. However, the capital values attached to the residential categories of buildings are not free from being ambiguous and subjective. In UP State, Lucknow, the capital city and Mizapur have followed the area-based system but Mizapur appears to have better results in terms of coverage and the revenue implication. Mizapur had made an elaborate exercise in tax mapping the jurisdiction and to fix rental rates into 7 bands. They were successful in mapping the city since the geographical area was about 39 square kilometer. Hyderabad model of assessment is similar to the Bangalore model but the taxpayer in Hyderabad could determine the rental rate for the property based on the prevailing rental rate in the area. Hyderabad Corporation was perhaps compelled to allow the taxpayer to determine the rental value because their earlier initiative for reform met with legal challenges and the matter is still pending at the Supreme Court. However, the Corporation had also provided guidance rental rates in different localities and there was also a tag attached to the scheme that the returns will be scrutinized. The valuation bases for these cities are not without fault. They tend to treat all properties at a given location at the same factored rental rates irrespective of the quality of construction. In Hyderabad, the rental rates have been a bargain with the resident associations and do not represent the true market rental rates. Therefore, though the new system of valuation has increased the tax revenue to these cities considerably, yet in relation to current prices tax productivity is not high. This is due to the time lag in revision of valuation and should not undermine the reform process attempted. But the caution is that the rental valuation should be calibrated at regular intervals to keep the tax buoyant.

From the time Patna initiated the area based system, the principle of assessment under this system has not undergone much change, only the approach of the municipality towards the taxpayer has changed. Each city has been promoting the scheme as 'citizen friendly' initiative. While the experiments in these cities have paid good dividend, there should be sustained efforts to stabilise the system. The touchstone for simplicity is the easy comprehension of the citizen. Elaborate formula and calculation process will lead to interpretations and interpretations will cause disputes. Given the parameters the citizens must be able to assess the

rental value of their property for tax themselves. In this regard, a good measure of success is seen in Hyderabad and Bangalore. Ahmedabad and Thiruvananthapuram taxation schemes have too many combinations of factors involving too many calculations. The language describing the factors in Ahmedabad reads:

“The specified rate shall be increased or decreased or neither be increased nor be decreased having regard to the type of the residential buildings as follows...”

“..... The ultimate rate of tax determined for residential buildings under sub-section (1) read with sub-section (2) and (3) of sub-section 141 B of Gujarat Act 3 of 1999 (hereinafter referred to as (“ the specified rate”)) shall be increased and decreased or neither increased or decreased according to sub-rules (2), (3), (4) and (5)”

Clearly, this tenor of language is not easily understood by an ordinary property taxpayer. Bangalore and Hyderabad have brought out informative brochures which details the scheme in a very lucid manner. In Thiruvananthapuram, the classification made on the width of the road, the distance from highway, type of flooring, thickness of concrete used for roofing, number of rooms with bathroom attached etc though are good class of categorization yet such wide combinations of factors, instead of simplifying the system, complicate it. Therefore it is important that while framing a property tax reform, the municipalities must adopt policies and administrative procedures, which are convenient to the taxpayer and appropriate to the administrative capacity of the tax department. Simplification of policy and administrative procedures will enhance both administration and compliance.

In introducing the area-based system Patna, Hyderabad and Bangalore brought in the self-reporting scheme whereby the property owner had the option to report the property valuations against the set parameters. On this valuation the prescribed tax rate was calculated and the owners were allowed to remit the taxes at the authorized banks or offices. The interface of the tax collector was almost distanced. But in Ahmedabad and Mirzapur they have surveyed each and every parcel, measured the extent of the parcel and the other attributes and have calculated the assessable value and arrived at the tax payable. Notice to the property owners have been

sent on this basis. While Mizapur took two years to do the survey and have not completed the issue of notice, Ahmedabad has taken about the same time to make the field survey and as of date has been able to serve the special notices to an extent of 40 per cent only. What Mizapur and Ahmedabad did were in the perfect interest of revenue and equity, in that, every property should be assessed as correctly and as accurately as possible. But whether such accuracy was commensurate with the time and effort is a matter to be evaluated. The mass appraisal system adopted by Patna, Bangalore and Hyderabad, though requires refinement, appear be the perfectly in tune with international practices in assessing properties.

Enhancing the valuation within the rental limitations

In Mumbai, Jaipur, Ludhiana, and Kolkata the 'actual rent received and reasonable rent' concepts still remains the base. In these cities, which have not progressed from the colonial annual rental value system, the actual rent paid by the tenant to the landlord is accepted if the assessor felt that the rental rates approximate a fair market rent. If the assessor felt that the rent was understated, the estimated average market rent for the neighborhood was used. This manner of assessment by itself is equitable and a reasonably good base for revenue, but the problem came about when the court interpreted that the Act did not permit any revision of the rental rates once fixed by the Rent Controller or assessed to tax and as long as the tenancy continued with the same person. Some of the Municipal Acts permitted revision of the valuation once in 4-5 years or quinquennial⁴ revision. Maharashtra Acts do not permit revision beyond the actual rent or even quinquennial revision. General revision is permitted under the Kolkata and Rajasthan Act, while Kolkata has revised the valuation in the years 1976, Jaipur has not revised even once after the Act came to force.

Despite this limitation caused by the Rent Act, Mumbai has attempted to restructure the assessment base in certain cases. The assessment base in respect of commercial banks, industrial estates office premises, hotels, factories, petrol bunks, swimming pools etc are all subject to valuation between 3-5 times of the rental rates in the locality. This method is not prescribed in the Municipalities Act, but perhaps by negotiation with owners of such non-

⁴ The term means revision of assessment between two general revisions. Some of the municipalities have this provision specifically embedded in the Act like in Karnataka & Tamil Nadu

residential properties. The Corporation has adopted certain ratio of rent for various classes of properties determined after taking into consideration actual instances of letting. When these ratios were fixed, the rent fixed by the landlords for banks used to be 3 to 5 times the residential letting value. Hence for Nationalised and Co-operative banks 5 times and 3 times respectively, was adopted. Likewise in case of Industrial estates 2 times, office premises 2 to 3.5 times, hotels between 1.5 to 4 times (5 star hotels 4 times, 4 star hotels 3 times,) factory of RCC type 2.5 times, AC roof type 2 times. In case of swimming pool, petrol pumps etc, the rent is derived at a certain percentage of the cost of land and cost of construction. In case of cinema theatres on the house full capacity method at the first assessment and thereafter on the basis of average receipt for preceding 3 years excluding entertainment tax. In the case property tax on racecourse, it is based on the profit earning method wherein profit of the tenant is taken as the basis for determining the reasonable rent. In case of oil storage tanks, it is assessed on the basis of tank capacity.

Though such scheme of assessments removes official discretion and results in some increase in the valuation base, the adhoc and wide range of classification of non-residential properties will complicate the tax system. Besides, assessment made on the seating capacity in cinema halls, earning capacity in the case of racecourse and storage capacity in the case of oil storage tanks goes against the canons of property taxation. The principle of assessing certain properties not generally let is not formulated on the basis of business capacity or turnover of the owner from a commercial property but is based on the principle of valuation of property in a locality and converting that capital value to estimate the annual rates. Taxing on the basis of turnover is appropriate for other tax regimes like the sales tax or the income tax but certainly not under property tax laws. For properties not normally let or difficult to estimate, the Municipal Acts across the country have provided for a norm to capitalize the total value of land and building to 6-7 per cent of the market value with provision for depreciation for building depending on the age of the building. On the value so computed, a tax rate is prescribed. This prescribed method of assessment of such properties was not adhered to instead each city corporation came out with their own version of assessing such commercial and industrial properties. Such valuations generally negotiated between the owners and the city corporation sowed the seeds of complication into the tax system. Instead of diluting the procedure legislated for such

properties, if the tax rates were reduced to reasonable limits, it could have perhaps paved way for a capital value system of assessing properties in the country.

Effective Tax Rate

State Governments legislate the minimum and the maximum tax rate the municipalities can levy on property. This tax rate may vary from city to city. Apart from the property tax the municipalities levy other taxes and cesses as a percentage of the property tax. The cess and the other taxes collected may be either for the municipal services or collected on behalf of the government. Whether this amount actually is used for the purpose for which it is collected or remitted to the government is not known. But the fact of the matter is that with the addition of other taxes and cess, the effective property tax rate goes up.

Variation in the cities in the levy of other taxes and cess are probably influenced by the limitation posed by the rent laws. Due to constraints from the rent laws Mumbai increased the charges for services provided as a percentage of the property tax. The service charges were steadily increased that the current effective tax rate ranges from 152 per cent to 225 per cent for nonresidential premises and 77 per cent to 105 per cent for residential premises depending on whether water meter is connected or not. Hyderabad too has begun to levy charges for services extended and collecting the same as a percentage of property tax. The professed reason for bringing in other taxes and cesses was to cover some gaps in the revenue. Though none of the municipal services must be on gratis, it is felt that these charges must not be linked with the collection of property tax. These other charges currently included in the property tax could be collected on monthly installments through different agencies like the power supply and/or water supply boards. This distributes the burden of the overall taxes and any increase in property tax per se will not have the multiplier effect. Another special feature noticed is that when the effective tax rate is brought down, the revenue increases. The psychology of low tax rates does work as it did in Patna which reduced the effective tax rate from 43.75 per cent to 9 per cent resulting with excellent compliance in the very first year of introducing the reform.

2. Tax base

This section focuses on the taxable object (tax base), what keeps its buoyancy (revision of valuation) and what narrows its base (exemption and preferential treatment). In this section we will focus on how the base is depressed due to fiscal indiscipline coupled with generous exemptions granted by the government.

Lack of good data and book-keeping

Most cities lack the basic data on which this base is to be assessed to tax. The property tax register is maintained in a routine manner. The property details entered by lower staff at the time of the first assessment and approved by the superior officers is rarely updated unless reported by the property owner himself. Rarely do the superior officers make field check for the correctness of the reporting by the lower staff. There is no system of auditing the assessment files for their correctness. Computerization of the property tax information would help in better maintenance of record and easy retrieval of information. Though most of the municipalities have been sanctioned generous amounts as grants by the Government toward computerisation of municipal records, the municipalities are yet to take full advantage of computerizing the records. The technological advantages of putting all the property particulars in a computer program are tremendous.

Administrative laxity

Though the property tax function is primarily that of the revenue staff of the municipalities, the study shows that by and large, properties are registered at the behest of the property owner's own initiative and declaration rather than the revenue staff own survey. Most of the Municipalities Acts make it mandatory for the owner to notify the jurisdiction tax office within a prescribed period, any change in ownership and file copy of the registration deed. When such changes are updated there is generally an upward revision of the property tax assessment. This provision is one of the enabling tools for increasing the tax base. Only Kolkata has made a provision in the Act that requires the Registration Department to periodically report the number of properties registered in the respective jurisdiction. This reporting would be the basis for identifying of new properties and change of ownership. A proper interface with the registration

department would be a gainful experience for the Corporation. The fact the law mandates that the taxpayers are obliged to provide information about the construction of property or any improvements made to the property should not set in an air of complacency. Casting statutorily obligation on the property tax owners is not an end by itself. The onus should be equally that of the revenue officials to conduct periodic field survey to book new properties and update the property tax register wherever changes to properties have occurred due to further construction, change of ownership or usage. Our study shows that the property details are hardly updated. Changes in the property register occur generally when the owner reports additional construction or change in its usage.

Lack of enforcement

Except Mumbai, none of the States have a separate enforcement machinery to check for escapement of tax by non-reporting of new construction or additional construction made on existing properties. There must be independent and efficient enforcement machinery to identifying new properties and additional constructions made to old properties. The mere fact that there exists special enforcement machinery in the city corporation will have the psychological advantage to enforce voluntary compliance. Simultaneously, non-disclosure of correct property information must be penalized substantially. Most of the Municipalities do not have penal provisions for non-disclosure and where provisions exist, they are not applied in sufficient measure to make it deterrent. In Thiruvananthapuram, in practice, irrespective of the length of non-payment or non-reporting, the lapses are overlooked once the basic taxes are paid. Such appeasement is detrimental to a taxing statute and encourages non-compliance.

Loss of base

i) Exclusion of plant and machinery

In most municipal corporations, the property tax base includes only land and buildings. The single greatest challenge in the valuation process is the accurate valuation of land and building. Even this limited tax base is grossly underutilized. The salient issues are discussed to amplify

the proposition. Kolkata and Hyderabad Acts specifically include the value of plant and machinery in calculating the rateable value in cases where the buildings are not generally let or difficult to estimate. In such cases the capital value is estimated on the cost of erecting the building along with the plant and machinery and taxed at the rate between 6-7%. In Kolkata, an exhaustive schedule VIII to the Act has been prescribed detailing the plant and machinery that have to include for computing the value. Study reveals that this valuation method resides only in the statute but not in practice. In actual practice, valuation of such properties varies. This hiatus maybe due to political or administrative contingencies.

ii) Splitting of rent

The UP Municipalities Act specifically includes the charges for furniture, if separately charged. Rajasthan has specifically excluded the charges for furniture. In Karnataka Municipalities though the Act is silent on the issue of charges for furniture, fixtures and furniture are normally excluded from the rateable value. It is common for the owners to enter with the tenant two separate agreements, one as rental agreement, which constitutes about 50 per cent of the consideration and the other 50 per cent consideration towards furniture and fixtures. What is declared to the corporation is only the rental agreement and the other agreement is generally unreported. Whether the consideration received for fixtures and furniture have been specified in the statute of the municipality or not, it is part of the consideration for letting the premises and hence forms part of the rental value. In some cases the owner take heavy deposit and a meager rent. The interest on the deposit along with the rentals would be the actual rental value for the building. By not considering this fact, the municipalities have reduced the base. These few illustrations show how the actual consideration for rent could be suppressed affecting the property tax base. Incidentally, such are the cases that internal and external audit should detect based on intelligence information gathered or field reports received.

iii) Exclusion of commercial hoardings from the base

Most Corporations have tax on advertisement/billboards and hence it is easy to recover tax from those that have rented or leased their premises or land for hoardings. Municipalities that have moved to area-based system too appear to have over-looked the possibility of including estimated rental income from hoardings and telecommunication towers. This base too must be captured in the area based system as well as the existing ARV system. Under the area based system this can be corrected by calibrating a rental rate on locational factors and for the space leased/rented out. Secondly, a large number of hoardings have come up on defence and railway land and have escaped the property tax net. When the property belonging to Central government is put to commercial use there is no bar for the municipalities to levy property tax on the area let out for commercial purpose. The Central government circular No. 4(7) P/65 dated 29th March 1967 issued by the Union Ministry of Finance does not envisage circumstances where Central Government properties are put to commercial use.

vi) Exemptions

The tax base is further reduced by the exemption of tax on certain class of properties and preferential treatment to some class of properties. Historically, these exemptions were given at one point in time because such beneficiaries shared the civic responsibilities and the objectives of the municipalities. But it needs to be examined whether such exemptions have outlived their usefulness. Generally, any exemption from tax complicates the tax system. Charitable institution that cares for the poor and the needy in respect of free education, shelter and health are causes worthy of exemption. But in today's environment it is not uncommon to see charitable organizations like choultries (Marriage halls) charging exorbitant rent, educational institution charging huge capitation fee not just for technical education but also even for kindergarten classes, and the so called charitable and philanthropic hospitals that charges exorbitant outpatient treatment and ward charges. Can such institutions also qualify for exemption from property tax?⁵. In the recent amendments, Ahmedabad had done away with most exemptions. Charitable institutions are subjected to tax at the same rate as other

⁵ The various exemptions granted by selected cities under study are listed out in the annexure to this report

commercial buildings in the location. Even religious place of worship are bought under tax net, thought the tax levied is at a concession rate.

The local government exemptions are deep rooted and the dynamics of interest groups operate the moment one is opposed to it. One way to prune the list of exemptions is to insert conditions that educational institutions that charge capitation fee/donations etc are disentitled from exemption and charitable hospitals that charge over and above the rates prescribed in government run hospital are disentitled to exemption. Likewise, charitable organizations running choultries (marriage halls) where the rent charged exceeding a specified amount should be out of the exemption list.

Another aspect noticed in the study is that none of the municipalities has maintained any record detailing the number of exemptions granted and the probable revenue lost on account of such exemption. Under most Municipalities Acts the exemption to property tax is not automatic. They have to be eligible to get the exemption, which means that they have to apply each year to establish their claim for exemption. Hence, in this report it was not possible to quantify the extent of loss of tax on account of exemptions granted. It is essential to have a centralized record whenever such exemptions are granted. This would enable to keep an account of loss of tax by such preferential treatment and could help policy decisions.

v) Punjab Exempts Property Tax

What perhaps is shocking is Punjab government's move to exempt property tax on all residential properties with effect from 01-04-1997 irrespective of the size of the property. This is a retrograde move and perhaps the only State in the country to have done away with taxing residential properties. This move was perhaps to give relief to property owners as a populist measure, and to shift the levy to an alternative source namely, market cess. The concept of market cess is not the same as property tax. In market cess the tax is exported outside the jurisdiction and any such exportation of tax is a bad tax policy. But for whatever reason the exemption given to residential properties will not only permanently rob the municipality of its due income but also its autonomy in the bargain and make the municipalities dependent on the

government for grants. This move of the Punjab government to withdraw the Corporation's power to tax residential properties is against the spirit of decentralisation. Can Ludhinia Corporation sacrifice this revenue and yet manage its civic obligations? It is a different matter if municipal functions are not dependent on property tax as in the case of Chandigarh where from the very inception there is no property tax levy. Interestingly, even Chandigarh, the capital of Punjab and Haryana has passed legislation to introduce property tax on commercial and industrial buildings, though for the present, they have excluded residential properties from the levy. It is perhaps easier for Chandigarh to introduce tax on residential properties than Ludhinia re-introducing the levy.

vi) Rebate for owner occupied properties

Preferential treatment for certain class of properties also reduces the tax base. Economists have for long argued that such preferential treatment for residential premises do not have any economic criteria but is more a political justification.⁶ They have argued the owner occupants tend to have higher incomes than tenants who ultimately bear the burden of the tax on rented properties. This argument has a lot of force and policy makers have to consider this aspect dispassionately. One solution is to factor a mean rate between the preferential rates and adopt this rate uniformly to residential and tenanted residential properties. This would help in better compliance under the self-assessment that is becoming common practice of assessment in many municipalities. It is not uncommon, under the self-assessment scheme for owners to report tenanted properties as owner-occupied and avail the lower rate applicable.

vii) Industrial incentive

Another feature noticed is that except Lucknow, none of the municipalities has granted property tax incentives for industries to be set up in the urban corporation limits. Such tax incentive is not desirable both from economic point of view and from equity. There is no evidence to support the hypothesis that property taxes are a deterrent to business decisions and economic activity in urban location.

⁶ Dillinger; Urban Property Tax Reform – Guidelines and recommendations (1991) page 8
Roy Bahl urban Public Finance In developing Countries (1992) page 86

viii) Time Lag between Revisions

In all the Corporations Acts revision of the assessment is contemplated. The revision periodicity varies between 4-5 years and the legislation in all the Corporations uniformly reads “the Corporation/Commissioner *shall* revise the assessment register at least once.....years”. Though Act makes it mandatory for the Corporations to revise the assessment, they have failed to make periodic revision. The study shows that many Corporations have not made revision at all while in some cases the revision has taken place once or twice since the last 30 years. The Municipal Corporation of Hyderabad appear to have over looked the advantage in the provisions of the their Municipal Act wherein it is provided that the Corporation *shall* take into consideration the rent component of cost of living index prevailing at the time of preparing the new assessment book. Perhaps this is the only Corporation in the country which has legislated linking revision of assessment to cost of living index, but has failed to utilize the provision of the enactment to increase the tax revenue.

The infrequent reassessment has resulted in the fall of the tax base. Bangalore city Corporation, while revising the assessment in the year 2000 and bringing in the optional area-linked self-assessment of property tax scheme (SAS) had provided a cap that the increase, if any, should not exceed two and a half times of the tax paid previously. This circuit breaker, though in economic terms defeats the horizontal equity principle, was consciously inserted, as the city Corporation had not revised the property assessment for the last 28 years. Therefore, adopting rental values at the current market rent would make the tax under the SAS shoot several folds and the scheme would have failed despite its best intention. For the time lag in revision, the Corporation had to adapt to the reality of the situation though the move to cap the increase did cause horizontal inequalities.

ix) Vacancy remission

The practice of giving vacancy remission/refund is perhaps the result of colonial influence. UK has this practice and so also most of the Commonwealth countries. Of the cities covered in this study, except Ahmedabad and Kolkata, all corporations have a provision of granting remission

or refund of tax paid for the period the property was kept vacant. The general pattern is that if the premises are vacant for 60 or more days, a portion of the tax is refunded or adjusted for the subsequent year. Hyderabad provision is more specific - if a premise is let on rent and is not occupied by the tenant, it will not qualify for refund, similarly, if a premise is furnished by the owner but unoccupied will also not qualify for refund of tax paid. Industries, which are seasonal in character, do not qualify for refund for the reason that they are vacant and unproductive of rent during off-season.

The usefulness of the vacancy remission/refund provision has not been tested but its interpretation could cause more discomfort to the Corporation than help to the owners of property. Except in cities like Lucknow and Bhopal, the term “vacancy” has not been clearly defined in the Municipalities Act, and is capable of large-scale misuse. For instance, in the larger cities, a number of apartments and commercial complexes are purchased for speculative or investment reasons and are kept vacant for a number of years. The corporations are not able to assess the tax on the ground that such properties are vacant and unproductive of rent. The provision is out of date and needs to be deleted.

x) non-inclusion of new areas

Buildings coming up in the peri-urban areas pose certain problems. First, when such properties are beyond municipal limits, they cannot be taxed by the city municipality. They usually fall under the jurisdiction of smaller municipalities or village Panchayats and either escapes taxation or are taxed at a lower rate. Secondly, even within the municipal limits, ‘revenue’ or ‘private’ colonies/layouts are developed. These new layouts have to pay development charges to the city municipalities and unless this is paid the properties in these layouts are not assessed to tax. The Karnataka Municipalities Act like the UP Municipalities Act does not provide for the collection of the development charges until the developments are made. Though this is the legislation, the Corporation by a notification has been collecting development charges at the prescribed government notified rates. Moreover, such revenue properties are sanctioned licence to construct, obtain electricity and water connections. Therefore, the Corporation like in Maharashtra must legislate to de-linking development charges from collection of property tax.

In Mumbai the collection of development charges is made by the engineering department and not by the revenue department and hence is not linked with collection of property tax from new properties added to the jurisdiction.

xi) Vacant Sites/Plots

Vacant plots are generally not taxed. The plausible reason for giving preferential treatment for vacant plot is that they are not generally let or incapable of generating revenue and hence it is difficult to assume an estimated rental value. A second consideration generally advanced against taxing vacant plots is that such plot does not require any municipal services. Whatever be the reasons, these are not economic reasons for non-levy of property tax because there are good economic reasons for taxing vacant plot. Vacant plot appreciates with every improvement made by the municipality in and around the vicinity. It would therefore not only be appropriate but also a matter of equity to assess vacant plot. Vacant plots could be taxed at a reasonable rate depending on the market value of the land. This will encourage putting land to good use rather than kept for speculative purposes. Internationally practices show that taxing vacant plots could be a major source of revenue. In Mexico tax on vacant land is 2.5 times the rate on built property. In Rio de Janeiro, the rate on vacant land is 7% of the market value or 26 times the rate on built property⁷. The rationale of such heavy tax on vacant plot is to prevent speculation and to force construction activity. However, it is doubtful whether such extreme tax rates are sound economic policy.

Audit of assessment records

The Corporations should establish procedures for audit of the assessed files. None of the Corporation has a system of auditing the assessed file for their accuracy. None of the Commissioners in the selected cities have exercised their revisional powers to enhance property valuation. In the process high value property would have gone under-assessed and there is no mechanism built-in to prevent this situation. Auditing mechanism, which is an important tool to safeguard against any possible revenue leakage, is completely absent. Auditing of assessed properties must not limit to just arithmetical accuracy. It should be

⁷ William Dillinger-Urban Property Tax Reform (1991) Guidelines & Recommendations

comprehensive to include the procedure followed in making the assessment. Assessment files must be audited in the background of the information captured from various departments and field study. First, a successful property tax system requires accurate appraisal of all parcels in a given jurisdiction. The valuation made each year must be tabulated in a permanent record that must be accessible to both the tax payer and the assessee. Secondly, audits should be driven by the desire to capture a maximum amount of revenue for their efforts. This generally requires that property tax audits be focused on large taxpayers, e.g., industrial and commercial establishments and large rental complexes. Finally, audits must be concerned about the issue of coverage. Every parcel of property should have a very high probability that it will be on the tax rolls regardless of taxable value. Currently, due to lack of resources and training in within the Corporation, the implementation of an effective audit program would take a back seat. Besides, to maintain objectivity, it is desirable that an audit is conducted by specialized internal staff and other governmental agencies like the Central Accountant General or the State Accounts Department which would help in detecting cases of underassessment or underreporting. Reliance on a computer aided audit program would also be useful to Municipalities. For instance, Bangalore has the distinction of a computer-aided auditing program which detected the underreporting and other mistakes apparent on record from the self-assessment declarations filed for the year 2000. This audit program threw up 275000 cases of under-reporting involving a tax of Rs 6 crores. The same computer program generated notices to the taxpayers, which resulted in the Corporation realizing Rs.4.5 crores of taxes within a short period.

3. Billing and Collection

In most municipalities the tax bills are issued annually even if installments are provided for. Once the property is assessed to tax and accepted by the taxpayer, it automatically becomes the duty of the taxpayer to pay the taxes annually in advance. However, individual bills do provide a reminder to the taxpayers of their obligation. Secondly, the issuance of bill also helps to foster some element of responsibility on the bill collector. Generally, the mode of service of bills is by the bill collectors, the lowest functionary in the hierarchy. Only Kolkata has specifically provided in the taxation rules for the service of the bills under certificate of posting. In any event, failure of service of the tax bill does not invalidate the tax obligations of

the taxpayer. The tax collection must be made convenient for the taxpayer. Most municipalities insist taxpayers to appear personally and pay the tax by cash/cheque and obtain receipt. The tax receipt becomes a very important document especially if the taxpayer is required to enclose the tax receipt as proof of up-to-date payment of tax to other civic service provider within the municipality or other civic bodies.

Payment through banks

Some municipalities have made provision to pay the tax at designated banks. Though taxpayers find it convenient to pay at the banks, they are at a disadvantage since municipalities and other civic agencies do not accept the bank entries in the passbook as proof of payment and insist upon a certificate from the tax officer. This insistence defeats the professed objective of the taxpayers' convenience and distance the taxpayer from official. At the same time one can appreciate that payment at the bank do have some limitations. It could be quite possible that the taxpayer has paid the current dues but not the arrears, and therefore if bank entries are enclosed as proof of payment it will not be sufficient information against payment of up-to-date taxes. Municipalities have to devise some feasible method to overcome this problem. This can be corrected by a property tax passbook system issued by the bank and maintained by the taxpayer for proof of payments for the various years. Some other solution can also be devised depending upon each municipality's requirements. The self-assessment system that is in vogue in some cities appears to be a smooth transition requiring the taxpayer to calculate the tax due and remit the tax using a pre-formatted application form. This information can also easily be entered into a computer system.

The efficiency of a property tax system hinges on the actual collection of the taxes. We can measure collection efficiency under two yardsticks:

1. The percentage of property tax assessed as per the assessment register that is collected during the year and
2. The percentage of collection of old arrears that are eventually paid along with interest and penalties.

It has been possible to obtain information in the form of a consolidated statement showing the demand, collection and balance during a year but not the arrears for each year or how much of the old arrears have been collected during the year. Of the two yardsticks, the percentage of collection of old arrears is of greater significance as it would demonstrate the steps taken for the recovery of old arrears.

Penalty –deterrent levels

In Bangalore City Corporation the arrears is bound to be high for the reason the penalty contemplated is a mere 5 per cent per year. In Thiruvananthapuram if the tax is paid anytime before the year, the penalty is waived. So also in Manipur tax can be paid anytime during the year and there is no penalty contemplated. For collection to be effective, enforcement should be vigorous and the rate of interest should be higher than the bank lending rate. Secondly some of the States have adopted split rates of penalty depending when the tax is paid. In Kolkata the penalty ranges from 0.5 per cent to 15 per cent for delay in quarterly payments. If the amounts are delayed for more a year simple rate of interest at 12 per cent for amounts less than Rs. one lakh and at 18 per cent for more than Rs. one lakh. Ludhiana charges 12 per cent penalty for the first 3 months and 18 per cent thereafter. The split penalty rates followed by several States are certainly a practice that is out of date. Administratively, such split rates are difficult to tabulate especially if arrears are spread over several years. Ideally, a single rate of penalty, at 1 per cent more than the bank rate of interest, calculated monthly, could be adopted uniformly throughout the country. Conversely, there could be a provision for rebate/discount if the taxpayer pays the tax in one installment before the due date. Bangalore has brought in such a provision giving 5 per cent rebate for early payment. Madhya Pradesh Municipal Corporation Act prescribes⁸ 6.25 per cent discount if the tax is paid before the due date set by the Corporation.

⁸ Section 137 (1) of the Madhya Pradesh Corporation Act 1956.

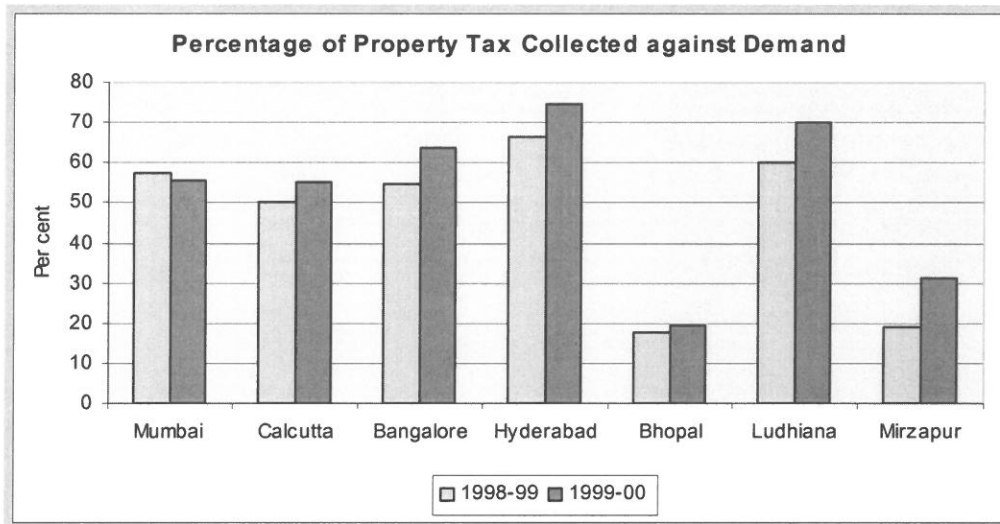
Collection Efficiency

The poor collection of property tax appears to be the Achilles' heel of Municipal finance. With interest groups working at various levels, one can appreciate the difficulties of the tax administration to increase the tax base, the tax rate and also the attempts to undertake tax revision. But the failures in achieving full coverage of the properties and in maximizing the collection of tax must be ascribed to inefficiency or unwillingness. If revenue is the primary objective for property taxation, it is clear that the process of identification, valuation and assessment of properties are mere raw materials in the process and the final output is seen only when revenue is actually realized. In other tax regimes like the sale tax, Income tax and Central Excise the percentage of collection is generally around 95-98 per cent of the demand whereas the municipal corporation collection ratio across the country, for decades, has hovered around 45-50 per cent of the demand. This demonstrates that the powers conferred under the law are of no consequence if there are no serious compulsions to collect.

Theoretically property tax has certain inherent advantages when compared with the sales tax or the income tax. The primary advantage is the fact that the base of the tax, the property, is immovable and therefore cannot leave the locality and secondly, a municipality has physical boundaries. These two features of the property tax, unlike other tax regimes, make it almost impossible to evade or avoid taxes. In fact, the Municipality Acts, in most of the States, there are provisions to accelerate the payment deadlines when there are grounds to believe that the taxpayer will leave the jurisdiction of the tax collector. Hence, theoretically the municipal revenue should be easy to administer compared to the other forms of tax existing in the country. The table below shows for two years the percentage of collection made by the municipalities for the years 1998-99 and 1999-2000.

**Percentage of Revenue Collected
against Demand of Major Cities**

	1998-99	1999-00
Mumbai	57.43	55.56
Ahmedabad	16.61	12.46
Chennai	63.22	63.65
Calcutta	50.00	55.00
Bangalore	54.90	63.78
Hyderabad	66.56	74.78
Patna	56.00	66.00
Jaipur	43.34	58.95
Bhopal	17.59	19.42
Ludhiana	60.00	70.00
Mirzapur	19.00	31.00



Several corporations are thinking of introducing new taxes/cess to supplement the property tax base. But unless the tax collecting function is professionalised and streamlined to collect at least 95 per cent of the demand, it would not be wise for City Corporations to administer new tax regimes. Therefore, the effective collection of existing taxes is generally easier and more financially productive than introducing new taxes.

In the area of improving compliance, New Delhi City Corporation had introduced some simple measures to increase the tax collection to 96 per cent in just one year. The measures included providing discounts for early payments, centralizing collection points for tax payments, freezing bank accounts for defaulters, and requiring taxpayers to pay taxes before appeals against their assessments can be considered.⁹ These are simple measures that any municipality can adopt. Hyderabad City Corporation adopted such methods during 1999-00 and 2000-01, improved the collection substantially.

It would appear that the primary reason for the poor collection in the country as a whole is the lack of effective enforcement. Despite this poor collection efficiency, it is surprising that not a single municipal corporation in the country has a dedicated recovery wing technically trained in the process of recovery. The State sales tax and the Central Excise, Customs & Income Tax departments have a separate recovery wing that is independent of the assessment wing. Tax delinquent lists are sent to the recovery wing, who takes over the duty to recover. Targets are set for recovery. It is suggested that a separate recovery wing should be established in each Corporation with officers drawn from the revenue department. Some corporations seem to rely on tax clearance certificates. This reliance on the clearance certificate is based on the taxpayer's initiative to clear outstanding debt when the property is being transferred or when a local business license or permit is being requested from the local authority. Though this is an effective means of control, its use can only be limited¹⁰.

There is no one solution to address the concern for nonpayment of property taxes. It is essential to devise different strategies to enforce tax compliance. Freezing bank accounts of defaulters, insisting on payment of taxes before admitting appeals against their assessments can be considered. Imposition of interest and penalties for nonpayment can work effectively although at times elected representatives may seek waiver of penal action if the defaulter pays the basic tax. Coordinating with other civic providers especially water and electricity departments to stop the supply until payment of the property tax is made can also yield results. Such a mechanism to foster payment is not unlawful if incorporated in the Act.¹¹ This would compel

⁹ William Dilinger (1991) Urban Property Tax Reform-Guidelines and Recommendations. WPS 710

¹⁰ The local authority generally insists upon tax clearance certificates when related services are sought from the municipalities. It is very effective the local authorities who also administrate civic services like water and sanitation. But if such services are not allied services of the local authority it may be difficult to expect cooperation from service providers like telephone, electricity and the like.

¹¹ These measures have worked well in other developing countries, especially in South African countries.

the taxpayer to be more diligent and send the right signals. The fact that such coordination exists between civic bodies is enough inducement to enforce compliance. But sadly this inter-civic body coordination has not been tried or if tried, given up due to non-cooperation.

Most municipalities experience legal hurdles as to who should be legally responsible for payment of the tax. The Municipality Acts make the property owner primarily responsible to pay the tax. But they are silent as to who would be the second person responsible to pay the tax if the owner has defaulted. The Municipal Acts in Karnataka, Tamil Nadu and Hyderabad prescribe that the tax due can be recovered from the tenant and that the tenant can recover from the owner. However, it is seen that in the sample cities the only recovery action effectively enforced are the once where court direction have been obtained to attach the rent payable by the tenants to the owner.

Roy Kelly¹² suggests that for countries in transition a useful practice is to impose a general liability for tax dues, in other words invoking tax *in rem*¹³ on the individual parcel of property. Invoking tax *in rem* if enacted in the Municipal Act does not require the taxing authority to explicitly determine ownership. The tax can be billed to the occupant of the property or to the owner. The property tax charge is on the occupier and who discharges the property tax is a matter of the contract between the owner and the occupant. If recovery provision is equipped with tax *in rem* provision then it eases the difficulty of identifying the owner of a property.

If the occupier were a different person then the question of attaching movable properties does not arise. The legal recourse is to attach the property itself and to dispose of the property in terms of the provisions under the municipalities Act. The Income Tax Act under chapter 20 contemplates such recovery action. In such circumstance the occupier would not have any grouse, as he would now be he tenant of the new owner.

None of the municipalities in the country enforce such stringent recovery action. The reasons assigned are many from local interference to legal quagmire but the heart of the matter is the lack of adequate knowledge of recovery procedures. The solution to this problem appears to

¹² Kelly Roy (1998) Property Tax in Transitional Countries.

¹³ *in rem persona* : means imposing a general liability

recover arrears of rent as arrears of land revenue. Such provision does not exist in most Municipalities. If this provision is incorporated, Like in the case of UP, the municipalities are required to send the property due particulars to the revenue department for recovery action. The district revenue department is more knowledgeable in discharging this responsibility. In the alternative, a post of revenue recovery officer in the rank of Assistant Commissioner from the State Civil Services could be created on deputation basis. This practice of appointing a specialized recovery officer is generally followed by most State Finance Corporations, who recover dues as arrears of land revenue.

Collection ratios in other developing countries

Property tax collection ratio is not dramatically different in other developing countries. Although statistics are scarce, a few representative countries indicate that tax delinquency is a common problem. For example: In Kenya the collection varies from 70 per cent in the most effective councils to 20 per cent in the least effective councils (World Bank 1992). This low collection efficiency was attributed to (1) lack of taxpayer's confidence or understanding in how the tax is levied, collected, and enforced, and used, (2) lack of legal and administrative collection and enforcement mechanisms, and/or (3) lack of political will. (Kelly 1998) The collection rate for rural and urban property taxation in Indonesia was about 65 to 79 percent (Kelly, 1992) In 1975, La Paz, Bolivia collected property tax from only 25 percent of the properties [(37,500 of the property units out of 150,000 units) Musgrave, 1981]. In Senegal, Nigeria, Ivory Coast and Liberia, property tax delinquencies averaged at least 50 percent and were sometimes as low as 10 percent in 1980. In Abidjan (Ivory Coast), the collection rate was only 18 percent. (World Bank, 1984) In Ibadan, Nigeria, the collection rate was only 9 percent (Dillinger, 1991).

4. Appeal provisions

Procedure for revision of taxes

In all the municipalities, while making the assessment for the first time or while revising the assessment the assessee is invariably issued with a special notice giving an opportunity to file

objections against the proposal. An officer, a rank superior and not the same officer who has issued the special notice, generally hears and disposes of the objections received. If the officer rejects the objection the assessee is merely informed that the special notice is confirmed and if the officer finds it reasonable to reduce the Annual Rateable Value, the assessee is informed the extent of reduction of the proposed ARV. In either case, the decision is communicated to the assessee by way of a notice to pay the taxes within a stipulated date, as confirmed or re-determined by the superior officer. Where the reduction in the ARV by the superior officer is against revenue, the Act does not provide for revision or review by the Commissioner. In other tax regimes, the Commissioner can take up the order of the appellate authority for revision if the order is against revenue. This omission in most of the Municipalities Acts appears glaring and suitable amendment is called for.

Payment of assessed tax before admitting the appeal & Time Limit

In most of the municipalities the appellate authorities do not insist upon the taxpayer to pay the tax confirmed by the lower authority or at least of the undisputed amount. This could result in taxpayer holding up tax legally due to the Corporation. This kind of non-payment is glaring especially in cases where the owners (trustees) claim exemption to property tax. Any exemption is by operation of law, and it is also the duty of the Assessing Authority to examine whether the exemptions can be continued every year after considering the relevant materials. For instance, if exemption is given to a charitable hospital, it is the duty of the Assessing Authority to ascertain whether the hospital continues to be a charitable hospital every year. The Karnataka High Court has observed that it is the duty of the Corporation to verify whether a hospital is giving free treatment every year or not and to properly administer the system of exemption from payment of property tax. Ineligible persons should not take the benefit of exemption and rightful persons deprived. It is prudent to enact a proof of payment or deposit of the assessed tax before admitting the appeal and depending upon the outcome of the case, the taxes must be adjusted or refunded to the assessee. It is also advisable to provide for dispensation of deposit in cases where there is likely to be financial hardship. Conditions for such dispensation must be stipulated in the Act.

Generally the time limit to file an appeal is 15 days from the date of receipt of the notice. This is too short a timeframe to file an appeal. A minimum of 30 days time must be given subject to depositing the tax amount. A time the time must also be set to dispose the appeal at the Corporation level. In some countries hearing of appeal is taken up after office hours on pre-fixed dates, to facilitate working people to appear for the hearing.

Need for designated appeal officers

Generally the assessing officers themselves are appellate authorities for officers below them. In Bangalore, the Deputy Revenue Officer is the appellate officer for the notices issued by the Assistant Revenue Officer and the Revenue Officer is the appellate officer for the notice issued by the Deputy Revenue officer and likewise, the Deputy Commissioner is the appellate officer for the notices issued by the Revenue Officer.¹⁴ The pattern in most City Corporations is similar. The system of a superior officer hearing the objection and passing the order may not be appropriate. In no other tax regime is there a procedure where the person who issues a notice will be different from the one who passes the order. A legally acceptable procedure would be that the assessing officer who has issued a special notice assigning reasons for the enhancement of ARV must hear and dispose of by way of a *speaking* order. The order must show an application of mind of the assessing authority even if objections are not filed. Against this order the assessee must have an opportunity within the department to appeal. This would constitute the first appeal. The next appeal would be before a Tribunal or an independent body without elected councillors. This procedure will give the assessee an opportunity to appeal at two stages, one before the superior officer and another before an independent authority before seeking redressal before the court. It is also time that the Municipalities have designated officers to work as appellate authorities as is prevalent in other tax regimes. It is also important that senior officers represent on behalf of the Municipality at the appellate forum. Such officers should be properly trained.

¹⁴ The assessment jurisdiction for the various ranks of assessing officers is based on the dimension of plots. Plots under 2400 sft is assessed by the Assistant Revenue Officer, and between 2400 and 4000 by the Deputy Revenue Officer and above 4000 sft by the Revenue Officer.

Service of order copies

The assessee is not usually served with a copy of the order passed by the superior officer. He has to apply for a copy, if he decides to go up in appeal. It would only be fair that a copy of the order is furnished to the assessee, so that he would know the reasons for such assessment.

Appeal statistics

Bangalore, Bhopal and Jaipur seem to receive more number of appeals. While the disposal ratio of appeals is about 80 per cent in Bangalore it is about 70 per cent in Bhopal. In Bangalore, about 15-20 per cent of the cases disposed of by the first appeal go before the Taxation Appeal Committee. The disposal by the Committee is about 55-60 per cent each year. Ludhiana and Mirzapur have more number of cases pending before the city civil court than at the first appeal stage. While Ludhiana has a number of cases pending before the Supreme Court, Mirzapur has a number of cases pending before the High court. With the self-assessment of property tax introduced in Bangalore, Hyderabad, Patna and Mizapur, there are no appeals filed. In Ahmedabad the Corporation itself has made the assessment of the properties based on the factors and it is too early to say if this will result in disputes.

The statistics received do not disclose whether the appeals received are for new assessments or old assessments. If the appeals are viewed from the total number of properties in the rolls then the number of appeals filed is not alarming since the numbers come to hardly 1 per cent. But if the appeals are for the new properties that are added each year, then it is a cause for concern and confirms the proposition the every property assessed is potentially a case for appeal. In Bhopal as against 1000 properties added each year, about 500-700 (50-70 per cent) prefer appeal and in Bangalore, earlier to the self-assessment scheme, as against 15000-20000 properties added each year, and about 4000 appeals (20-25 per cent) were filed. In Ludhiana and Mirzapur the ratio of new properties added and the number of appeal preferred is about 60 per cent.

Rectification of mistakes

The Municipal Acts, except Ludhiana, do not provide for proper machinery for reassessment where the Revenue officials resort to arbitrary fixation of tax. This is one of the major reasons for loss of revenue by the local bodies. If there is collusion between the taxpayers and revenue officials, either the enhancement of tax/assessment of tax is postponed or the assessment itself is done on the lower side. In the case of Ludhiana, the Act provides specifically (Section 154) that if the property has been erroneously or fraudulently under-assessed the Commissioner can reopen the case and re-assess.

Tax Tribunal and the appeal process

In other tax regimes in the country the members at the second appellate level consist of at least one judicial member. In Karnataka, Bhopal, Ludhiana and Thiruvananthapuram the taxation appeal committee consists of only elected representatives. In Kolkata and Chennai, one of the appellate members is a judicial officer while in Mumbai the second appeal lies directly with the city civil court. The practice of having elected representatives to hear tax appeals has been subject to criticism. They are generally not aware of the legal and technical issues involved in matters of property tax assessment. The Courts have also expressed their anguish in the manner in which the standing Committee has rendered decisions and have further expressed that the State Government should entrust this power to persons who have judicial background and that this can be entrusted to the State Appellate Tribunal.¹⁵

Compendium of decisions

There is no practice of communicating important decisions of the Courts to the assessing officers. Kolkata Municipal Corporation has brought out a compendium on Assessment and Collection, which contains guidelines for both the taxpayer and the officers. A compendium of case laws should be brought out by each city.

¹⁵ In Writ Petition No. 38414-15/99 decided on 13.11.2000 High Court, Karnataka

Preparing for the appeal

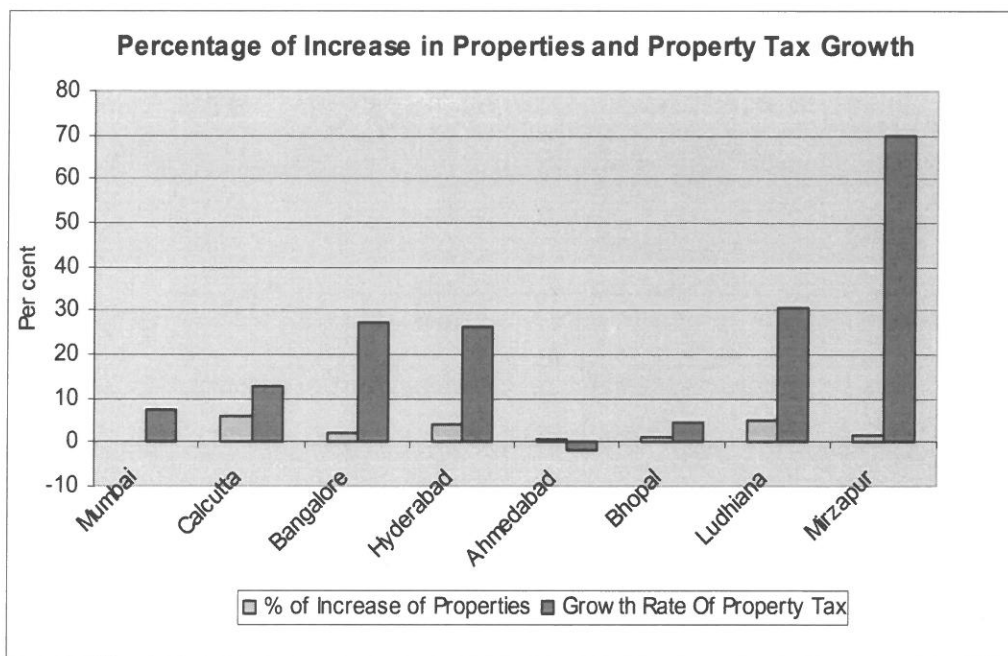
The appeal process must be made transparent. Information relating to the procedures to be followed, assessing authorities, appellate authorities etc can be made available through a brochure.

5. Coverage of properties

The problem of identifying ownership and a complete enumeration of properties are perhaps the greatest constraints to efficient administration of the property tax. (Roy Bahl). It is well established that it is the lack of coverage of property in a tax jurisdiction which is the greatest obstacle for any tax increment. In most municipalities in the country, once in five or ten years the government notifies new areas added to the city municipality. These areas are generally formed out of the peripheral area surrounding the municipal limits and those areas developed by the City Development Authority. Such additions are periodically made to complement the revenue realization of the corporation. However, in actual practice, most of the municipalities have not taken action to register the new properties for several years and thereby losing out on the advantage. This is just one side of the problem. The other side of the problem is that the municipality, without collecting its due share of taxes, is obliged to provide all infrastructural facilities to these newly added areas.

The following table shows the coverage of properties in selected cities:

Growth of Assessed Properties and Growth of Property Tax				
	No of Assesed Properties		% of Increase of Properties	Growth Rate Of Property Tax
	1998-99	1999-00		
Mumbai	249945	249999	0.02	7.58
Calcutta	341198	362187	6.15	12.66
Bangalore	380956	388956	2.10	27.03
Hyderabad	434908	452635	4.08	26.49
Ahmedabad	937961	945228	0.77	-1.98
Bhopal	123000	124300	1.06	4.35
Ludhiana	184255	193307	4.91	30.62
Mirzapur	24058	24417	1.49	70.00



As part of this study, a survey was undertaken in one of the newly areas added to one of the City Corporations. This study shows that the drawbacks and weaknesses of the system and the revenue loss can be quantified and measured as well. This study was carried out to ascertain the coverage ratio in newly areas added to the corporation. Prior to 1st October 1996 the total city limit was about 152 square kilometers. After this date, about 92 square kilometers were added to the city corporation limits bringing the total area to 242 square kilometer. The specific area chosen for the study is about two and half square kilometer and is part of the 92 square kilometer added to the Corporation.

The study was conducted with reference to the records held with the Electricity Board. The Electricity Board maintains ledger recording electricity connections given to their consumers. This register contains information of the property owners, with addresses and the date when the connection was actually serviced. In the records pertaining to the area taken up for study, the Board had given power connection to 3678 properties. This extract of information was given to the city Corporation to identify whether the properties were enumerated in their property tax register.

The electricity department route was chosen for the study because Electricity Board gives electricity connection only when the house is ready for occupation.¹⁶ The owner of the property is required to fill in an application to the Electricity Board with proof of ownership along with other property documents. After due verification and collecting the required deposit, the energy meter is fixed and serviced by the nearest transformer. In the instant case, the Board has maintained the ledger street wise and in a sequence to enable their meter reader to check energy consumption and issue bills accordingly. It was also seen that in multi-dwelling units each unit generally had separate energy meters. Hence, it follows that the number of meters as per Board's records represents the number of individual dwelling units.

In municipal registers, a multi-dwelling unit may have one owner, but in the property tax register, each unit is assigned a sub-number if it is sold or let or leased out. Hence, the number

¹⁶ When the property is under construction a temporary connection is generally given at higher tariff.

of properties assessed in a jurisdiction can be calculated by the number of municipal numbers and sub-numbers allotted.

The Electricity Board has the following information:

RR No. @	Trf. No. \$	Fdr. No. #	Date of service of meter	Name of the owner	Address location where the meter is fixed	PI No. As per City Corporation Record	Date of first assessment
1	2	3	4	5	6	A	B

@ RR Revenue Register Number \$ Transformer Number # Feeder Number

To this format two more columns were added (A & B) i.e. property identification number (PID) issued by the municipality and the date of first assessment of property tax. The city Corporation officials were requested fill up the said two columns. Verification revealed that out of the 3765 properties as per the Board's list only 600 houses were identified as enumerated in the property register. Thus over 80 per cent of the properties were not enumerated. If in one area over 80 per cent of the properties have been outside the tax rolls for over 6 years, the extent of actual revenue lost from the new areas added after 1-10-1996 is anybody's guess. However, this can be precisely quantified.¹⁷

The study shows that an interface with the Electricity Board can provide an opportunity to improve the revenue potential of the property tax system on the basis of accurate data rather than a meandering exercise. Water supply department could also be a good data point to start. But water meter route has a limitation since quite often one meter will be servicing more than one unit and hence unlike energy meter, water meter may not give the actual number of properties in a jurisdiction.¹⁸

¹⁷ For quantifying the loss we could go through the Bangalore City Corporation assessment norms under the self-assessment of property tax scheme wherein the rateable value per square foot for built up area has been prescribed. In the instance case-study the total built up area of residential and commercial properties can be tabulated and multiplied by the rate fixed. This figure multiplied for ten months gives the annual rateable value. Tax at the rate of 20% for residential and 25% for commercial, besides 34% cess on the tax, would give the revenue lost for the corporation each year.

¹⁸ But nevertheless an interface with the Water Supply Board would be useful for the municipalities in collecting solid waste management fee.

Field survey and interface with other civic agencies

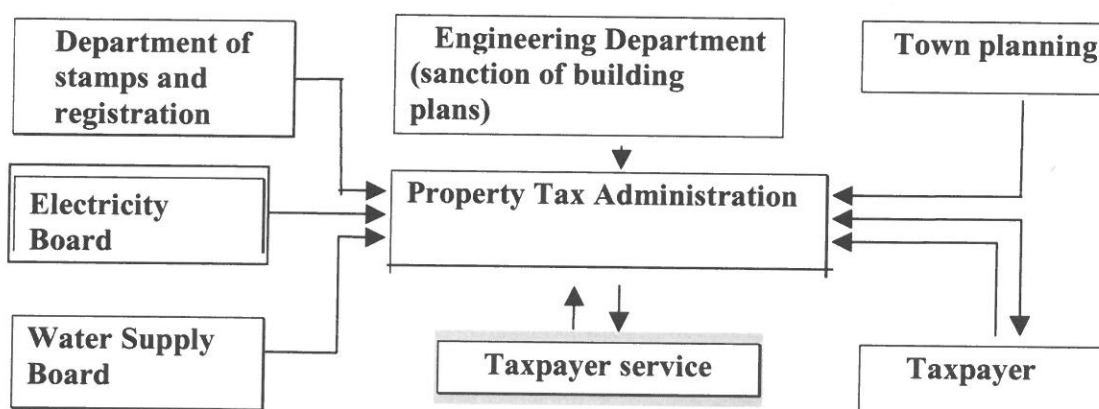
Most municipalities face certain confusion in assigning property numbers in a jurisdiction. This confusion arises when new layouts are formed out of revenue lands within the corporation limits. However, assigning property numbers is not a very difficult task especially with computerization. Common property identification will help all civic providers viz water supply, electricity, postal, telephones and the municipal corporations to service their consumers better. This is a do-able agenda. In today's situation when a taxpayer is considered as consumer of a service, it would be unwise for departments not to coordinate and share information between them. This task only requires the personnel of the respective departments to coordinate to devise a unified code for property numbering. Such inter-departmental coordination will not only ensure near complete coverage of all properties, but will help in sharing information.

Generally the municipalities are divided into several wards/zones or circles. Corresponding to the number of municipal wards/circles the department of stamps and registration, water supply board and the electricity board has also divide their service centers. Each ward/circle is about 2 square kilometer or so. These departments could jointly map the properties in their ward. GIS can be used or plain field survey can be undertaken in a systematic manner covering every property in the zone/ward/circle. A system could be developed to identify the buildings, enumerate them, assign a property identification number and collect the relevant physical information on each building. This information should be of common application to all the civic providers. These civic agencies should format their register to reflect the basic information of the property.

In addition to this information each civic provider could make additional columns to include their specific needs. For instance the electricity department would require columns for entering meter number, date of service of the meter, transformer number, and type of power supplied etc. and municipal offices would need to record additional information like the category of building whether commercial or residential and other sub-categories. They could also note the

land valuation as per the guidance value published by the department of stamps and Registration. If the property tax record is maintained in this suggested manner it would be as Roy Bahl summarizes on the subject¹⁹ “the simplest means to keep track of all parcels and to link assessment, billing, and property transfer records.”

The table shows the flow of information for property tax administration and the interface with other civic agencies. The table also shows the obligations of both the tax payer and the municipality.



6. Property tax administration

Appointment to key posts

In all the sample cities the post of Corporation Commissioner is from the Indian Administrative Service and generally in the rank of Secretary to State Government. In all these cities the Commissioner is assisted by Joint/Deputy Commissioners usually from the Indian Administrative Service and the State Administrative Services or from the municipal cadre. Most municipalities have their own cadre and recruitment rules which prescribe the qualifications required for each post. A selection committee, appointed for the purpose by a resolution of the Corporation, makes recruitment to Municipal services.

¹⁹ Roy W. Bahl & Johannes f. Linn Urban Public Finance in Developing Countries (1992)

Very few municipalities have any element of direct recruitment at key levels. To develop internal capacity it is very essential that there should be a statutory provision of 50 per cent lateral entry to middle management positions; say at the rank of Assistant Revenue Officer. It must be added here that generally the municipal salaries are lower than those of the state government. The low pay levels act as a deterrent to attract talented persons to apply for municipal jobs.

While top posts in health, engineering and town-planning have specialists on deputation, there is no thought given to the appointment of specialists for tax administration. It would be in the fitness of things to have tax specialists from the legal department or from any other tax enforcing departments, who are well versed in the canons of taxations, on deputation at least in large city Corporations. This could be a temporary arrangement till internal capacities are developed. The Bangalore City Corporation had officers drawn from the Commercial Tax Department and the Income Tax Department to assist the Commissioner in tax administration.

Internal capacity

What is most striking in the municipalities is the woeful lack of internal capacity and very little has been done by any of municipalities to change this situation. There has not been any staff training course worth mentioning in any of the municipalities. This low administrative priority perhaps explains why in the reform process set in motion in the country, since the 1990s, except for property tax, all other tax regimes took the opportunity and brought in reform. The Income Tax, the Central Excise and Customs and even the Sales Tax brought in several changes in the Act moving away from an era of regulation and return based assessment to an era of deregulation and self-assessment. Because these departments had over the years developed internal capacities they could bring in the required changes, when it was conducive to do so. But it is relevant to note that the entry level of the officers in these tax regimes is at a fairly senior level and through written competitive examinations. When recruited to these tax regimes, all the new entrants are put through two years in-house training and are also obliged to pass departmental examinations. They also undergo periodic training during their career, many of them conducted by the prestigious training institutes in the country. The clerical staffs working under these tax regimes are also are put through training programmes and are obliged

to pass departmental examinations. Thus, over the years, professionalism in the tax administration developed in the State and Central tax regimes and this has paid dividend. Therefore, it is important for the municipalities to bring in administrative reforms before attempting major overhaul in the property tax system. Without adequate capacity building within the organization, any attempt to reform the property tax system would not yield the desired result.

Training

There is no lack of training institutes in the country. In fact, a number of renowned training institutions provide training to elected and executive personnel in local authorities in different subjects such as engineering, human resources development, solid waste management, water supply and information systems. These training institutes include the Indian Institute of Public Administration, the National Institute of Urban Affairs, All India Institute of Local Self-Government and the Regional Centers for Urban and Environmental Studies (Mumbai, Lucknow and Hyderabad, Institute for Social and Economic Changes Bangalore (ISEC)²⁰. It is not that one does not see an increasing emphasis on the training of municipal employees, but significantly there is no training programme tailor made for the tax collection functions of the Corporations.

While it is beyond the scope of this report to suggest the training syllabi, it is suggested that these training institutes could be commissioned by the Central Ministry of Urban Affairs and Employment to draw up training programmes suitable to the various levels of staff starting from the bill collector to the highest officer in the property tax management. Every new entrant to revenue services should be on probation for two years and sent to a training institution during this period. The training should be structured in all the areas of property tax management like constructing a fiscal cadastre, preparation of the property map, maintenance of property tax register and other records; the various methods in property valuation, appeal process and tax enforcement. It would be ideal to establish a municipal administrative training

²⁰ During May 2000 ISEC had organized a structured a 3 day in-house training course for property tax officers of the Bangalore City Corporation as part of the capacity building exercises when the Corporation had introduced the self-assessment of property tax, but unfortunately the training, perhaps the first of its kind, did not take place.

institute in every State, which could be the centre for all local bodies in the state. A centralized institution like NIUA should monitor course and to act as a platform for municipal heads to constantly reviewing their tax systems and adopting the best features of other systems. Such forum presents special challenges by allowing comparative analysis to influence new legislation. It would also be of great value and importance if a national quarterly journal of review of case laws on property tax and related events on property tax is brought out to keep the municipal staff informed about current issues on property tax in the country and abroad. Equally important are periodic inter State and national tax conferences and workshops for senior officers to exchange views and recent developments on property tax management.

Lack of administrative tools

Over the years the municipalities have not created or developed accurate base maps and property information for effective tax administration. There is often an absence of interface with other civic providers capable of providing supporting data, a lack of capacity in managing flow of information, collecting the tax and dealing with objections and appeals. Thus, the tax officials function without support from established institutions such as Department of Stamps and Registration, income tax, town planning, real estate sector, coordination with other civic agencies, or administrative legal courts. To cap these inadequacies there is a near and total absence of taking advantage of new technologies to maintain accurate property records and make tax systems operate efficiently and cost effectually. In fact, the funds granted for the municipalities for computerization programme goes unutilized each year.

To overcome these internal and external constraints, tax reform must creatively adopt appropriate methods, standards, procedures and technology. Procedures and methods from other countries must be carefully adapted to the specific requirements of the municipalities. Overtly complex and ambitious systems should not be tried since the expected equity and efficiency objectives can only be translated into "realized" equity and efficiency gains when effectively implemented.²¹ Adequate and structured staff training programmes will yield the human resource productivity, which could be directly field tested in the areas of tax mapping, proper assessment, systematic collection of tax and adequate enforcement for tax compliance.

²¹ Kelly

Record keeping

In the present system of record keeping most municipalities do not have category-wise information of property and tax collected. Such information will help in knowing the category that is actually paying the highest tax and the lowest. This in turn will help in formulate appropriate tax policy and taxpayer services. The new format for record keeping could perhaps commence with the new areas that are added to the municipalities. This new system of recordkeeping should necessarily involve an interface with other civic service providers, as the absence of interface will compromise the accuracy of property details. Secondly, a sustained coordination with other civic agencies will ensure tax compliance. If property tax is not paid, the municipality could, in the interest of revenue, request the electricity or water supply department to cut off supply till such time the tax is paid. Such coordination between departments exists in other Central and State tax regimes in the country.

Once the survey or re-survey is undertaken the details collated must be maintained in proper record. This could be manually entered and be a permanent record. These completed registers should be the basis for creating a computerized property tax register. The sanctity of this register depends on the data collected from field survey. If the field information is incomplete or inaccurate, it will distort actual revenue potential and will introduce equity and efficiency problems. Accuracy of compilation of the basic property information which in turn becomes the basis for valuation, assessment, billing, collection and enforcement is therefore extremely important. A good recordkeeping will generate sustained revenue to the municipalities to service their core civic functions and infrastructure. Good and proper recordkeeping could also help in influencing legislation. As pointed out earlier, none of the municipalities had reliable information on exemptions. In the absence of such information it is difficult to influence a case for a legislative review of exemptions. It is relevant to note that the domestic trade tax (Sales Tax) was placed in similar circumstances where the sales tax departments across the country suffered heavily on account of tax exemptions and incentives were granted for new industrial units. Each State had detailed account of the loss of revenue due to sales tax exemptions granted to new industrial units. Armed with these data, at an opportune moment, a

national policy was drawn pulling the curtain down on industrial incentives from 31-12 1999 and thus ended the scheme of tax incentive for new industries.

Tax administration encompasses a wide range of activities within the municipalities covering all the four pillars on which the property tax system rests – field survey and recording keeping, assessment and collection functions. Equal importance must be given to each of these functions and the reform process must adopt a holistic approach.

Chapter 5

Towards Property Tax Reform

In the earlier chapters we had discussed what ails the property tax system in the country and what corrective measures could rectify the system. We had also stated that it is pertinent to create an environment necessary to nurture the property tax reform in terms of support from institutional, legal and tax administration. These institutional supports form the basic framework from which property tax reforms can truly emerge. It was also highlighted that the present economic environment was conducive for the State governments to undertake reforms in areas like land ceiling, rent control legislation, securitization of mortgages and stamp duties as these reforms which would foster an active and realistic real estate market. Given these conditions, reforming the property tax would be only a matter of course.

Property tax reform strategy requires to be worked in conceptual framework, which should first address the fundamental policy and administrative issues such as:

1. Defining the tax base.
2. Valuation techniques for taxing property- land & building.
3. A Manual for tax assessment.
4. Effective tax administration and enforcement.
5. Utilising Information Technology for tax mapping and record keeping.
6. Capacity building
7. Appeals mechanism.
8. Forum for taxpayer's services.

The answers to these questions provide the key for structuring property tax policy and administration. We have in the earlier chapters discussed these issues in great detail and had mentioned that just toning up property tax administration could result in additional revenue. Our study reveals that several cities like Bhopal, New Delhi, Pune, Vijayawada, Baroda etc. have increased their collection ratio by making simple improvements in tax administration. Toning up administration would primarily involve two issues:

- i) first, tightening of tax administration by setting standards for property tax collection, which goals can be set by complete automation of the issuance of tax bills and by monitoring collection, and
- ii) the coverage of property by using technology for tax mapping combined with field surveys.

Simultaneously, the property details must be computerised to usher in modern concepts of recording keeping. These improvements can ensure efficient tax administration and consequent increase in tax revenue, though in the long run it is necessary to shift to a system that has a broader base to make property tax more productive.

Empirical evidences are available from other tax regimes that cleaning up the complexities of the existing tax system before actual implementation of the reforms would make the transition to a new system smooth. The existing property tax system is shrouded in mystery. Its valuation methods are opaque and taxpayer's service is virtually absent. In most cities, the existing property tax system is non-transparent, complex and above all most unhelpful. Therefore, it would be advantageous to develop an effective publicity strategy to inform the taxpayers, through informative brochures, that under the ARV system, despite best efforts, there will always be inequalities in assessment of properties and therefore it is time to shift to a better system which would ensure some uniformity in property tax assessment. Some of the options available for this shift to a new system must be spelt out. Reform measures in property tax assessments undertaken elsewhere in the country must be highlighted and explained how these measures have increased taxes revenues and how such increased revenue have been ploughed back to improve the city's infrastructure. An effective communication strategy would not only condition the taxpayer's mind that the shift to a different system is inevitable, but also the fact that unless the city municipality has enough financial resources, it will not be able to keep infrastructure in pace with the city's growth. However, in the interregnum period, the municipality should develop a short term strategy to explain to the taxpayer the basis for valuation of various types of properties under ARV and also to provide assistance for other services that a taxpayer would need. Such a communication strategy would be perceived as being citizen friendly measures and act as a curtain raiser when the stage is set for implementing property tax reform.

Designing a property tax system

Property tax base could be designed on the following base:

- (i) A tax based on the annual or rental value of the property.
- (ii) A tax based on the capital value of the property
- (iii) A tax based on the site value.
- (iv) A combination of the above two or three methods.

Derivation of Property Values

The annual rental value system derives valuation for levy of tax on the estimated annual net value from the use of the property while, the capital value system tax is derived from the assessed value of the land and improvements and the site or land value system includes only site value at current market prices as the base excluding improvements. Capital value and rental value reflect the valuation of property though derived differently. Therefore, in theory the tax yield whether based on the annual value or the capital value must yield the same amount of tax. However, in practice the two bases may not yield equivalent values for several reasons. The primary distinction is that ARV reflects the income from property in its current use, whereas Capital Value reflects the property's potential future gains including income generated by highest and best use of the property. As a thumb rule where renting is the most common form of tenure, and rental values are well known and easily accessible to the taxing authority, the ARV may be the most appropriate way. Where owner occupancy is the more common tenure form and particularly where an active real estate market exists, capital value may be more appropriate.¹

Annual rental value system-a case for reform

Under the annual rental value system the valuation of property for assessment is based on the estimated or the notional rental value of the property. For ARV system to work and remain tax productive, it is essential that the rental values for computation of tax should represent the current market rental value. In economic terms the tax realised even at market rental value would be far less than the potential for the property if it were put to highest and best use and therefore the tax yield, in effect, is depressed. But the danger is not from this economic sense

¹ William Dillingham: Urban Property Tax Reform- Guidelines and Recommendations (1991)

of under-utilization of the property but from the effect of the rent control legislation. For all its virtues for which rent control was introduced, the real problem came from the regulation which freezes the rents on tenants on the date of occupation, allowing for fixing rent for new tenancies at the market levels, but prohibits subsequent increases. This prohibition for periodic calibration of rent at market rates depressed the ARV system.

Is reform possible with ARV as the base?

The rental system being a common practice and the oldest system in the country there will be resistance, political or otherwise, to shift to a Capital Value or any other system of valuation. The question is whether it is possible to reform the property tax system with ARV as the base and increase tax revenue and also keep it buoyant for years to come? The answer is yes, it can be done, by hybridizing the ARV system. This is what cities like Patna, Mizapur, Bangalore and Hyderabad have achieved by deriving the valuation by keeping ARV as the base, but adding to it a combination of factors which included quality of construction (capital value) current market rental value, location and use of the property. All the 4 cities followed a mass appraisal system for determining the valuation of the property depending on their location. In the simplest term this hybrid system worked in these cities resulting in substantial increase in revenue and at the same time the shift in the valuation process was accepted by the taxpayer. Hence, the area based system is an option that a municipality could consider as a transitory measure before attempting the ambitious capital value system. The features of the Area Based system have been dealt elaborately in Chapter 3 including the precautions that should be taken to sustain the innovations made. Hence, this system are not discussed in this section again.

Capital Value System

The preference to arrive at the valuation derived through the capital value of the property is a practice influenced by the United States. Several countries like the Philippines and most of Latin America follow the U.S. practice. The capital value system is also practiced in Germany, the Netherlands, Japan, Turkey, and Indonesia. Under the capital value system tax is assessed on the value of the land and the value of the building and has no relevance to the rent control laws. However, the assessment procedures followed in each of these countries

are quite diverse. Each city has introduced its own variations on the basis of assessment methods like cost of construction, comparative real estate prices etc. The cost of construction and the real estate prices are further sub-classified adding different parameters to each of them. In the United States itself, each city within a State has adopted different yardstick to derive the land value and the cost of improvements. It would not be wrong to say that the capital value system of assessment could be as different as the number of cities.

Capital value system is built on the following premises, most of which have been currently adopted in the area based system:

- a) Formula based valuation
- b) Separate assessment for land and improvements
- c) Multiple source information for valuation of land and building
- d) Provision for re-assessment
- e) Computerized-assisted mass appraisal of assessment of properties

Formula Based Valuation

The assessment procedure is often formula-based and is much more complicated than the rental value system. The process typically starts by the classification of land according to its location, amenities and use. Each class of land is then given an assessed value according to a comparative sales analysis. This is done by either computing the average value of small number of properties by using mathematical techniques to establish relevant property value or on a judgment basis. On this basis a formula is evolved to compute the tax payable for land and for improvements. However, it must be stated that under a capital value system the assessor judgment plays an important role. As a departure from the ARV system, the professed treatment of valuation under capital value system should result in objectivity in assessment. But as a rule, maintaining objective in assessment is costlier to administer. The basis for assessing land requires basic urban plan defining the existing and desired land use and a relatively large and skillful staff capable of carrying out a real estate market values. All these are costly to administer, but if well administered, it is easy to compute objectively according to the formula prescribed.

Separate assessment for land and improvements

The common feature of capital value system is the separate assessment of land and improvements. The separate valuation of land and improvements makes it possible to apply different assessment ratios and different tax rates and hence can provide the local bodies a greater flexibility in the tax base. But these advantages do not come without their share of problems. Not only is the valuation of land and improvements separate but the basis of valuation is different. While land is valued on the basis of its locational features; improvements are valued on the cost of construction basis. To keep the assessment values of both land and cost of construction always current is a Herculean task and quite often a great deal of judgment creeps into the process resulting in understating the value of land and the value of improvements.

Multiple sources for valuation of land and building

The third feature in the capital value system is the use of multiple source of information to arrive at an appraised value for a property. Data is gathered from various sources to estimate land value and the building value. The advantage of obtaining information from multiple sources ensures objectivity and uniformity in the valuation process. Data sharing between different agencies is not new to property tax system, it exist very actively in other tax regimes as well.

Provision for re-assessment

The fourth area of consideration under the capital value system is that since the valuation is based on market values, every time the valuations are published it automatically provides bases for re-assessment of all properties. This provision is what makes for the buoyancy of the tax under this system and therefore is of particular interest to the economist and policy makers.

Experience of Capital Value system in developed countries

Despite this highly evolved system it does not follow that property tax system in developed countries is a trouble free system and the best practice to be emulated across the globe. This is borne out from the number of appeals that exist in these countries challenging the assessment valuation. These countries are still grappling to find a solution to fine tune and make it synchronize with the taxpayer's ability to pay. Therefore, while capital valuation, by its very inherent qualities, will help push revenue for the municipalities year after year, it does not follow that this system is popular with the property owners. Pending appropriate benchmark for valuation capital value is still a vexing problem for the taxpayer and the municipalities. Even in UK which has a good and active real estate market, in existence since the last three decades, it was politically possible to shift to a capital value system only in the early nineties from the previous Poll Tax system. The reason is not hard to find. First, the capital value will shoot up the taxes, and politically no one found it wise to nod for the change. Secondly, in the absence of a good benchmark for valuation the taxpayer will find room to quibble with the assessment and the whole process of collecting revenue will be locked up in litigation. Hence UK made a lot of preparation before the shift to council Tax (Capital Value). It would therefore be prudent in Indian context to make adequate preparation before introducing the capital value system by skillfully grafting the ratios of this system to suit our social and political situations.

Ushering Capital value system in India

In India several economists have preferred the capital value design. It is argued that if Property Tax is to serve as an elastic source of revenue for the municipalities, it is necessary to move to a Capital Value as the base. The Unit or the area based rental value taxation can only be a stopgap arrangement². In India we do not have any working model to draw empirical evidences of its success or otherwise. Karnataka State though has legislated the Capital Value system, has not been able to actually implement the system, for any evaluation. A shift from Rental Value to Capital Value calls for a lot of preparation. If Capital Value is to succeed in India there are several prerequisites to be addressed.

² Amaresh Bagchi, Property Tax Reform: Options and Issues (Paper presented at Property Tax seminar in Bangalore-2001)

1. The capital value system should be viewed as a comprehensive system.

The implementation must be a comprehensive system, and should lay out the plan for each element of the system. A ‘one-off’ piecemeal reform, encompassing only one element of the system is not likely to lead to success. It must adequately address issues concerning policy and law and tax administration. Under the capital value, both the land and building must be assessed to tax at their current market value giving allowance for depreciation for building depending on its age. While land may not pose problem due to published guidance value by the Government, the valuation of building will continue to pose problems. Fixing a uniform cost of construction across the city, as done in the Karnataka legislation, will no doubt reduce the tax assessor’s interference. But, assessing all properties at a uniform cost of construction will pose equity issues and legal challenges. These issues need to be addressed before the taking steps forward. The introduction of capital value system would create pressure on the tax official as the new system is complex by nature and takes their understanding of these complex valuation principles for granted. The staff must be equipped properly by adequate training to manage the new system. Hence, the introduction of the new system should be comprehensive covering all aspects of legislation and tax administration.

2. The State government must support the implementation process

To usher in the capital value system there must be political commitment. It is well known that this new system of taxation will necessarily increase the tax payable and in all probabilities will draw protest from the taxpayers. Such protests from taxpayers have happened all over the world and therefore, once the reform process is set in motion it must not be stalled or halted by any other political exigencies or pressure groups. At the same time the municipality too should develop a well conceived communication strategy to disseminate information of the new system much before the new tax is legislated. The success of reform depends on a well orchestrated campaign and sufficient preparing internally stakeholders and also preparing the minds of the external stakeholders.

3. Uniform law for large cities and small cities may not be desirable.

Land holding pattern in large cities differs from smaller cities. In large cities the land holding is generally small, whereas in smaller cities is land holding are large, uneven and generally with small dwelling units. If the tax rate on the capital value of land is uniform for all cities, the taxes will shoot up several folds causing protests across the all cities. Therefore, it would be prudent not to have one tax rate across the State but to allow different municipalities to set the tax rate within the prescribed band.

4. *Design of the reform should match with the objectives of raising revenue.*

While the new system will generate revenue, it must be backed by improved and visible civic services provided. There is also an element of justice in the property tax system, in the sense of a *quid pro quo*. For the increase in taxes they are compensated by improved infrastructure and civic services.

5. *Keep it simple.*

This is the golden rule for any tax law. The municipalities cannot handle complicated valuation methods. Even the citizens require a simple and transparent method of assessment which any taxpayer can calculate without the assistance of at third party. Legislation has to be simple and fair. It should not be complicated either to tax payer or to the revenue staff. No great scientific method need to be adopted to determine the tax base or the tax rate. What is required is a fair amount of guess work coupled with a reasonable amount of tax that the corporation would like to increase year after year. Taking this as a base the tax could be expanded on a very objective basis and depending on the financial need of the local bodies. This would justify both the tax payer and the department insisting on such collection.
(William Dillinger)

6. *Prepare adequately before implementation.*

There is no point to rush for reform unless adequate preparation is made. Decisions need to be taken on certain crucial issues like:

- a) how to treat old tenanted properties in up-market locations,

- b) a legally sustainable matrix for cost of construction in a time series,
- c) whether to amend the law to shift the tax burden to the occupier to mitigate the owner's plight under the capital value,
- d) method to bring in equity in tax assessment for owners of tax luxurious apartment who will pay far less tax compared to a single dwelling units as tax on land will be restricted to the extent of their undivided share,
- e) treatment of vacant site which was hitherto either exempted or charged a lump sum amount.

Preparation must also consist in bringing all properties in the jurisdiction into the tax net, program for updating valuation of land, training staff in the new method of assessment etc. Institutional or professional help can be taken in all these areas including methods to factor the cost of construction for different category of buildings.

A good measure but hurried process

The biggest problem in introduction capital value system is convincing the tax payer to accept the sudden hike in the tax payable under the new system. This tax jump is inevitable as periodic revision in values had not taken place for decades. Though the taxpayer had the benefit of non-revision of tax 2-3 decades, yet it is difficult to convince them to pay more just because tax reform is in place. No reform can be thrust on the taxpayer more so a visible tax, like the property tax. Reform must be incremental and with the full knowledge of the taxpayer. When reforms are thrust, it will be resisted like it happened in Bangalore and other cities in the State. In Karnataka, though the capital value system has been legislated, yet it is not implemented in Bangalore and most other cities, because of taxpayer's resistance. The resistance came chiefly because of the steep hike in the tax payable. The capital value system designed would increase the taxes between 5 to 15 times previously paid depending upon the location and usage. This increase was more acute on residential properties rather than on non-residential properties. There would be a 100-300 per cent increase in tax on

vacant land. Under the capital value system, there is no provision for a circuit breaker in the event the tax went up beyond a certain limit. Such steep increase obviously drew large protest. When Bangalore came out with a hybrid solution in the year 2000, the scheme provided a circuit breaker at 250 per cent as the maximum increase over the previous assessment value. This circuit-breaker acted as a safe guard to the taxpayer, which irrespective of the size and location of the property, the increase in tax would not be beyond 250 per cent of the tax paid previously. This measure was accepted by the taxpayer as there was certainty about the enhancement of the valuation under the scheme and taxpayers did not mind the increase. Therefore, one would think that the shift to the new system was not appropriately timed, inadequately communicated and flaws in legislation. In retrospect, the Corporation pushed the reform process without adequate preparation.

Valuation principles –Indian context

Accurate valuation of properties is the key to the success of the capital value system. What is essential in a tax valuation system is objectivity. The purpose of tax valuation is to provide a basis for distributing the burden of the property tax. Therefore, exact transaction value or the *absolute* value in current market terms is not required as much as the determination of the *relative* value of properties at a common point in time. This sacrifice as to the accuracy can be justified as a trade-off in the interest of cost and administrative simplicity and a methodology appropriate to local skills and the market information available in the local jurisdiction. This would also reduce the opportunities for dispute or collusion.

All countries including India rely on the sales data to the valuation of land. Though these data in India is not very accurate, the tax rate could be factored to take care of under-reporting. To this end, the valuation by the Department of Stamp and Registration appears more or less acceptable to both the taxpayer and the Municipal Tax Administration. Central Valuation Committees for land valuation could be set up in each State to be the source code for all related departments in the Central, State and the Local governments. Valuation of land has to up-dated periodically creating a data-bank to enable new assessment of properties.

Data for cost of construction

In the assessment of properties once the land value is captured, the buildings could be valued separately, using data from a source that is considered more reliable: the construction industry. The assessor could estimate the cost of the building from the estimates of the cost of construction on the basis of the materials used in the construction including labor costs. It is recommended that the cities could build a databank of cost of construction of various types of construction at different points of time or create a time series for cost of construction during the last 60-80 years. It is possible to get data of the cost of construction for the past period from various sources like Stamp and Registration Department, Bank transaction, Income Tax, cost of materials at a given point of time etc. Here again, the exact cost of construction need not be an *absolute* value as much as the determination of the *relative* value at a given point in time. On the basis of this data, the taxing administration can bring out a manual which could be used to value all types of buildings. Obviously, this work involves lot of compilation and extrapolation and therefore could be entrusted to specialized institutions like the National Institution of Public Finance and Policy, New Delhi or the Institute for Social and Economic Change, Bangalore who could be entrusted to formulate a matrix for the cost of construction in a time series applicable across the country.

Valuation of old buildings and hutments

Under capital value system, very old buildings and low value construction would cause more problems than the revenue they can generate. It would be cheaper for the administration to fix a rate per square feet for each type of construction. Small but old houses too could fall within this composition scheme. But the rates could be adjusted if there are further improvements to the properties. However, land in such case could be taxes on the basis of normal valuation.

Valuation of commercial tenanted properties

In the shift to capital valuation, problems will emerge from tenanted properties as the owner may be pre-empted from passing the tax burden to the tenant due to court decree or

otherwise. Whatever be the situation, it is prudent to shift the tax burden to the occupier in case of non-residential tenanted properties with concurrent liability on the owners, since any improvements in the locality would be to the advantages of the occupier and not necessarily to the owner. This is a possible solution to get over the problem created by old tenancies and rent control constraints. In some European countries it is generally the occupier who pays the tax. In the UK Council tax is the responsibility of the occupier.

Tax on apartment owners

In case of apartments, the tax rate on flats has to be factored differently. This arises due to the fact that the share of land in apartments is proportionate to the number of dwelling units and hence the tax on the valuation of land will proportionately distributed to apartment owners. This would mean that flat owners will pay less tax compared to a single dwelling unit. So visibly, it appears like an equity issues, though economics arguments would be different in the context of the land put to highest and best use. However, in an apartment situation, there would be a problem of impact on infrastructure in the locality due to the pressure created by the increased number of dwelling units, and hence on account of its impact in the locality, tax parity for flat owners with the single dwelling unit would be justified.

Mass appraisal technique

The mass appraisal technique is gaining acceptance in all developed countries. The following steps are required for data generated by a mass appraisal system, first, a sample of recent property transactions (sales or rents) or construction data is analyzed to identify the physical characteristics according to its location, amenities and usage, that appear to determine a property's value; and second, the contribution of each of the principal determinants of value is then quantified and reduced to mathematical formula to establish relative property value.

Since a separate sample is drawn from each of these assessment types and value categories, the sample from each category is not in the same proportion to the number of assessments in every category. Hence, mass appraisal system tends to over represent some assessment types and under-represent others. This apparent distortion in the raw sampling is eliminated by "expanding" the sample data; that is, the sample data in each category is multiplied by the

ratio of the number of assessments in the particular category to the number of sample items selected from the category. Once the raw sampling data are expanded, the findings are proportional to the actual assessments on the assessment roll. Without this adjustment, the raw sampling would represent a distorted picture of the assessment practices.

The advantage of the mass appraisal technique is that it avoids the worst aspects of the direct market information method. The value being generalized the assessment is not dependent upon the honesty of taxpayers. There are fewer interfaces with the tax official and hence not vulnerable to corrupt practices.

Valuation of High Value Buildings

While mass appraisal system would help simplify the valuation process for substantial proportion of properties in the jurisdiction, there could be some serious aberrations posed by posh constructions and the principle of ability to pay comes to dominates. The problem in most cities is that in poor localities there are high value buildings and in up market areas there are low value houses. Under such circumstance value derived from mass appraisal technique cannot be applied. What could be done is to notify a class of properties, like luxurious apartments, shopping malls, hotels, large industries and the like, for special assessment to assess the property value more accurately. Such treatment of class of properties would be legally sustainable and will not amount to discrimination.

Tax Rate under capital value system

The tax rates should be neither too low nor too high. In principle, there is no "right" level of property taxation. If the property tax is functioning as a price for municipal services, the "right" level is the level that reflects local preferences.³ Ideally in the true spirit of decentralization policy enshrined in the Indian Constitution by the 74th Amendment, the setting of rate should be the choice of the local body. The local bodies need to factor their price for civic services and set the rate. But State governments normally restrict tax rates within a fixed band as a safeguard against higher rates. Experience has shown that once the band is set by the government, the municipalities normally chose the highest slab. In the

³ William Dillinger Urban Property Tax reform-Guidelines (1991)

recent legislation to the Municipalities Act in Karnataka, the rate set under capital value system was between 0.5 to 1 per cent. At this tax rate the City Corporation has calculated that it will collect less than what it did in the earlier area-based system. It has requested the State government for an upward revision of the rate to arrest this fall in revenue. This revision sought is not easy procedure as it has to go before the legislature for an amendment. Karnataka's (Bangalore) experience has shown that the tax rate must be carefully factored after working out property tax models for various locations and types of buildings and comparing the existing yield with desired yield. The desired yield should be approximate the cost of municipal services. Such models are not difficult to work out location-wise and should be documented for justifying the rate finally applied.

Differential Tax rates

The property tax rate structures in India, and also in most developing countries, make a distinction among different property uses. Generally, residential property is taxed at a lower rate than industrial and commercial property, and owner-occupied residential property is taxed at a lower rate than renter occupied. Vacant land is either exempted or fixed amount collected. This classification in the rate structure appears to be to shift the burden of the tax on the principle of the ability to pay. In economic terms such distinction are bad policies and can lead to adverse financial or efficiency costs. But politically, the move to tax industrial and commercial properties at a higher rate appeared justifiable on the premise of the ability to pay. But taxes paid by commercial establishments are ultimately loaded on to the cost of goods and services. Any tax embedded in the cost of production is not a sound tax policy. Despite the aberrations the differential rates may cause, they may have to continue for some time due and could be reviewed once the new system has stabilized.

Indexing and re-valuation

Property tax reform cannot be limited to policy decisions. If the quality of tax administration is poor, the burden of the tax falls haphazardly on those unable to exploit its weaknesses. Increasing tax rates alone would enhance these inequities. Revaluation could be through a process of linking the rate of indexation to property prices, or even to general increases in the cost of living. In effect, the adjustment factor functions as both an inflation index and a

nominal tax rate. The reform process does not end with the valuation of all properties at base year. It is necessary to ensure addition of new properties and assigned appropriate values. Hence, the cycle of discovery and valuation must be continuous to reflect changes in the tax base. The more effective this "maintenance function" is the more buoyant the tax base will be. A primary task of the tax administration is to introduce timely revaluations. Failure to revalue properties periodically would put the clock backwards again. Under inflationary conditions, a 6-7 per cent annual inflation rate reduces the real value of an assessment by 30-35 per cent in five years. Failure to revalue during periods of inflation is often self-perpetuating as when valuations fall in real terms taxpayers become accustomed to low effective levels of taxation. When the gap between tax valuations and market values widens, any abrupt revaluation to market levels increases political interventions, which will delay the revision process further. Hence, in principle, declining real valuations can be offset by annual increases in nominal tax rates but, the political courage to do so is rarely observed.⁴

Site Value Taxation

The third option to choose for property tax reform is the site value taxation. This particular approach is of interest because of its potential in improving the efficiency of urban land use.⁵ This is what Henry George had recommended in the 19th century. In his book⁶ he explained the economic basis for the taxation of land and reasons why it should replace the property tax on buildings, personal property, intangible property and other taxes. He advocated land tax as land value grows over with time while the improvements on land depreciate with time. Secondly, he saw that if only land is taxed the owners will have no disincentive to develop the land to its most efficient use. Thirdly, in the absence of reliable data and the cost of maintaining such data he saw improvements as an imperfect market. Though, today in the United States the real estate markets are reliable then during Henry George's time, and his theory may not be actively used in the United States, yet his theory has a lot of relevance to India and other countries as well. This system is in vogue in Kenya, Taiwan, some cities in Australia and New Zealand and South Africa. The major disadvantage of this system of property taxation is that it narrows the tax base compared to the ARV and the capital value, which systems tax both land and improvements, and thus requires higher tax rate to produce

⁴ William Dillinger – Urban Property Tax reform- Guidelines (1991)

⁵ (Bahl and Linn, 1992)

⁶ Henry George Progress and Poverty (1904)

the same revenue. However, some countries have built in coefficient to tax improvements, if buildings exceed the land measurement by a certain percentage. In Trinidad and Tobago where the ratio of improvements exceeded 5:1 the improvements were taxed.

The site value taxation can work in the Indian context. This merely requires dividing all locations in a city into six or seven land value classes. There need not be any classification for structures. If only the land were taxed, the administrative job could be greatly simplified and the revenue lost from structures might not be significant. As a variant to site valuation, special class of buildings (luxury buildings both commercial and residential) could be notified and both land and structure could be selectively and separately taxed as per the capital value system. For other structures not being a notified one as above, a nominal value for improvements could be considered as tax on building. In case of apartments and shopping malls the land rates will have to be different to make for parity of tax with independent plots in the same locality. This parity is justifiable because of the increased impact on infrastructure in the locality. It is not difficult to factor differential tax rates as the floor area ratio could be the basis for levying tax proportional to each of the apartment owners. Small such equity issues will arise under this system, however, it is easy to address any of these issues as the system can provide enough flexibility to accommodate any adjustments required.

All the cautions mentioned for other systems may not apply to this system as there is not pressure for the valuation of the building. The only caution is to see that the site valuations are periodically updated and revision of valuation should also be periodic say once in 4 years. The other issues of concern viz. coverage and tax collection have to be addressed as under any of the systems discussed in this report. Given these features of the site valuation method, one perceives that this method is extremely objective, transparent, and easy to understand and could be the natural choice for both the municipalities and the taxpayers. While we have suggested this option, we have not prepared a detailed matrix of this site value taxation system and the engines required to make it workable, since it is a study by itself. However, we must admit that this system is certainly worth attempting in a large city.

Choosing the design

The choice of the property tax system would depend upon factors which are unique to a particular city. The use of mixed or hybrid approach, which is slowly gaining currency in the country, does incorporate certain flexibility in the approach and recognises that system is not rigid but dynamic. The capital value system has all the attributes to keep the tax buoyant year after year, but one has to tread cautiously since the system is yet to be implemented successfully. The site value method appears easy and convenient for both the municipality and the taxpayer. Though not implemented anywhere, in the Indian context the site value system is potentially a workable solution since the area based hybrid system has successfully used its principal of derivation of value. However, the choice of the system depends on what is comfortable to the municipalities, the policy makers and the taxpayers.

The property tax system consists of rate and base structure, valuation principles, and administration. While it is important to target reform of the whole system, it is often politically more feasible to plan for stepwise reforms to achieve progress. Internal capacities within the municipalities being low, a totally radical reform approach would be counterproductive. Changes in the tax system may not necessarily lead to anticipated increase in revenue collection in the initial stages of the reform. The object of reforms is not to increase property tax revenue per se. High property tax revenues are not an end in themselves, but in reducing the extent of arbitrariness and confronting local tax payer with the cost of services they consume. [William Dillinger (June 1991)]. Given the economic progress in the country, it is the appropriate time for the city corporations to bring out information brochures to educate the taxpayers about the different systems of property tax and allow them also to participate in the choice of the system. Ultimately, the best choice is the one which the people perceive as transparent and easy to understand though they might see certain inequities in the choice finally accepted. Property tax law is a like a cruise ship with each passenger travelling at the same time and over the same route but each paying a different price for the voyage. Some differences are the result of bargaining skills, personal or business entreaties, date of purchase and discounts offered for special customers. The property tax has many similar attributes.⁷

⁷ The Adoption and Repeal of the Two Rate Property Tax in Amsterdam, New York Donald J. Reeb 1998

Reform when & how to start?

There could not be a better moment than now to push property reforms ahead. People are aware that they need to pay more taxes to ensure that the financial health of the municipalities is good enough to meet the requirements of the city's growth. Whatever the system of valuation adopted, the basic steps to take forward any tax reform are the same. The following are the steps to start the agenda for reform:

1. Improve the tax administration before making a paradigm shift. Focus in improving the core functions areas: identification of properties, record keeping, assessment, billing and collection. This should improve the general property tax administration without adding any special features.
2. Choose a proper tax design. Involve taxpayers as well during discussion stage. Get media to support the choice. In the design choose mass valuation technique to reduce cost and time.
3. At the same time, develop Tax Information System. Ensure accurate data and computerize them. Coordinate with other agencies regularly for property related information.
4. State Government to empower municipalities to take all decisions to effectively administer property tax-rate structure, revision, exemption etc.
5. State governments to address policy issues-repeal of the Urban Land Ceiling Act, rationalization of stamp duty, tax on government properties etc.
6. Develop capacity of the city managers and elected representatives. Use modern information technology tools. Staff training program to ensure they understand the new system completely before the system is launched.
7. Amend municipal laws to give legal backing to reform process. Also amend other relevant laws like Rent Control Act to achieve reform objectives. Launch the new tax system and

use effective communication strategy to ensure that the new system is understood by the taxpayers.

8. Launch stakeholder education programme. Cooperation of taxpayers is a sure way to success.
9. Set-up an effective monitoring and review mechanism at city level and State level.
10. Keep the tax system simple. Do not attempt too much at a time. Reform is a continuous process, not a one time activity of revising valuation.

In conclusion

Property tax reform cannot be viewed as black-and-white experiences, but rather, as stories that combine success and flaws. Far from being a perfect example of property tax reform, the experiments in Ahmedabad, Bangalore Hyderabad, Mizapur and Patna are a good learning experience. It shows that changes can take place in a field where very often one thinks that little can be accomplished. One factor that tends to be overlooked is the way distortions are smoothed out over time. In the final analysis it becomes clearer that the old tax, after all, is a good tax for the local bodies.

Appendix I

Property Tax- Statutory Provisions and Tax Administration in Selected Cities

1. Ahmedabad Municipal Corporation

Power to levy property tax: The Bombay Provincial Municipal Corporations Act, 1947, enables the levy of property tax annually on building and land at per square meter of the carpet area on such rates decided by the corporation within the band set by the State legislation.

Classification of properties: The Act provides for classification of buildings into residential and non-residential and also to determine separate rates for them. Within this, two broad classifications, sub-classifications are made to widen the base.

Rate of tax: The Act provides for the levy of tax based on carpet area of a building and the area of land. It prescribes the maximum and the minimum range of tax for residential and non-residential buildings. For residential buildings the minimum rate is Rs.10 and the maximum rate is Rs.40 per square meter and for non-residential buildings, the tax rate prescribed is a minimum of Rs. 20/- and a maximum of Rs. 80/- per square meter of carpet area.

Valuation: The Rules prescribe that that the valuation for both residential and non-residential buildings could be factored depending on various attributes of the building and its location. Accordingly, the rules provide for 4 factors for both residential and non-residential properties. The four factors are: location, age of building, type of building and occupation. There is no process of valuing the property per se. Property tax is derived **directly** by multiplying the area of the property with the specified rates prescribed for each of the 4 factors. Prior to 2001 the Corporation was levying water tax @ 13% of the property tax, conservancy tax @ 15% and educational cess, charged on a graded base between 7% and 20%. The educational cess is collected on behalf of the State Government. However, with the introduction of the area linked system of assessment, from the year 2001-01 the Corporation has done away with the water tax and conservancy tax.

2. Bangalore City Corporation

Power to levy tax: The Karnataka Municipalities Act 1976 provides for levy of tax on building and building. The Act also provides for classification of buildings and to apply different tax rates within the band permitted.

Classification of buildings: The properties are classified as residential, non-residential and vacant land. Within this classification sub-classifications are made.

Valuation: The rateable value of the building or land is deemed to be the gross annual rent at which such building or land is reasonably be expected to let from month to month or from year to year. A deduction of sixteen and two-thirds percentage of the annual rent is allowed for buildings for repair or any other account. In practice however, the ARV is calculated for 10 months and the balance 2 months is set off towards depreciation. In cases where building are not ordinarily let, the gross annual rent is estimated by the Commissioner on the rateable value of the land and building at six percentage of the estimated market value of the land and cost of erecting the building. A depreciation not exceeding 10% on the building is provided for is such cases.

Rate of tax: The Act prescribes a minimum of 20% and a maximum of 25% of the ratable value of buildings and lands. The Corporation has adopted a tax rate of 20% for residential buildings and 25% for non-residential buildings. Corporation also levies 34% cess on property tax making the effective tax rate to 26.8% for residential and 33.5% for non-residential properties.

3. Municipal Corporation of Bhopal

Power to levy property tax: Madhya Pradesh Municipal Corporation Act provides for the levy of property tax on the basis of Annual Letting Value of land and building

Valuation: Retaining Annual Letting Value (ALV) as the base for taxation, the Corporation amended the provision from April 1997. This amendment changed the method of assessment by introducing a Self-assessment scheme under set norms for assessing property. Under the self-assessment scheme, the owner of the property is required to file a declaration in prescribed format, detailing therein the property particulars with reference to its attributes as per the classification norms provided to the assessee. The rules also provide for a penalty to an extent of 5 times the property tax payable if, on scrutiny, it is found that the variation in the tax paid and actually payable exceeded 10%. If the tax as calculated by the owner is not paid along with the return by the due date, then a penal surcharge is leviable at the rate determined by the resolution of the Corporation. The current penal surcharge fixed is 15%. Those who fail to file the returns as required or have filed incorrect return, the Commissioner can under the Act, himself assess the building/land to tax.

Classification of property: The properties are classified into residential and commercial buildings. Specific Rules are provided for zoning of area within the municipal limits. According to Rule 3 every Municipality has to classify Municipal areas in more than one zone on the basis of similar locations and situations of buildings and lands. Rule 4 prescribes that buildings and land situated in every zone should be classified according to quality of construction, their use, location etc.

Usage: residential and non-residential (Commercial or industrial). A 50 percent rebate is allowed for residential owner occupied properties.

Quality of construction: RCC buildings, buildings with roof made out of sheet and other semi-pakka or kacha buildings.

Location factor: The land/buildings are classified based on whether it is located on the main road /main market or interior roads.

Tax Rates: The Act prescribes that the tax rate should not be less than 6% and not more than 10%. Within this band the Corporation has adopted a 4 graded tax rate based on the Annual Letting Value. Rental values less than Rs.6000.00 is levied a composite tax of Rs.180.00 per year. Along with the Property tax payable, other taxes and cess such as sanitary cess, water tax, general lighting tax and general fire tax is calculated and added in the tax bill.

4. Calcutta Municipal Corporation

Power to levy tax: The Kolkata Municipalities Act provides for the imposition of property tax on the basis of rateable value of the property.

Valuation: The Act provides for the method of valuation of property is on the basis of gross annual rent including service charges. A 10% deduction is provided for towards repair and maintenance of land and building. In cases of any buildings not ordinarily let, the gross annual rent is estimated by the Commissioner on the rateable value of the premises at 7.5 percentage of the estimated market value of the land at the time of assessment plus the estimate cost of erecting the building, less a reasonable amount deducted as depreciation. In case of newly constructed buildings that are exclusively used for residential purposes, a rebate of 25% is provided for under the Act for the first three years. This benefit is not available for old buildings, redeveloped through alterations and additions and for buildings that have been occupied before the issue of the occupation certificate. Under the Act Commercial properties attract a surcharge not

exceeding 50% of the basic property tax in addition to the normal tax rate. The Act provides for tax on Vacant land at 7 percentage of the estimated market value.

Classification of properties: Properties are classified into residential, non-residential and vacant land.

Tax rates: The tax rate is calculated on the following formula:

10% + $\frac{\text{Annual Value}}{600}$ – which shall not exceed 40% at the maximum

5. Madras City Municipal Corporation, Chennai.

Power to levy tax: The Madras Municipality Act provides for the levy of property tax on land and building.

Valuation: Property tax is based on the gross annual rent at which the property is reasonably expected to be let from month to month or from year to year less 10% deduction towards building repair/maintenance. The Act provides that irrespective of 'Advertisement tax' levied for advertisement on hoarding, the land or building on which the hoarding is erected is subjected to property tax based on the principle of reasonable rent expected from letting such space for commercial use. In cases of buildings not ordinarily let, the gross annual rent can be estimated by the Commissioner on the rateable value of the premises at 6 percentage of the estimated market value of the land at the time of assessment and estimate the cost of erecting the building.

Classification of property: The properties are broadly classified into residential and non-residential. Residential properties are further classified into owner-occupied and tenanted. Commercial properties are classified into Lodging houses/Star hotels, Kalyana Mantapams (wedding halls), hospitals/ nursing homes and cinema theaters.

Tax rate: The tax rate varies from 3.75 to 9 percent on a graded valuation scale of the property. On the property tax a uniform 2.50 percent is charged towards education tax besides a graded library cess ranging from 0.18 percent to 0.45 percent.

6. Municipal Corporation Hyderabad

Power to levy tax: The Municipal Corporation of Hyderabad provides for the levy of property tax based on the Annual Rental Value.

Valuation and assessment: The Act provides the basis for assessment of the property on the gross annual rent at which they may reasonably be expected to be let with reference to type of

construction, plinth area, age of the building and usage. Apperertinent land which is in excess of three times the plinth area of the building is subject to tax at the rate of 2 percent of the estimated market value. Vacant plot is subject to tax at the rate of 1 percent of the capital value of the land. A deduction of 10 percent is given as depreciation for the age of the building that is less than 25 years, 20 percent if it is between 25-40 years and 30 percent if it is above 40 years. An additional deduction of 5 percent on the ARV is given to municipalities situated on the seashore.

Tax rate: The Act prescribes that the tax rate should not be less than 15 percent and should not exceed 30 percent. The Act prescribes a rebate of 40 percent owner occupied properties.

7. Jaipur Municipal Corporation

Power to tax: The Rajasthan Municipalities Act 1959 provides for the levy of House Tax on the basis of Annual Letting Value. Annual Letting Value has been defined under the Act to mean the annual rent for which any building or land exclusive of machinery and furniture might reasonably be expected to let from year to year. The Municipalities Act makes it mandatory for all Municipalities to impose property tax. This is further reiterated by a Government order dated 30-09-62 which specifies a schedule date for the completion of the procedures for implementing property tax. In the said order it has been stated “in case any Board fails to stick to the schedule, the government may have to take action against it under section 295 of the Rajasthan Municipalities Act 1965” which provides for the dissolution of the Board for incompetence.¹

Valuation and assessment: The valuation is done on the basis of returns filed by the owner. The owner is obligation to file a return informing the details of the property and the amount of rent received. If the property is not let, then the reasonable rent the property would fetch should be estimated and declared. If the owner has not filed the returns, the commissioner can proceed to assess the letting value and assess the property accordingly.

Classification of properties: The Act provides for the classification of properties into residential and non-residential properties.

Rate of tax: The tax rate for both these categories is fixed at 6.25%

¹ KK Bhatnagar- One man committee on Reforms in House Tax-September 2000. Despite these directions, there are several municipalities¹ who have not initiated preliminary resolution for the imposition of property tax in their jurisdiction.

8. Nagar Nigam Lucknow

Power to levy tax: Section 174 of the Uttar Pradesh Municipal Corporation Act is the enabling provision for the corporation to impose property tax..

Valuation and assessment: The basis for valuation for levy of property tax until recently was the annual rental value. However, without changing the base for assessment, rules were incorporated from April 2000 to assess property tax under a self-reporting provision, which made it obligatory for all property owners to report the property details in the prescribed format. The rule requires that the Corporation should publish in the newspaper seeking property owners to furnish every year a statement in prescribed form the details of the property in respect of its location, constructed area, usage and occupancy. The municipality, once in two years, will fix and announce the minimum monthly rate of rent per square foot of carpet area for every group of building within a ward. For this purpose the municipality has adopted the guidance rate fixed by the Department of Stamps and Registration.

Classification of properties: The classification of the properties is on the basis of width of road. Three dimensions have been provided for - roads width more than 24 meters, between 12 and 24 meters and less than 12 meters. The three types of buildings are categorised corresponding to the width of the roads. They are full RCC building, Pakka building without RCC roof and Kachcha. Quality of construction and the age of the building are not considered under the rules.

Tax rates: The UP Municipalities Act 1916 levies tax on the basis of the published rental rates by the Mukhya Nagar Adhikari (MNA) in a given location as classified above. The tax rate is 19 per cent. In addition to this, a water tax at 10% of the property tax is also levied. The tax is calculated by a formula:

ARV for dwelling = minimum monthly rent per square foot fixed by MNA X 12 X built up area X 19/ 100.

ARV for vacant land= Minimum rent fixed per square foot fixed by MNA X 12 X land area X 19/100.

The rules provide for the levy of tax on water at 10 percent, drainage and conservancy as a percentage on the property tax. . A rebate of 5 percent is given if the tax is paid in advance in the month of April and October.

9. Municipal Corporation of Ludhiana

Power to levy tax: Section 91 of the Punjab Municipal Corporation Act provides for the impost of tax on land and building. However, the Punjab Government, by a Notification, which came into effect from 1st April 1997, exempted property tax on all residential properties irrespective of the size of the property. Hence, property tax currently, is levied only on commercial properties.

Valuation and assessment: Section 93 of the Act prescribes the method of assessment of property tax on basis of annual rental value as: in case of land, the gross annual rent at which it may reasonably be expected to be let. In case of building on the basis of reasonable gross annual rent at which such building together with its appurtenance and furniture that may be let for use. On the annual rental value determined a deduction of 20 percent is contemplated for the furniture let and 10 percent for the cost of repair/maintenance of the building. However, the commissioner can consider a deduction not exceeding 20 percent on the ARV of the building, if he is convinced that this is necessary for the up keep of the building to command such rent. In cases where it is not possible to determine the gross annual rent of the building, then 5 percent of the estimated present cost of erecting the building is adopted, providing for deduction not exceeding 20 percent. The section provides that if the Rent Restriction Act has fixed the fair rent, the rateable value cannot exceed this value or the actual rent for which the same has been let whichever is higher. It is also provided that if the residential premises is occupied by the owner or is not let, 50 percent rebate is given on the ratable value.

Tax rates: For *commercial properties* if the Annual ratable value exceeds Rs. 12001/- per annum property tax is levied at 50 percent of the ARV. If the annual rateable value is less than Rs12000/- the tax rate is 24 percent. Though, at present, there is no property tax on residential properties, the statute prescribes 10 percent of the Annual Ratable Value for residential properties. In addition to property tax, a 'fire cess' is levied at the rate of 3 percent for residential properties if the building height exceeds 35 feet, and 10 percent for commercial properties.

10. Nagar Palika Parishad, Mirzapur

Power to levy tax: The municipality can levy house tax under section 128 of the Uttar Pradesh Municipalities Act on the annual value of building or land or both.

Valuation and assessment: The manner of levy of tax is contained in section 140 of the Act. Under this section differentiation has been made for two classes of properties. (1) For railway

station, hotels, colleges, schools, hospitals, factories and other such buildings, at a rate not exceeding 5% of the estimated present cost of construction along with the estimated value of the land appurtenant to the building and (2) in other cases the valuation is on the basis of gross rent for which such building or land is actually let or where the land or building is not let, or in the opinion of the municipality is let for a sum less than its fair letting value, then the reasonable expected rent is adopted to determine the ARV. However, under exceptional circumstances the Act also provides for rectification of the ARV assessed to a lower amount, if it so requires on grounds of equity.

Tax Rate: The property tax rate prescribed is 19 percent of the annual rental value determined. In addition to property tax, water tax at the rate of 10 percent of the annual rental value is levied. A rebate of 5 percent is given if the tax is paid in advance in the month of April and October.

11. Brihanmumbai Municipal Palika

Power to levy tax: Section 140 of the Brihanmumbai Municipal Corporation provides for the levy of property tax.

Valuation and assessment: Section 154 (1) of the Act, prescribes the method of fixing the property tax. The basis for assessment of property is the reasonable annual gross expected rent with a provision for a 10 percent deduction on the ARV towards repairs and maintenance. The rateable value for owner occupied residential properties is determined by estimating their fair and reasonable rent and in the case of tenanted properties actual rent, if found fair and reasonable, is adopted. Tax on vacant land is determined at 100 times of the letting rate of residential properties within city limits and 50 times of the letting rate in case of vacant land in the suburbs. On the valuation so arrived a 10 percent deduction is given towards maintenance, and a tax rate of 12 percent is applied.

Tax Rate: The tax rate for residential properties with metered water supply is 83.5 percent of the rateable value and in case of non-residential properties it is 112.5 percent. In the case of residential properties having un-metered water supply the tax rate is 187.5 percent and in case of non-residential properties it is 320.5 percent of the rateable value. These tax rates include educational cess and employment guarantee cess. The Corporation on behalf of the Government also levies and recovers a tax known as 'Maharashtra Tax on larger residential premises' where

the carpet area exceeds 1250 square feet and the rateable value is not less than Rs.1500/- per annum. In case of old tenanted properties, a 'repair cess' is levied and recovered by the Corporation on behalf of the government.

12. Patna Municipal Corporation

The power to levy tax: Section 130 of the Patna Municipal Corporation Act defines the Annual rateable value as being the gross annual rent at which the holding may reasonably be expected to let from month to month or from year to year.

Valuation: In the year 1993, the assessment rules were revised without altering the annual rental system as the base. Under the Act the Commissioner had the powers to determine the method of assessment, and accordingly rules were formed prescribing the method adopted for arriving at the gross annual rent for properties. The annual rental value was defined as the "rent that a holding is capable of fetching over a period of one year". For finding out the rent fetching capability of a holding, an area-based assessment was introduced. The rules laid down the criterion for assessment which included (1) Location of the holding, (2) use of the building (3) type of construction and (4) measurement of the carpet area. The assessment rules also provided the manner in which the carpet area is to be calculated and rental value to be fixed.

Classification of properties: The holdings were classified as residential and non-residential and tax rate applied.

Tax Rate: with the introduction of area based assessment the Corporation revised the effective tax rate from 43.74 percent to 9 percent. The tax structure previously charged was:

Holding tax	12.00% of the annual rental value
Latrine Tax	10.00% of the ARV
Water tax	10.00% of the ARV
Education cess	6.25% of ARV
Health cess	5.00% of the ARV
Effective tax rate	43.75% on the ARV

Revised Tax rate:

Holding Tax	2.5% of the ARV
Latrine Tax	2.55% of the ARV
Water Tax	2.00% of the ARV
Health cess	1.25% of the ARV
Education cess	1.25% of the ARV
Effective tax rate	9.00% on the ARV

13. Corporation of Thiruvananthapuram

Power to levy tax: Section 234 of the Kerala Municipal Act 1994 prescribed the levy of property tax on building assessed together with its site occupied as an appurtenance.

Valuation and assessment: The method of assessment is on the basis of Annual Rental Value arrived on the basis of reasonable expected rent from month-to-month or year-to-year. In the recent past new buildings were given 20 percent deduction on the ARV towards the cost of annual repairs /maintenance. The city is divided into 3 zones. The annual rent is determined on the bases of location, civic amenities provided, quality of building and its use. There is no distinction made in respect of commercial properties whether it is owner occupied or tenanted.

Classification of properties: Properties are classified as either residential or non-residential. There is no tax on vacant plots. Tenanted residential building is assessed at commercial rate. 60 percent of the actual monthly rent is taken for calculating the ARV.

Tax rate: The Act prescribes that the tax rate should not exceed 25 percent. The current tax rate is 18 percent.

Table below shows the various systems of assessment practiced in the major cities

Table 1

<i>Cities where the system of Annual Rental Value has not undergone much change.</i>	<i>Cities that have by a legislative process changed the method of assessing keeping the ARV system as the base.</i>	<i>Cities that have brought in changes in the method of assessment without involving any legislative process.</i>	<i>City that has brought in Capital Value System replacing the ARV system completely.</i>
Kolkata, Chennai, Jaipur, Ludhiana Mumbai.	Ahmedabad, Bhopal, Patna, Lucknow, Mizapur Thiruvananthapuram	Bangalore Hyderabad	Bangalore and all the City municipalities in Karnataka.

II. Tax Base - its Features in the Selected Cities

1. Ahmedabad Municipal Corporation

The tax base: The property tax base under the Bombay Provincial Municipal Corporations Act, 1949 is a tax on land and building. The tax rates are based on a combination of factors linked to the carpet area of the properties in a given location, age of the building its size and the nature of usage. The applicable rates are decided by the Corporation. The primary responsibility to notify the occupation of a new property or the changes made to the property in its usage or additional construction is that of the owner. In case where under-assessment or escapement of tax is detected the assessment is reopened under section 21A of the Taxation Rules of BPMC 1949. Under this section, if a new building has been erected or the building is rebuilt or enlarged or any building which was vacant has been reoccupied or use of any building has been changed and that the person primarily liable for property tax on such building has failed to give notice as required under sub-rule (1) of rule 5, the Commissioner within a period of one year from the date on which this fact came to be known can proceed to fix or re-fix the rateable value of such building and assess or re-assess the property tax on such building from the date when the building was newly erected, rebuilt, enlarged, reoccupied etc as the case may be and collect and recover the same. Rule 20 provides for the enhancement or alteration of tax if erroneously valued through fraud, accident or mistake. However there is no specific provision for the levy of penalty for non-disclosure of the status of the property or erroneous assessment.

Enforcement: There is no separate enforcement cell to check the cases of evasion of property tax. The responsibility of checking the factual details of the property rests with the respective ward officers and staff.

Revision Cycle: Rule 21 (2) provides that the assessment register *shall* be revised completely once in 4 years. The entire city is divided into 4 zones for the purpose of valuation. Every year valuation is carried out in one zone. Such valuation for each separate zone was done till the year 1997-98. During the year 1998-99 the Corporation introduced a new method of assessment linking the assessment rates to 4 factors viz. location, age of building, type of building and occupation. For this purpose the Corporation under took and completed the task of *actual*

measurement of all the properties in the jurisdiction in the year 2001-2002. This onerous task was undertaken with the help of municipal staff and contract employees.

Plans for reforming the tax base: The BPMC Act bringing in area based assessment with effect from 2001-2002, is expected to increase the revenue substantially. The Corporation does not have any plans to replace this system by Capital Value system.

Departmental reviews of assessment: The assessed properties are not subject to special departmental audit reviews. However, before approving assessment of a new property the first time the correctness of assessment made by the assessor is verified at by senior officers and hence it is felt that this check is sufficient safeguard that the assessment is proper. Departmental audit or external audit of assessment files is restricted to the arithmetical accuracy i.e. totaling errors rather than the norms applied for the assessment.

Losing the base:

Vacant land tax: under the area-based system adopted by the Corporation, open-land² tax is collected only if there is commercial use of the open land. Vacant plot is not subject to tax.

Exemptions: Only State government buildings are levied at a lower rate of tax. The State government properties are charged 80% of the normal tax rates. There is also provision for special concession for commercial /industrial units at the following rates:

1. 85 percent for buildings having pucca walls but non-RCC roof.
2. 75 percent for building having enclosed sheds with corrugated or iron or cement sheet with non-RCC roof.
3. 65 percent for non-enclosed buildings or sheds i.e. open shed with roof.
4. 30 percent for open land used for commercial or industrial purpose.

A rebate of 15 percent on property tax computed is given to buildings to which water supply is given through a meter, provided further that the amount of meter tax payable for the relevant year exceeds 15 percent of the amount of property tax leviable on the said buildings. A rebate of 15 percent is given to all properties that are not connected by either private water supply or municipal water works. For non-residential properties a rebate of 20 percent of the amount of property tax is given to all properties occupied in the building except those in the ground floor.

² Means vacant land

Vacancy remission: The Act provides for a rebate on the property tax payable if the property is vacant. If the property is vacant for less than 60 days 15 percent rebate is given and if it more than 60 days 75 percent rebate is given.

Assessment of certain properties:

Unauthorised building: Property Tax is charged and collected even from buildings that have violated building bye laws and constructed without sanctioned plans. In fact, property tax is charged from the date of obtaining building use permission or start of usage of property whichever is earlier.

Government properties: The Central Government properties have been subjected to pay service charges in lieu of property tax as per the Circular of Government of India, Ministry of Finance, Circular No.4 (7)-P/65 dated 29.3.1967.

Revenue land: Properties that come under revenue land are assessed to tax. The betterment or improvement charges are collected by the Estate Department. Assessment is made before collection of betterment or improvement charges.

2. Bangalore City Corporation

The tax base: The property tax base is a tax on land or building or both. The tax rates are applied on the valuation of the property derived on the basis of the probable rent that a property may fetch in an area given the type of building and its usage. Vacant land is also a base for property tax under the Act and is subjected to tax rate at 6% calculated on the current market value of the land. Under section 109 of the Act, it is the primary liability of the owner of a property to report new construction or any changes made to the existing in terms of any additions or change in the usage or change ownership. If the owner fails to report as required, action could be taken under section 143 of the Karnataka Municipalities Corporation Act, 1976, which contemplates the levy of property tax in such cases of escapement to tax. The Act provides 6 years limitation for reopening of escaped assessment. Enhancement of annual rental value can be taken up under Section 147 read with rule 8 of the taxation rules. Rule 8 empowers the Commissioner to amend property tax assessment any time between one general revision and another after giving a 'special notice' to the parties concerned. In the said notice the Commissioner has to specify the reason why the assessment is revised and give reasonable opportunity to the property owner against the revision.

Enforcement: There is no special branch to enforce or detect evasion of tax. The jurisdiction officers and field staff attached to the ward office are responsible for this work.

Revision cycle: As per section 143 of the KMC Act 1976 property tax *shall* be revised every 5 years or whenever enhancement of the rate is evidenced necessary. The last general revision was made during 2000-2001. The previous to this revision was made during 1972.

Plans for reforming the tax base: The Bangalore City Corporation during 2000-2001, brought in the self-assessment of property tax system which linked the rental values to the locational, usage and structural qualities of the properties in a band of rental rates for these factors. In the year 2002, the Karnataka Municipalities Act has been amended to assess property on the bases of the capital value of land and building. However, city Municipalities including Bangalore Mahanagara Palike are yet to implement the system. Karnataka is the first State in the country to make this complete shift from a rental base to a capital base. The High Court of Karnataka, in its recent judgment delivered in June 2003, has upheld the constitutional validity of assessing properties under a capital value method.

Change in the Rent Control Act: the Rent Control has been amended to make for rental value closer to market rates.

Losing the base

Exemptions: Section 110 contemplates a general exemption to property tax. The following properties qualify for exemptions from property tax - charitable institutions, shelter for animals, destitute and orphanages schools for the physically challenged, & hospital, educational institution (but not residential quarters), places set up for public worship, choultries for which no rent is charged or if charged the income is exclusively utilised for charitable purposes, burial grounds, student hostels that are not established for commercial purpose, recognized educational institutions, office of the labour Associations registered under the Trade Union Act,1926, and belongs to such Association, land and building belonging to State and Central Government other than residential quarters, land that is used for agriculture purposes in the revenue account.

Vacancy remission: If the property is vacant continuously for more than 30 days in a year, vacancy remission available to the extent of one-half for the period vacant.

Vacant land tax: Though the Act provides for levy of 6 percent on the market value of the vacant land, the Corporation is not levying at this rate. Prior to year 2000-01, by an internal circular the assessors were levying tax on vacant land at the rate ranging between Rs.500-1500/- per square meter depending on whether the area was developed or not. Subsequently in the year 2001, these rates were modified under circular instructions. As per the circular vacant land were classified on the bases of the classification made under the scheme of Self-assessment of Property Tax and specified the rates per square foot per month: A zone Re.0.50 B, Zone, Re. 0.40, C Zone, Re. 0.30, D Zone, Re.0.25, E Zone Re.0.20 and F Zone Re. 0.12.

Revenue pockets within the jurisdiction: Property on Revenue land³ are taken into the property tax register and assessed to tax only after collecting the improvement expenses/ development cess. However, the KMC Act does not authorize the Corporation to collect development cess prior to the commencement of the developmental works. Since the collection of property tax is linked with the collection of the improvement charges as well, and as this levy of cess is legally resisted by property owners, property tax is not collected. Hence, a substantial number of properties on Revenue land are outside the fiscal cadastral. The current one-time improvement/development charges is Rs.100/-per square yard in the newly added areas and Rs.50/- per square yard in the old city area.

Unauthorized buildings: Until recently the Bangalore City Corporation was not collecting tax from buildings that had violated the building bye laws on the ground that such collection of tax may amount to regularization of the deviation from the sanctioned plan or constructed without the sanctioned plan. However, the Corporation during the year 1999-2000 after obtaining legal opinion began to assess properties, which have violated the building bye laws with specific condition that such collection will not amount to regularization of the violation and is independent of the action that may be taken under the building bye laws.⁴ The KMC Act has since been amended⁵ to make provision for the levy of penalty each year, which is equal to twice the property tax leviable on such buildings, till such time it remains unlawful and secondly, the

³ Revenue land is one that comes under the jurisdiction of Land Revenue Act and are outside the jurisdiction of municipal bodies

⁴ A very curious situation has arisen even after the legal opinion was taken to assess the property tax on illegal buildings. If the building is constructed and completed in violation of the bye laws, it is not issued with an occupancy certificate, by the Engineering Department. Without the occupancy certificate the revenue department will not issue a Katha certificate. Without the katha certificate the property is not assessed to tax. In effect the unauthorized property continues to enjoy 'tax holiday' since they are not assessed, even if they make an application for assessment. The recent amendment to the KMC Act does not make specific provision to enable the revenue department to assess such properties to tax.

⁵ 1st April 2002

penal rate of tax is levied without prejudice to action that may be taken for such unlawful construction.

Government properties: The Corporation levies property tax on State Government properties used for commercial or residential purpose. In case of Central Government properties, used for commercial or residential purpose, a service charge is levied in accordance with the Circular dated 29.3.1967 issued by the Ministry of Finance, Government of India. However, the Corporation is yet to collect tax from Central government properties especially from residential quarters belonging to the Defence.

3. Bhopal Municipal Corporation

The tax base: The tax base under the Madhya Pradesh Municipality Act 1956 is on the land and building. The valuation base of the property is the annual letting value. This is calculated on the categorization of building, quality of construction, usage and the location of the property. Based on these parameters the estimated letting rate is determined. The rule 10 of the MP Municipalities' Rules makes it obligatory on the property owner to file a return calculating the tax payable in the prescribed form and deposit the tax. If it is found that there is a variation of more than 10% owner is liable to pay penalty equal to 5 times the amount of difference of the property assessed to tax under the Self-Assessment Scheme. There is no special enforcement branch but the returns received under rule 10 are subjected to scrutiny under rule 11 of the Taxation Rules.

Number of properties added: It is informed that on an average 1000-1200 properties are assessed every year.

Revision cycle: revision has not been made since 1976.

Plans for reforming the tax base: After the amendment made in 1997 to assess properties expected rental values based on the location and the quality of construction, the Corporation does not have any plans for change to a capital value base for assessment.

Losing the base

Exemptions: Section 136 list a long list of properties exempted from paying property tax. State & central Govt. buildings, self occupied properties whose ARV is less than Rs.6000. Educational, boarding houses, hostels, libraries where rents are not collected. Charitable hospitals, place of worship, old age homes, animal care centers, building owned by freedom

fighters & retired members of defence forces not being an income tax payer. The section also makes a proviso that in all the above cases for exemption will be denied if any trade or business is carried on unless the rent derived is used exclusively for religious or charitable purposes.

Assessment of revenue properties: On revenue properties, which have come to the corporation, jurisdiction there is no provision to collect improvement charges or betterment charges before assessing the property before assessing the property. In the cases of revenue properties the owners are also obliged file a return and declare the construction of new property or purchase of property and pay the tax as per the norms set in the self-assessment form. In the case of new properties, along with collection of property tax a city development charge is collected at 2.5% on properties whose annual letting valuing is more than Rs.10, 000 ALV and is self-occupied. In other cases the city development charges is collected at 5%. The collection of city development charges has been withdrawn from 1.4.2001.

Assessment of Government properties: No service charges or property tax is imposed on State Government properties and defence properties. However, service charges are imposed on Central Government properties.

4. Kolkata Municipal Corporation

The tax base: The base for the property tax under the Kolkata Municipal Corporations Act 1980 is provided in section 171. This provides for the levy of property tax on land and building. Given this base, the valuation for property tax is on the gross annual rent including service charges, if any, that the property may reasonable be expected to fetch from year to year. If the property rental values cannot be easily estimated, then under section 174(4A) the tax is determined on the basis valuation of the building at the current market cost of erecting the building less a reasonable amount of depreciation for the age of the building. The section has a proviso, which states that plant and machinery enumerated in the Schedule VIII should be part of the valuation of the building. Schedule VIII has an exhaustive list of the plant and machinery that could be included in the calculation of the annual value of the land any land or building. On this valuation tax rate applied is at 7.5%.

The primary liability to report the construction of a new property or any changes effect on the property is on the property owner by filing a return. There is no specific section that contemplates action to be taken in cases of escapement to tax or under assessed. Section 180(2) of the Act provides for the revision of tax in circumstances where the property has under gone

some change or when revision of tax is necessitated. In such circumstances the Commissioner calls for the powers to file a return in a prescribed form. If the owners fail to file the return, then the assessment will be concluded on the basis of information obtained and the owner of the property is disentitled from filing objections thereafter.

In order to keep the assessment current, the Act provides that whenever any property is transferred the transferee is obliged to give a notice to the municipality of such transfer effected. Property tax on the new owner is calculated on the bases of the current rental value. If the transferee fails to give a notice as required, then penalty is also contemplated under section 183(4) of the Act. Under section 183(7) of the Act specifically makes it obligatory for the Registrar of Assurances to furnishing particulars of registration of immoveable properties periodically.

Revision cycle: Section 176 (2) (c) provides that the corporation may revise the annual valuation after the expiry of six years from the date of previous revision. If after the expiry of years, the revision is not made, the old rate continue to be in force. But revision of valuation made well after expiry of six years shall take the effect from the quarter from which annual valuation would have been revised under the Act.

Plans for reforming the tax base: There is a move to link rental values to locational and structural characteristics within some standard parameters. However, this is yet in the proposal stage. The Corporation does not have any plans to replace the Annual Rental Value system with Capital Value system.

Losing the base:

Exemptions: Section 172 provides exemption to land and building that is exclusively used for purpose of public worship, burial ground, open space, which are properties of the government. The section provides that the in a public place of worship if any trade or business is carried on or any rent is received will not be considered for exemption. The Mayor-in-council may also exempt from payment of property tax on any land and building exclusive used for public charity, medical relief or education to the poor free of charge. If the value of the land and building does on exceed Rs.300/- per annum the mayor can exempt from payment of property tax.

Section 172(2) also makes it obligatory for the Commissioner to maintain a separate register showing the land and buildings exempted from tax.

Vacancy remission: There is no provision for vacancy remission under the Kolkatta Municipal Corporation Act-1980.

Vacant land tax: Though the Act contemplates valuation of vacant land tax at 7% of the market value, the same is not followed due to the high level of tax as against the a tax on building. The 7% rate is felt unreasonable high and as a result this is not being followed. However, owner of vacant land continue to pay tax on the basis of annual Value decided notionally- not strictly in keeping with the aforesaid parameter.

Revenue pockets within the jurisdiction: the revenue and private layouts are required to have the plan approved before the sale of land. At the stage of approval the improvement charges will be demanded. What is generally resorted to is that after the sale and registration of land the seller will abscond and not pay the improvement charges. The collection of improvement charges and the assessment to property tax are interlinked and therefore pose a problem for the collection of taxes. In practice, though there is a ban from collecting property tax in such cases, the fact that the properties have been duly registered, the revenue department make the changes in the mutation register and assess the property to tax.

Unauthorized buildings: The Corporation is not barred from assessing and imposing tax on building constructed illegally so long as the building is in use. However, the buildings, which have violated building byelaws or constructed without sanctioned plan can be proceeded against separately and even face demolition. But until the demolition the assessee is liable to pay property tax. No penal tax is contemplated.

Government properties: The State Government properties are subjected to property tax. Central Government properties including defence properties are exempted from property tax. However such Central Government properties are levied service charges as per the direction of the Central Government, Ministry of Defence.

5. Chennai Municipal Corporation

The tax base: The tax base set out for the assessment of property under Chennai Municipal Corporation is on the land and building. The tax base include such properties which is not ordinarily let, and in such event if the gross annual rent is not possible to estimate, then base of valuation of the property will be on the market value of the land at the time of assessment and the cost of construction of the building, less a prescribed rate of depreciation towards the age of

the building. On this net value arrived, tax at the rate of 6% is to be calculated. This is the same method to be followed in the case of government or railway building. However, in practice, this valuation yardstick is not followed.

The primarily responsibility of reporting the construction of a new property or effecting any change to the property in terms of additional construction or change in the usage, is on the owner of the property. However, the Act under section 137 B contemplates power to assess in case of escapement from assessment in any half-year or year. Under this Section if any property has escaped assessment for any half year or year or has been under-assessed the Commissioner can any time within three years from the date on which such persons should have been assessed serve on such persons a notice assessing him to tax or fee due and demanding payment within 15 days from the date of such service. However, no penal rules are provided for in the Act. In order to keep the assessment current, when the sale or transfer of immovable properties on account of sale or inheritance or for whatever reason, the Act makes it obligatory on the part of the transferee to give notice to the corporation of the of the said transaction. The valuation of such properties automatically changes and is reassessed at the current rental values.

Revision cycle: The Act provides for revision of the property tax once in 5 years. During the last 20 years revisions were made in the years: 1977-78, 1993-94, and 1998-99

Plans for reforming the tax base: The Corporation moved to link rental values to locational and structural characteristics within some standard parameters. The Corporation does not have any plans to replace the Annual Rental Value system with Capital Value system.

Change in the Rent Control Act: The rent control has now been amended and bringing the rental values close to market values.

Losing the base:

Exemptions: Section 101 contemplates a long list of exemption from property tax. Place set apart for Public worship, choultries where rent is not charged, & if charged the income used exclusive for charitable purpose, burial grounds, places used which no rent is paid and used for philanthropic purposes like orphanages, home for the disabled, & similar institutions run purely on philanthropic lines and approved by the council, charitable hospital & educational institutions, (excluding residential quarters) for which no rent is paid and buildings or land whose ARV is not

more than Rs.36/- and not being an income tax or a profession tax assessee or the annual aggregate value of all the buildings and lands owned by him is less than Rs.36/-

Vacancy remission: Section 105 of the Act contemplates vacancy remission if the building is vacant or is un-let for thirty or more consecutive days in any half year, the Commissioner on receipt of an application by the owner, within a prescribed time, remit a sum not exceeding one half of such portion of tax as it relates to the building proportionate to the number of days the building was vacant or un-let in the half-year.

Vacant land tax: Vacant land/plot is a land as per the provision should be taxed at 6 % of the market value. But at this rate the property tax assessed would be unusually high compared to the tax on building if constructed on the same extent of vacant land. In practice the Chennai is valuing vacant land annually at the rate of Rs. 52/- per ground and applying the same rate of tax as applicable for other properties.

Revenue pockets within the jurisdiction: The assessment of the buildings in revenue pockets and private layout are assessed to tax on the bases of reasonable letting value in the locality. The corporation has fixed a normative rate for residential and non-residential properties for each all the area.

Composite rate of tax for companies: Rules 7 Part II the taxation provides a composite rate of tax for companies based on the paid up capital as under:

Unauthorized buildings: The Corporation assesses properties that have violated the building byelaws. However, until such time the building remains unauthorized or regularized by a sanctioned plan, the Act provides for levy of penalty for such building for every half-year along with the property tax payable.

Government properties: The Corporation assesses Central and State government properties differently. The following is the matrix for assessment:

6. Hyderabad Municipal Corporation

The tax base: The Hyderabad Municipal Corporations Act prescribes the tax base for property tax to be a tax on land and building. The tax rate is arrived on the annual rental value basis. It also specifically provides for taxing excess vacant space in a property, which is three times the plinth area of a building. The tax prescribed for such vacant space, is 2% of the estimated market value. Under section 212 (3) and (4) for fixing the ratable value, the tax base is further extended

to include plant and machinery contained or situated in or upon any building as approved by the Corporation.

Revision cycle: Section 226 (3) of the Act prescribes that the new assessment book shall be prepared at least once in every five years. The five years cycle came into effect from 1-11-1990. Earlier the revision cycle was at least once in 4 years. Clause (4) of the section further helps the tax base by providing a tax room by specific insertion that the Corporation *shall* take into consideration the rent component of cost of living index prevailing at the time of preparing the new assessment book. The revision of the assessment books that have taken place are during 1964 and 1991. The revision process of 1990, initially stayed by the High Court was decided not favorably to the Corporation and the matter was referred to the Supreme Court. Pending the decision of the Supreme Court, the Corporation in January 2000 brought in a scheme of self-assessment of property tax and was able to implement the scheme.

Plans for reforming the tax base: In the year 2000 the Corporation moved to link rental values to locational and structural characteristics within some standard parameters. The Corporation does not have any plans to replace the Annual Rental Value system to Capital Value system.

Losing the base:

Exemptions: Section 202 has a long list of properties exempted to payment of property tax. They include buildings and lands solely used for public worship or for charitable purpose, excluding that portion for any rent is derived or any trade or business is carried on. Buildings donated by charitable or philanthropist organization and conducting classes up to 10th standard or grant-in-aid educational institutional, government buildings that are not used for residential or commercial purposes, buildings where the annual rental value does not exceed rupees six hundred. In respect of every house constructed for the urban poor, the property tax is rupees two for every half year.

Vacancy remission: Section 232 provides for refund of tax on account of the property being kept vacant for not less than 90 days. The refund will be a maximum of one half of the property tax paid and proportionate to the number of days the property was kept vacant. To prevent the erosion of the property tax base due to this provision for refund of tax no account of vacancy, the refund is subject to the conditions that the premises will be deemed to be vacant if they are unoccupied or unproductive of rent. If a premise is let on rent and is not occupied by the tenant, it will not qualify for refund. Similarly if a premise is furnished by the owner but unoccupied

will also not qualify for refund of tax paid. Industries, which are seasonal in character, do not qualify for refund for the reason that they are vacant and unproductive of rent during off-season.

Vacant land tax: Vacant space in a property that is in excess of three times of the built-up area is taxed at 2% of the market value.

Government properties: The state government properties are also assessed to tax. The Government has appointed a Chief valuation officer for this purpose. The Central Government properties are also assessed to property tax at 9% of the capital value and service charges are collected as per the direction of the ministry of Finance, New Delhi.

7. Jaipur Municipal Corporation

The tax base: The tax base in Jaipur like all most City Corporations in the country is land and building. The term “House Tax” which is currently being used to denote this tax base is not prescribed in the Act and is borne out of usage. A committee⁶ that was constituted to make recommendations for house tax reforms has recommended calling this base as “Property Tax” in order to convey to the people that this tax levy covers both residential houses and commercial properties. Section 3(1) of the Rajasthan Municipalities Act 1959 stipulates the basis for the valuation land and building on the expected annual letting value of the property, exclusive of the machinery and furniture. The primary responsibility of reporting the construction of buildings is that of the owner. However the Corporation under section 115 can call for filing of particulars. If the owner fails to file the returns the commissioner can assess the property based on the information collected by the revenue officials.

Revision cycle: Under section 119 of the RM Act 1959, provides for revision of assessment once in three years.⁷ The provision enables the assessor to adopt the valuation of any of the previous years with such additions increase in valuation as may be deemed necessary.

Plans for reforming the tax base: The Rajasthan Government set up a one-man committee to suggest reform of the property tax. The committee has suggested to link rental values to locational and structural characteristics within some standard parameters. The recommendation of the Committee is still under consideration of the government.

⁶ First Report of the One Man Committee on Reforms in House Tax - Urban Assessment and Rules for Conversion of Land.-KK Bhatnagar September 2000.

⁷ From the one-man committee report it appears that the revision has not been done since inception of the Act.

Losing the base:

One time tax: There is an active proposal of collecting one time tax on land and building. Under the scheme if the annual rate of tax calculated for ten years is paid in one lump sum it would be treated as a life time tax. It has been suggested by the committee⁸ that the Jaipur Corporation should adopt this scheme of lifetime tax with a rider that this tax has to be kept in a fixed long-term deposit. Only the interest should be utilised for the corporation funds and not the principal amount. The Committee has argued that if the scheme succeeds then it would increase the financial credibility of the Corporation with funding agencies like the ADB.

Vacancy remission: Section 126 of the Act provides for refund of tax if a building has remained vacant and unproductive of rent for sixty or more consecutive days during any year. Remission of rent is also contemplated in cases where a property is substantially demolished or destroyed by fire or otherwise deprived of value.

Exemptions: Section 107 of the RM Act contemplates exemption to property tax. Under this provision *Kham*⁹ house in municipal areas are exempted from tax. Exemption to property tax is also available to properties whose an annual letting value is less than Rs.600/-

Vacant land tax: Section 104 of the RM Act, provides for taxing vacant land, however, the Corporation does not levy tax on completely vacant land or plot.

Revenue pockets within the jurisdiction: The corporation levy property tax on properties coming under the revenue pockets within their jurisdiction and no preferential rates are prescribed for such properties.

Unauthorized buildings: The Corporation levy tax on unauthorized buildings. In fact the tax is levied on all properties without making enquiry into the title or legal status of the building.

Government properties: State government properties are exempted from tax. The state government has exempted approved industrial area from property tax. The Central government properties too are exempted from tax, however the Central government properties a levied service tax as per the order of the Union Ministry of Finance.

⁸ Ibid

⁹ Khan house means: a house made of kaccha bricks with mud and stone or thatched roof.

8. Lucknow Municipal Corporation

The tax base: Section 140 of the UP Municipalities Act 1916 stipulates the property tax base to be land and buildings. For the purpose of applying a tax rate this base is divided in two categories. In the first category, the tax rate for railway station, hotels, colleges, schools hospitals, factories and other such buildings a tax rate not exceeding 5% on the value of the building to be estimated at the present cost of construction and the value of the land appurtenant to the building. In the second category, are other buildings, not falling under the first category of buildings, and the tax rate is calculated on the reasonable gross annual rent of the building. While valuing such buildings, the section specifically excludes valuation on furniture and machinery. The section also provides that if in the opinion of the Board the annual value of any building is excessive, the Board may fix the annual value, which appears to it to be equitable.

Section 148 of the Act states that it is the responsibility of the owner of a property to report new construction or changes or alterations made to the property. Clause (2) of the sections also lays down that if any person fails to report as required, shall be punished upon conviction with a fine which may extend to fifty rupees or ten times the amount of the tax payable on the said building or additional construction whichever is greater. Section 147 provides that if reassessment if the original assessment has not been made in accordance with the provision or if made incorrectly either by misrepresentation or fraud or mistake.

Revision cycle: Section 145 states that a new assessment list *shall* be revised once in five years. The number of revision made in the last 20 year (not furnished)

Unauthorized building: the building byelaws are under the domain of the Development Authority. Even if the building unauthorized it does not bar the municipality from collecting tax and the charge is on the occupier of the building.

Government properties: Central Government properties are tax as per government circulars. State Government properties are assessed to for valuation at present cost as PWD norms with provision for depreciation. Tax at the rate of 5 percent and 5 percent water tax is levied.

Plans for reforming the tax base: The Corporation has linked the rental values to locational and structural characteristics within some standard parameters. The Corporation does not have any plans to replace the Annual Rental Value system with Capital Value system.

Losing the base:

Vacancy remission: Section 151 of the Act provides for refund of tax if a land or building has remained vacant and unproductive of rent for ninety or more consecutive days during any year. The refund will be on a pro-rata bases for the number of days kept vacant. This benefit is not available to properties located in a hilly tract and those properties maintained as pleasure resort or town or country house whether or occupied or not.

Exemptions: all place of worship, school, courts, jail and dilapidated buildings are exempted from tax.

Vacant Land: Though the statute prescribes tax on vacant land, in practice it is not levied.

9. Ludhiana Municipal Corporation

The tax base: Under Section 93 of the Act, the property tax base, like elsewhere in the country, is restricted to land and building. However to this base is added the following variation that in respect of any building the gross annual rent is calculated along with its appurtenances and any furniture that may be let for the enjoyment of the property, will be taken for the calculation. The explanation to this section makes it clear that it is immaterial whether the house or the building, and the furniture and the land let to use or enjoyment are let by the same contract or by different contracts and if by different contracts whether such contracts are made simultaneously or at different times. The tax base includes taxing vacant land (plots) though the Act does not clearly spell out how the vacant lands are to be taxed. Obviously, the discretion to tax vacant land is with the revenue official.

Section 106 make it obligatory for the owner of a property to inform to the corporation the construction of any new building or any change in the usage or additional construction or transferred by way of sale or otherwise. However in cases of under-assessment or escapement of property tax the Act contemplates action under Section 103 and 154. Section 154 specifies that if the prescribed authority is satisfied that any property has been erroneously valued or assessed through fraud, accident or mistake whether on part of the Corporation or any officer or employee of the Corporation or of the assessee, the Corporation after giving an opportunity to the assessee to be heard and after making such enquiry, pass an order amending the assessment already made and fix the amount of tax payable for the property. The Commissioner, accordingly will alter the assessment book prescribed under Section 103. The assessee is entitled for appeal against this

order before the Divisional Commissioner. After disposal of the appeal the amended tax, as per the appeal order, will come into effect the month after the order has been passed.

Revision cycle: Section 104 of the Punjab Municipal Corporation Act 1976 provides for the revision of property tax at any time for the whole or part of the city however it does not mention the periodicity of such revision. It is reported that no revision of rateable values are made since the last 20 years except in cases of property that have additional construction or newly constructed.

Plans for reforming the tax base: there is a proposal to replace the Annual Rental Value system with Capital Value system. The proposal is yet to be presented in the Council.

Losing the base

Exemptions: The Corporation has extended exemption to several categories of properties. Self-occupied properties of a widow, an orphan, freedom fighter, ex-servicemen, disabled persons, whose annual income does not exceed Rs.15000/- State buildings, educational institution enjoying 95% Grant in aid & includes hostels and libraries attached to these institutions. Property used as a place of worship, religious institutions, purely charitable hospital, orphanage centers and graveyards. Residential building constructed in plots measuring less than 125 square yards and occupied by the owner either partly or wholly and which is single storey, is exempted to tax to the extent of portion occupied by the owner. Though the Act has set out the properties that are eligible for exemption, the Government by a notification dated 1st April 1997, has exempted all residential properties from paying property tax.

Vacancy remission: Section 141 contemplates refund of property tax paid if the building has remained vacant and unproductive of rent for 60 or more consecutive days. Such refund is restricted to two third of the fire and general tax paid and calculated to the proportionately to the number of days the property was actually vacant. In the case of land not being appurtenant to a building, the maximum refund is one half of the tax paid.

Revenue pockets within the jurisdiction: Property tax is collected from revenue pockets and private layouts as well at the same rates as applicable to other properties. There is no provision under the Act to collect improvement or betterment charges.

Unauthorized buildings: The Corporation assesses buildings that have violated the building byelaws and those constructed without sanctioned plan. However the Corporation reserves the right to take action for irregularity under the relevant sections of the Act.

Government properties: The State Government properties are liable for property tax. However, Central Government properties in some cases are liable for service tax.

10. Brihanmumbai Mahanagar Palika

The tax base: Section 154 of the Maharashtra Municipal Corporations Act 1888 provides the tax base for the levy of property tax on land and building. Clause (20) of the section specifically provides that the value of any machinery contained in the land or buildings must not be included for the purpose of valuating the property. The basis for the valuation for the levy on owner occupied properties is the fair and reasonable rent and in the case of tenanted properties actual rent if found reasonable. Vacant land is also brought to the property tax net and the assessment is based on its capital value. The capital value is determined at 100 times of the letting rate of residential properties in the locality if the vacant plot is situated within the city limits, and 50 times of the letting rate if situated in the suburbs. The rateable value of the property is determined by adopting a rate return at 12% of capital invested less 10% statutory deduction.

Since the valuation is by and large restricted to the rental values without possibilities of rental rate revision revisions, the base has remained constant. The only rates that the Corporation calibrates are the other levies water cess, educational cess, employment guarantee cess, Maharashtra tax on buildings exceeding 1250 square feet. These cess and taxes are levied on the corresponding property tax. The effective tax rate comes to: -

Un-metered Water Supply		Metered Water Supply	
Residential % of R.V*	Non-Residential % of R.V	Residential % of R.V	Non-Residential % of R.V
152.20	255.00	77.25	105.00

* Rental Value

To keep the assessment values current the Corporation has made it obligatory to report the sale of properties by both the transferor and the transferee. The primary responsibility of reporting the construction of new properties or any addition to old assessed properties is on the owner of the property. However the Commissioner under section 167 can revise any assessment if he has information, which necessitates the increase of the rateable value of the property.

Revision cycle: Section 168 (3) makes it mandatory for the Corporation to prepare new assessment book once in every 4 years. This re-writing of the assessment book does not mean that the Corporation can revise the tax. The reason given is that the assessment values once fixed cannot be revised on account of the restrictions of the Rent Control Act. Revisions of assessment are made only in cases of redevelopment of the old properties.

Plans for reforming the tax base: The Corporation entrusted the task of reforming the property tax to Tata Institute of social Sciences (TISS). The consultancy in their report submitted in 2001 has recommended the valuation method from the existing rental value system to capital value system. The report is yet to be tabled before the State Assembly.

Losing the base

Exemption: Section 143 grants exemption to certain properties from payment of property tax. They include buildings and lands solely used for public worship or for charitable purpose, excluding that portion for any rent is derived or any trade or business is carried on. The term charitable has not been defined under the Corporation Act. The term ‘charitable’ therefore is not to be construed with the common usage to mean the ‘cause of the poor’ but to include the term is all its legal and technical sense¹⁰. All properties used as schools, colleges, hostels, home for the destitute, orphanages, public hospital, place of worship, are granted exemption from the payment of tax subject to certain conditions imposed. The section also provides for exemption to buildings and lands belonging to any diplomatic or Consular Mission of a foreign State as Government may specify by special order. The estimated loss of revenue on grant of exemption is about Rs.14 crores.

Vacancy remission: Section 175 of the Act provides for refund of property tax to a maximum extent of two-thirds of the property tax paid if the property is has been kept vacant for sixty or more consecutive days. This section has since been deleted.

Vacant land tax: Vacant land is taxed at 12% on a valuation arrived at 100 times to 50 times of the rental values. It is informed that the Corporation is not collecting tax on vacant land.

Revenue pockets: The method of assessment of properties on revenue land and private layouts do not differ from the assessment of other properties. The levy and recovery betterment charges

¹⁰ See Bombay University Vs. The Municipal Commissioner ILR 16 BOM 217 1891. In this case it has been held that the charity comprises of four principal divisions:

1. Trusts for the relief of poverty or distress
2. Trust for the advancement of education
3. Trust for the development of religion and
4. Trust for the purposes beneficial to a community.

or improvement charges is administered by the City Engineering Department. Assessment of properties for municipal taxation and levy and recovery of betterment charges are two different issues and hence are not interlinked.

Unauthorized buildings: Unauthorised buildings and structures except purely temporary structures and zopadpatti (shanty houses) whenever found occupied are assessed to municipal property tax. The action to demolish or otherwise is independent of the collection of tax.

Government properties: The State Governments are subject to payment of sum in lieu of general tax, education cess and state tax and other service taxes as provided in the MMC Act. The Central Government properties including defence properties are assessed to service charges as per the direction given in the Circular issued by the Government of India in the year 1967.

11. Mirzapur Municipal Corporation

The tax base: The detail of the tax base mentioned for Lucknow City Corporation applies to Mirzapur as it is governed by the UP Municipalities Act 1916. . However the Mirzapur Nagar Palika Parishad have made few changes in applying the valuation principal to the property tax base. The valuation method is still the rental method. However to determine the annual rental value of the properties various exercise and analysis were done. Within the given tax base, Mirzapur was able to make classification of the properties and apply different valuation standards depending upon the usage of the properties and thus increase the tax productivity. Like in Lucknow, the primarily responsibility of reporting the construction and completion of building is on the owner. However the corporation on its own can call for information and make assessment of the properties.

The corporation is able to increase its tax productivity by keeping the assessment up dated by a system of reporting new or additional construction.

Revision cycle: Section 145 states that a new assessment list *shall* be revised once in five years. The property tax was first levied in the year 1962. No revision was done until 1982. This revision did not increase the revenue. In 1995 a re-survey was carried out with the assistance of Institutional and Community Development Project (ICDP). This re-survey was conducted in a scientific manner and a database was built on the basis of classification of properties. Based on these inputs, the property tax was revised with good results.

Plans for reforming the tax base: The Corporation moved to link rental values to location and structural characteristics within some standard parameters. The Corporation does not have any plans to replace the Annual Rental Value system to Capital Value system.

Losing the base:

Exemptions: The Act provides exemption to tax on Khandaher¹¹, place of worship, educational institutions, State government buildings and municipal buildings.

Vacancy remission: Section 151 of the Act provides for refund of tax if a land or building has remained vacant and unproductive of rent for ninety or more consecutive days during any year. The refund will be on a pro-rata bases for the number of days kept vacant. This benefit is not available to properties located in a hilly tract and those properties maintained as pleasure resort or town or country house whether or occupied or not.

Vacant land tax: Vacant land is not subject to property tax

Unauthorized buildings: The enforcement of building byelaws are under the domain of the Development Authority, however, property tax is imposed on authorized buildings and charged to the occupiers of the building as per the municipality bye-laws.

Government properties: The Annual rateable Value of State and Central government properties is determined by the engineering department of the Municipality on the basis of a government circular which prescribes the present cost of construction. Depreciation is calculated on the building as per the PWD norms. On the value so computed, property tax at 5% and water Tax at 5% is charged.

12. Patna Municipal Corporation

Tax base: Section 130 of the Patna Municipal Corporation Act defines the Annual rateable value as being the gross annual rent at which the holding may reasonable is expected to let from month to month or from year to year. Until 1993 there were no corresponding rules framed to substantiating the section.

Revision cycle: Section 138 of the Patna Municipal Corporation Act provides preparation of new valuation and assessment list once in every 5 years. But such general revision of preparing new list requires the explicit sanction of the State government, which is difficult to come by. Hence general revision has not taken place for the last several years.

¹¹Houses that have collapsed

Losing the base:

Exemptions: Section 124 (2) provides exemption for certain class of property. These include properties used as a place of worship, religious assemblage, as a Dharamshala, Math, Imambara, Khankhah or as a mortuary or which is duly used as a public burial or burning ground. Section 124 (3) of the Act further specifies that the State government can on the recommendation of the Corporation exempt any property or part of a property, which is used for any charitable or religious purpose. The corporation does not have any details of the number of properties that are exempted from tax and consequently the Corporation has expressed that they did not feel the need to quantify the loss on account of granting the exemptions to these class of property.

Vacancy remission: Section 146 provides for vacancy remission.

Vacant land tax: The Patna Municipal Corporation Act 1951 does not contemplate levy of tax for vacant land/plot as these are not a “holding” as defined in section 4 (a) of the Act.

Revenue pockets within the jurisdiction: Properties falling under the revenue pockets are assessed to tax by the Corporation. The collection of betterment charges comes under the preview of the Patna Regional Development Authority.

Unauthorized buildings: Buildings that violate the provisions of the Patna Planning Standard & Building Byelaws does not bar the corporation from levying property tax independent of the action that may be taken for the violations.

Government properties: State government buildings are subject to holding tax and other taxes where as the Central Government buildings and defence properties are subjected to service charges.

13. Corporation of Thiruvananthapuram

The tax base: The property tax base prescribed under section 234 of the Kerala Municipalities Act 1994 is land and building. On this tax base the tax rate applied after arriving at the valuation of the property. The valuation is made by taking into consideration certain features of the building like its location and quality of the construction. The primary responsibility to report the construction of new property or additions made to old properties is that of the owner. However the Secretary and the council have the power to assess the under-assessed cases and escaped assessment as and when detected. Retrospective effect for the period of not more than three years can be given to this re-assessment

Revision cycle: Section 238 provides revision of property valuation at least once in five years. However the State Government has not framed corresponding rules to the section. Hence no revision has taken place since 1994.

Plans for reforming the tax base: The Corporation moved to link rental values to locational and structural characteristics within some standard parameters. The Corporation does not have any plans to replace the Annual Rental Value system with Capital Value system.

Losing the base:

Exemptions: The Act grants exemption to land and building set apart for public worship, choultries for the occupation of which no rent is charged, and if charged the rent derived is exclusively used for charitable purposes. Buildings recognized by government or registered with the Municipality and owned and occupied by educational institution and used only for teaching and libraries to public, burial grounds, notified government buildings, and buildings used for animal shelter or for destitute

Vacancy remission: Under section 239 of the Act, if a building is kept vacant or un-let for a complete one half year the tax would be refunded in full.

Vacant land tax: There is no norm set to assess vacant land to tax.

Revenue pockets within the jurisdiction: There is no separate method provided to assess properties falling under the revenue pocket. They are assessed in the same manner as in the case of other properties.

Unauthorized buildings: Under section 242 of the Act, unauthorized buildings are assessed to tax at the same rate as applicable for other buildings. But such assessments are kept separate. There is no bar from taking action under the relevant provision to demolish the building. Until the building continues to exist, property tax will have to be paid.

Government properties: The State and Central Govt. properties are subjected to property tax. In cases of buildings in existence before 1950 only service charge is levied. Currently, for State Government buildings, ARV is arrived at 6% of the net value of the property and 18% tax is levied on the ARV so derived. Like wise for Central Government buildigs ARV is derived at 9% of the net value of the property and tax at the rate of 18% is levied on the said ARV. Apart from tax a service charge at 75% on the tax is also levied.

III. Procedure for Billing and collection in selected cities.

1. Ahmedabad Municipal Corporation

Collection: The property tax is payable in advance in half yearly installments, the first being in April and the second in October. Demand notice is served directly to the taxpayer along with the tax bill. Payments are to be made at the zonal tax collection counters. Interest for delayed payment is 18% per annum.

Monitoring: The tax demand as well as tax collection are computerized. Tax collections are to be tabulated on a daily basis and meetings are held regularly to monitor the collection.

Recovery provisions: If the amount of tax is not paid within 15 days from the date of service the Commissioner may cause to serve upon the person liable for payment a demand notice in Form-G. This demand notice carries a compounding fee for the default, which prescribes a minimum of 0.50 paise and a maximum of Rs.100. The Corporation has powers to seal the premises of defaulters. If a person fails to pay the tax, the Commissioner may resort to distress and sale of moveable property or attachment and sale of immoveable property of the defaulter if the defaulter is the occupier of any premises in respect of which a property tax is due. The Act provides how the distraint warrant has to be executed by the Corporation officials both for moveable and immoveable properties and how to dispose of the same by way of sale to recover the property tax due to the Corporation. Necessary safeguards are also provided for.

Audit: Though there is internal and external audit of the assessment files for the correctness of the computation of the tax, the assessment tax made is not subjected to any review departmentally. When the property is subjected to the assessment for the first time, the process of computation of the assessment is to be checked at various levels before receiving the finally approval by the Deputy Municipal Commissioner of the zone. Once the property is so assessed there is no system of departmental review.

2. Bangalore City Corporation

Collection: The property tax is payable in two installments. The first installment is due by 30th of May and the second installment by 30th October. Under the new amendment, which is to be brought into force from 1st April 2002, the tax has to be paid annually by 30th June each year. The penalty for delayed payment is 5% per annum. From 1.4.2002 by an amendment the penalty

has been increased from 5% to 24%. Under the Capital Value system, 50% of the tax assessed has to be paid as penalty if the owner or the occupier does not file the assessment return and pay the taxes within the prescribed time. The Rules provide for the bill collector to serve the bill on the property owners. However under the Self-assessment scheme brought in from April 2000, the taxpayers can themselves calculate the tax payable by them and remit the tax either at the office counter or at the designated Banks. If the tax is not paid within the due date a demand notice is served on the owner to discharge the tax due within 15 days failing which, recovery action will proceed.

Monitoring of tax collection: Each Zone maintains a demand collection and balance (DCB) register. This collection register is being computerized. The payment that is made at the Banks is reconciled with the kirdi books¹². A defaulters list is prepared at the zone level and regular meetings are held to review the collection.

Recovery provisions: Rule 27 provides that if any tax is not paid within 15 days from the service of notice or bill or within 30 days after the commencement of the half year, the Commissioner may recover by distraint under his warrant and the sale of moveable property of the defaulter or if the defaulter is the occupier of any land or building in respect of which tax is due by distress and sale of any moveable property which may be found in or such building or land which would be sufficient to cover the cost of tax, warrant fee and distraint fee. The rule also provides that if the tax cannot be recovered by means of distraint the Commissioner can also prosecute the defaulter before a Magistrate. Besides, the Corporation can also sue the defaulter in a civil court for the recovery of any taxes. The fee levied on distraint has reference to the amounts due for which the distraint is made. The minimum prescribed is 0.25 paise and the maximum is Rs.10.

Audit: The Act does not provide for review of the assessment records for their correctness of the assessment after they are assessed for the first time or assessment made on account of any change in the property or on the revision of tax or valuation. When the property is subjected to the assessment for the first time, it is to be checked at various levels and finally approved by the Deputy Municipal Commissioner of the zone. Once the property is so assessed there is no system of departmental review. However, the Commissioner while delegating the powers of assessment of property tax to subordinate officers has reserved the right to re-assess cases that have been under assessed. The routine audit by the State Accounts Department is for the purpose of

¹² This is the first book entry that reflects the collection made by the tax inspector. This is maintained by the tax inspector.

arithmetical correction of the calculations rather than the method or the assessment norm followed in the assessment.

3. Bhopal City Corporation

Collection: The Corporation introduced a self-assessment system in May 1997. Under the scheme the owner has to submit the self-assessment form within the prescribed time and deposit the tax. If the tax is not deposited, the Corporation under Section 173 and 174 will issue a demand notice to deposit the tax within a prescribed time. If the tax is not paid even after the service of this demand notice recovery action is invoked as provided under section 175 of the Act. The Act prescribes the surcharge of 15% for delayed payment. To cause necessary awareness among the taxpayers to pay the tax, the Corporation gives wide publicity in various media and also organizes camps for payment of taxes within the time.

Monitoring: Each Ward Office headed by the property tax officer maintains a DCB register to monitor the collection process. This DCB register is under computerization. The respective ward office monitors the issue of demand notice for defaulters. The collection against demand is reviewed every week.

Recovery: Section 175 of the Municipal Act provides for recovery of property tax through distraint warrant. Elaborate provisions have been made for execution of the warrant and necessary safeguards are also provided for.

Audit: The Corporation has a Resident Audit Department to audit the property files. This audit is primarily to audit the arithmetical accuracy of the calculation. There is no system of departmental review of the assessment files by superior officer or the commissioner.

4. Kolkata Municipal Corporation

Collection: The taxpayer is given the option to pay the tax demand in four quarterly installments and for this purpose four separate quarterly bills are presented to the taxpayers at the time during April-May each year. The taxpayers have the option to pay the bill in one installment or in four quarterly installments within the scheduled dates each year. The Section 217 also provides that the bill can be sent by certificate of posting and the date borne on the certificate of posting is be deemed to be the date of presentation of the bill to the property owner. The tax is collected

against the bill in fourteen treasury counters across the city. The penalty for delayed quarterly bill ranges from 0.5% to 15% depending on the annual demand. Simple interest at 12% for land/building with annual value up to Rs.1 lakh and at 18% for annual value exceeding Rs.1 lakh.

Monitoring: At the end of every quarter defaulters list is compiled on reconciliation of demand and collection register. The same is posted in the outstanding tax ledger. Out of the 141 wards, computerization of outstanding ledger in respect of 90 wards has been completed. Due to this computerization, periodically statement of outstanding demand along with interest and penalty is sent to the taxpayer for payment.

Audit: The Corporation has both departmental as well as external audit, which includes audit by CAG. Once the property has been assessed to tax there is no internal review of the basis for the levy of the property tax. It is informed that while fixing the property tax for the first time, senior officers review the file and hence, find that this is sufficient check to ensure that the property is correctly assessed.

Recovery: If the tax payer has failed to pay tax within 30 days from the date of service of the demand notice, under Section 217 the amount due together with all costs including interest due and penalty can be recovered under a warrant issued by the Commissioner or any other officer authorized by him. Elaborate provisions have been made for enforcing the distraint warrant and necessary safeguards are also provided. Section 229 also provides that the Corporation can write off any sum due which may appear to be irrecoverable.

5. Chennai Municipal Corporation

Collection: The property tax is payable every half year and to be paid within 15 days after the commencement of the half year. The Commissioner is obliged to send a bill for the sum due before proceeding for any recovery action. There is no provision for collecting interest for delayed payment of taxes.

Monitoring: The collection is monitored on the basis of the demand collection and balance register. No special mechanism is devised to follow up collection.

Recovery provisions: Rule 28 provides that if any tax is not paid within 15 days from the service of notice or bill or within 30 days after the commencement of the half year the Commissioner

may recover by distraint under his warrant and the sale of moveable property of the defaulter or if the defaulter is the occupier of any land or building in respect of which tax is due by distress and sale of any moveable property which may be found in or such building or land which would be sufficient to cover the cost of tax, warrant fee and distraint fee. The section also provides that if the tax cannot be recovered by means of distraint the Commissioner can also prosecute the defaulter before a Magistrate. This apart the Corporation can also sue the defaulter in a civil court for the recovery of any taxes. Elaborate provisions and safeguards have been provided for the execution of the distraint warrant.

Audit: There is a Local Fund Audit in every zone and at the head office, for auditing assessment files.

6. Hyderabad Municipal Corporation

Collection: The primary responsibility to pay the tax is on the property owner. The property tax is payable in advance either half yearly or quarterly as the Corporation may determine. The half year installment is payable on each first day of April and on October. In case of quarterly installments the taxes is payable on first day of April and July and first day of October and January. The Commissioner is responsible for service of the bill for payment of taxes. The city corporation brought in the self-assessment of property tax scheme from January 2000. Under the scheme property tax could be calculated by the taxpayer and remitted at the Corporation Head Office or at the respective circle offices. The Corporation had also announced that it would open a computerized counter at designated Banks to collect the taxes.

Recovery: If the bill amount is not paid within the prescribed time a notice of demand will be served on the property owner to pay the taxes within 15 days from the date of service. If the property owner fails to pay as per the notice of the demand and if no appeal is pending the Commissioner can recover the taxes and all other costs for the recovery by issue of a distress warrant. The section details elaborate procedures for the execution of the warrant and also provides for necessary safeguards.

Audit: There is no system of auditing the assessment files for review of the assessed property files. The audit is primarily conducted to check the arithmetical correctness

7. Jaipur Municipal Corporation

Collection: The property tax is payable every half year and to be paid within 30 days after the commencement of the half year. The Commissioner is obliged to send a bill for the sum due before proceeding for any recovery action. There is no provision for collecting interest for non-payment of taxes.

Monitoring: Assessors carry out Assessments and the tax inspectors serve demand notes personally. The 6 zonal commissioners periodically review the collection independently. To oversee the tax collection one full time revenue commissioner is assigned the task of monitoring the collection.

Recovery: Sections 147 to 160 provide for municipal claims. Elaborate provisions have been made to attach the property and recover the taxes by means of a distraint warrant.

Audit: There is no specific audit procedure to check for the correctness of the assessment. However, the Board can take up suo-moto revision if there is any information that the property owner had suppressed the details in the returns filed.

8. Lucknow Municipal Corporation

Collection: It is the primary liability of the occupier to calculate the tax payable and remit the same at the notified Banks within the due dates. The rules also provide that the Corporation can calculate the general tax, water tax, drainage tax and conservancy tax and send the bill to the owner of the property indicating therein the last date of payment. If the tax amount is not paid within the due dates interest is calculated as provided under Section 221 of the Act.

Monitoring: Senior officers monitor the collection of tax.

Audit: Other than an internal audit of the property tax assessment for their arithmetical correctness, there is no provision for external audit by any other authority.

Recovery: The UP Municipalities Act has elaborate recovery provisions. Section 173 A prescribes recovery of any tax due under the Act as arrears of land revenue. The Act also provides under Section 177 for the tenant to pay the municipal taxes and deduct the same from the rent. The said section provides for treating arrears of taxes as constituting a charge upon the entire property.

9. Ludhiana Municipal Corporation

Collection: Section 371 of the Punjab Municipal Corporation Act, provides for the service of notice. If the tax is not paid within the due date the interest rate is nil for the 30 days and for the next three months 12% and more than 3 months 18%. The tax is to be paid by challan at the respective offices.

Monitoring: The tax collection progress statement is drawn up every quarter. The Corporation has adopted a municipal accounting code by which duties are imposed to the officers and officials of the Corporation to see that the property tax assessed are paid within the prescribed time. These duties also include checking on escaped assessment, under-assessed properties, change ownership, alterations to buildings etc that would increase the tax liability on the owner. The collection of tax is part of the accounting code of the Corporation. The DCB is prepared for each year and the collection is monitored as per the DCB. The tax superintendent issues the bills to the tax collector for service to the taxpayer.

Recovery of tax: If the person liable to pay tax fails to pay within 30 days the tax could be recovered either by distraint and sale of defaulters moveable property, by attachment and sale of defaulters immoveable property by attachment of rent due in respect of the property and by a civil suit. Elaborate provisions have been made for executing warrant and necessary safeguards have also been provided.

Audit: There is a departmental audit. Under section 154 that the Commissioner has the power to amend the assessment list if the Commissioner is satisfied that any property has been assessed erroneously valued or assessed through fraud, accident or mistake, whether on the part of the Corporation or any officer or employee of the corporation or of the assessee. The corporation has adopted a municipal accounting code, which takes care to periodically verify the status of the property assessed and to up date the assessment if there are any changes noticed either by additional construction, usage etc.

10. Mirzapur City Corporation

Collection: It is the primary liability of the occupier to calculate the tax payable by him and remit the same to the Corporation within the due dates at the notified Banks. The rules also provide that the Corporation can calculate the general tax, water tax, drainage tax and

conservancy tax and send the bill to the owner of the property indicating therein the last date of payment. If the tax amount is not paid within the due dates interest is calculated as provided under Section 221 of the Act.

Monitoring: There is no separate monitoring cell or officer to watch the collection of the corporation. The respective revenue wards themselves monitor the collection.

Audit: Other than an internal audit of the property tax assessment for their arithmetical correctness, there is no provision for external audit by any other authority.

Recovery: The UP Municipalities Act has elaborate recovery provisions. Section 173 A prescribes recovery of any tax due under the Act as arrears of land revenue. The Act also provides under Section 177 for the tenant to pay the municipal taxes and deduct the same from the rent. The said section provides for treating arrears of taxes as constituting a charge upon the entire property.

11. Brihanmumbai Mumbai Palika

Collection: Section 197 read with 200 provides for the service of bill for each half year on the assessee on the 1st April and 1st October of every year. If the bill is not paid within 15 days from the date of service, action is taken:

- a. Service of notice of Demand: (Section 202). The inspectorial staff serves this notice. If the assessee is not found at the time of service, the same is left at the place of his last known residential address.
- b. Distress and sale of goods and chattels of the defaulter (section 203)
- c. Attachment and sale of the immovable properties of the defaulter (203)
- d. Levy of penalty to the extent of 20% of the amount of tax per annum (section 207 A)
- e. If these measures fail a suit can be filed in the competent court of law for the recovery of property tax dues.

Monitoring: The DCB is computerized. There is no special monitoring mechanism.

Audit: The Corporation has an audit system by the Municipal Auditors who work directly under the Standing Committee. The Assistant Assessor & Collector of every ward select properties for making the revision if found necessary. The higher authorities like the Deputy Assessor & Collector scrutinize such revisions. Apart from the assessment wing making such checks, the

Corporation has a separate cell headed by Deputy Assessor and Collector (Vigilance) who work directly under the Joint Municipal Commissioner (I). This wing picks up test cases for scrutiny and initiate necessary action for irregularities.

12 Patna Municipal Corporation

Collection: Once the property is assessed to tax a bill is required to be served on the owner. The Bill collector or peons of the Corporation serve the bill and the demand notice. The tax collector can collect the tax at the premises of the taxpayer or the taxpayer can come to the concerned administrative circle office and remit the tax. There is no system of payment of tax at the banks or treasury. Section 205 of the Act provides that if the bill is not paid within the due date a fine of 6.25% of the billed amount is imposed. If the taxpayer does not pay the tax amount along with the fine imposed within 21 days, the taxpayer is imposed a fine of 12.5% and also recovery proceeding can be initiated as contemplated under section 205 of the Act.

Monitoring: An officer in the rank of Bihar Administrative Services monitor of the collection of all the administrative circles

Recovery: The Act contemplates recovery of taxes. There are sufficient powers for the recovery of the taxes as well as sufficient guidelines for recovery.

Audit: There is no established system of internal audit of assessment files. However, external auditors from the Accountant General office audit assessment files on a random basis every financial year. This auditing is more for arithmetical accuracy rather than correctness of the assessment done.

13. Corporation of Thiruvananthapuram

Collection: The bill is served on the taxpayer showing the tax payable for the half year. The bill is served through the bill collector. For belated payment 2% per month is levied. However, if the tax is paid within that half year itself the interest is waived. But if the delay is for a year, 24% interest is levied. The Act contemplates attachment of moveable properties or prosecution of the owner for non-payment of the property tax.

Monitoring: The Secretary/Revenue officer monitors the DCB. This activity has been computerized since 1998. The defaulters as per the DCB are issued prosecution notices. The system of audit followed is local fund audit (concurrent), Accountant General audit and

performance audit wing of the Local Self-Government Department. The property tax assessment records are not audited for their correctness after the property has been assessed.

Audit: The system of audit followed is routine audit of the corporation accounts. It is not an audit of the assessment records for checking the correctness of the assessment made.

IV. Procedure for Appeals in the selected cities

1. Ahmedabad City Corporation

Appeal provision: Section 406 of the Bombay Provincial Municipal Corporation Act, 1949 provides for appeal or complaint against the rateable value fixed for the properties.

First appeal: What is considered as first appeal in practice is the reply/objections filed by the owner to the notice of assessment issued to the owner. The delegated authority of the Commissioner disposes the appeal/complaint filed against the proposal by an order determining the tax payable. If the owner is aggrieved he can prefer an appeal before the City Civil Court.

Pre-conditions for filing appeal: The appeal will be admitted before the City Civil Court provided it is filed within 15 days after the receipt of orders from the Commissioner. The Civil Court will not entertain any appeal made against the proposal notice issued. It is only after the disposal of the case by the delegated authority that an appeal against that order can be filed before the City Civil Court. The assessee is also obliged to deposit the disputed tax amount with the Commissioner. However, on the grounds of hardship to the assessee the Judge can dispense with the tax or reduce the extent of tax to be deposited with the Commissioner.

Appointment of valuer: The Act also specifically provides for both the assessee and the Corporation to make an application to the Judge either before the hearing of appeal or at any time during the appeal to appoint a competent person to make the valuation of the property that is in dispute before the court. The person so appointed shall have the power to enter survey and value the premises in respect of which the direction is given. The cost of the valuer is to borne by the parties making the request. While the Act exempts the Corporation from giving surety, the assessee has to give a surety of the cost of appointing a valuer.

Arbitration: While the matter is pending disposal at any stage at the City Civil Court, if both the Corporation and the assessee agree to take the matter before an Arbitrator, the Act provides for

settlement through arbitration. The procedure for arbitration followed is as per the Arbitration Act, 1940. An application has to be made to the Judge by both the parties for arbitration.

2. Bangalore City Corporation

Appeal provision: Rule 15 of the Taxation Rules provides for the property owner to file objections against the revision of property tax to the Commissioner within 7 days from the date of demand. The Commissioner can extend this deadline to 30 days. The delegated authority of the Commissioner will hear the petition. A condition is also imposed that the tax assessed for the previous year be paid before making the application. Further, an explanation is added to the effect that preferring or pendency of an application for the revision of the assessment of any tax will not bar the collection of tax or to enforce payment of the same. While no time limit is fixed for the disposal of the cases, a hearing date is fixed and communicated to the assessee to appear in person or through an agent and advance the grounds of appeal. As and when the case is disposed of, the order is sent to the assessing officer who in turn will communicate the outcome of the appeal to the assessee by registered post.

Second appeal: Against this order of the delegated authority, the assessee if aggrieved, can file a petition before the Taxation Appeals Committee (TAC) within 15 days from the date of communication of the decision of the delegated authority. The Taxation Appeals Committee consists of seven elected councilors of the Corporation and one among them is elected as the Chairman. The duration of the committee is one year. The Standing Committee has to dispose of the case within 90 days from the date of appeal. In an event if the Commissioner is not satisfied with the order of the Taxation Appeals Committee, he can refer the matter to the Divisional Commissioner under rule 19 of the Taxation Rules to revise the order of the TAC. The Divisional Commissioner after giving an opportunity to the assessee, pass suitable orders, including enhancing the assessment.

Suo-moto revisional powers: The Divisional Commissioner can also suo-moto call for any proceeding relating to assessment of any tax by the Commissioner or the TAC, and if he considers that any order is erroneous or prejudicial to revenue, he may after giving the assessee an opportunity of being heard and after making such enquiry as may be necessary, pass orders. If the property owner is dissatisfied with the order of the TAC or the Divisional Commissioner he can prefer an appeal before the District Court within 30 days from the date of the decision of the TAC or the Divisional Commissioner and the tax should have been paid within the said period.

While the Act provides for condonation of delay by the District Judge in filing the appeal, there is no waiver or dispensation from the payment of the tax confirmed by the TAC or the Divisional Commissioner.

3. Bhopal Municipal Corporation

First appeal: If any assessee is dissatisfied with the valuation made he has the opportunity of preferring an appeal in writing to the Commissioner stating the reasons for his objections to the valuation. A time limit is fixed for filing the objections. The Commissioner after hearing the appeal will dispose of the same.

Second Appeal: The Appeal committee consists of the Mayor and four elected councillors. The notice of demand issued by the Commissioner is appealable before this Committee. If the assessee is aggrieved on the principle of assessment or amount of tax assessed he can file an appeal before the District Court within 30 days from the date of the order of the Commissioner.

Pre-conditions for filing appeal: No appeal before the Appeal Court is admissible unless objection has been filed by the assessee before the Commissioner and order obtained. The Act provides that the pendency of appeal before the District court will not prevent the recovery of any tax or installment payable according to the order of assessment. There is no provision for the District Court for waiver of condition of depositing the tax amount with the Commissioner. If the assessee succeeds before the District Court the Commissioner shall refund the amount of tax or installment in excess collected. The decision of the District Court is final.

4. Kolkata Municipal Corporation

Appeal provision: Section 186 of the Calcutta Municipal Corporation Act, 1980 provides for appeal against the annual value of land and building entered in the assessment list. The Act provides for the appointment of a Hearing officer a under section 187. This appointment by the Corporation has to be approved by the Government. The function of the Hearing officer is to hear and determine the objections to the annual valuation of land and building entered in the assessment list. Any assessee, who wishes to prefer an appeal against the assessment, has to make an application in writing indicating in what respect the annual value is disputed.

First appeal: The Hearing officer has access to call for records, returns and explanations as may be required. The assessing officers are obliged under Section 187 (4) to promptly reply to all the queries of the hearing officer. After the hearing officer has disposed of the appeal, a copy of the

order has to be served within 30 days from the date of passing the order. If the assessee is still aggrieved he can prefer an appeal before the Municipal Assessment Tribunal.

Second appeal: The Municipal Assessment Tribunal consists of a Chairman and five members as the State Government may determine. The Chairman should be a member of the West Bengal Higher Judicial Service and other members not exceeding five. These members normally include a person with engineering background as provided under section 189. The Act does not prescribe any time limit for the disposal of the appeal. Against the order of the Municipal Assessment Tribunal the appeal lies with the High Court under writ jurisdiction.

Pre-conditions for filing appeal: The appeal before the Tribunal must be filed within 45 days from the date of service of a copy of the order of the hearing officer. The appeal will not be admitted unless the tax for the period in question determined has been deposited with the Corporation. Though the appeal may be admitted, the case will not be heard until such time the tax deposited. There is no provision for the tribunal to waive of the deposit condition and by filing of a petition before the Tribunal will not pre-empt the Commissioner from recovering the tax determined.

The decision of the Tribunal regarding the valuation or assessment is final and no suit will lie with the Civil Court in respect of any matter, which has been referred to or has been decided by the Tribunal. Further appeal for the Corporation or the assessee lies under a writ jurisdiction before the High Court.

5. Chennai City Corporation

Appeal provision: There is no provision to file an appeal before the Commissioner or his delegated authority. The order of the assessing officer is final at the Corporation stage. However, if there are any apparent mistakes on records, this can be corrected by a petition to the Commissioner or his delegated authority.

First appeal: The first appeal is before the Taxation Appeals Tribunal, which consists of a judicial officer not below the rank of a Sub Judge. The appeal has to be disposed of within five months from the date of filing the appeal. Against the order of the Taxation Appeal Committee the next appeal as provided under Section 15 of the Taxation Rules, lies with the Principal Judge, City Civil Court. Against this order, the appeal lies with the High Court.

Pre-conditions for filing appeal: before filing an appeal against the order of the Commissioner the tax at the existing level has to be paid along with 50% of the enhanced tax. The Act does not impose any such condition when appeals are filed before the City Civil Court or the High Court.

6. Hyderabad Municipal Corporation

Appeal provision: Section 221 provides opportunity of appeal against the rateable value entered in the assessment book before the Commissioner in writing.

First appeal: The Commissioner after hearing will dispose of the complaint, this representation by the property owner is considered as the first appeal.

Second appeal: If the assessee is aggrieved, he can prefer an appeal under Section 282, before the Chief Judge of Small Causes Court.

Pre-conditions for filing appeal: The judge will not entertain the appeal unless the same is filed within 15 days from the date of the order. No appeal is entertained on the basis of the notice issued proposing the rateable value. It is only against the order of assessment by the commissioner or his delegated authority, that an appeal can be preferred. The tax amount has to be deposited to the Commissioner. The District Judge has no jurisdiction to waive the condition of deposit or stay the collection of tax pending disposal of the appeal before him. However, he has the power to adjourn the hearing of the appeal or pass interim order enabling the assessee to pay the taxes before the appeal is actually heard and determined.

Appointment of valuer: The assessee or the Commissioner can make an appeal to the judge requesting for appointing a valuer of the premises against which an appeal has been preferred. The judge at his discretion appoints a competent person to make the valuation and the person so appointed has the power to survey and value the premises in respect of which the direction is given. The cost of the valuer is to be borne by the Corporation or the assessee as the case maybe. The valuer will be appointed subject to the assessee giving security towards the cost of valuation. However this condition of surety is waived in the case of Corporation making the request for the valuer. An appeal against the order of the judge lies with the High Court.

Arbitration: The Act provides for agreeing to arbitration at any time before the decision of the Court. An application by both the parties in writing has to be made to the judge requesting for arbitration. The arbitration proceedings are as per the Arbitration Act, 1940.

7. Ludhiana Municipal Corporation

First appeal: The first appeal lies before the House Tax Assessment Committee under section 101 (5). The House Tax Committee is constituted by two councilors and Commissioner or any officer of the Corporation authorized by him in this behalf under Section 42(3) read with section 105 of the act. There is no time limit prescribed for the disposal of the appeal. The order of the appellate authority confirming, or setting aside or modifying an order is normally taken as final. But the Corporation can file a review of the Order before the Appellate authority within three months of the date of the order if there are error apparent on any record.

Second appeal: Against the order of this Appellate Authority appeal lies before the Divisional Commissioner. The Corporation can also file writ petition in the High Court against the decision of the House Tax committee.

Pre-conditions for filing appeal: The appeal before the House Tax committee will be entertained if it is filed within 30 days after the passing of the order. The time limit can be condoned if the appellate is satisfied that there were sufficient reasons for the delay. The appeal will not be admitted unless the appellant deposits the tax amount to the Corporation. The House Tax Committee cannot waive of this condition.

8. Lucknow Municipal Corporation

Appeal provision: Section 160 of the UP Municipalities Act, 1916 provides for appeals against order passed under by the assessing officer under Section 143 and 147. Section 143 provides an opportunity to the assessee to file objections against the assessment made by the valuer before the Board. The Board Committee will hear the objections and pass orders.

Second appeal: Section 160 is an appeal before the District Magistrate. The appeal before the District Magistrate enables the assessee to file additional evidence against the levy of tax.

Pre-condition to file second appeal: The appeal before the Magistrate will be entertained provided it is filed within 30 days from the date of the order and the appellant has deposited before the Commissioner. There is no waiver of the tax amount being deposited by the Commissioner. However, a deposit can be made at any time before hearing the appeal.

Appointment of Valuer: The Act provides for the appointment of a valuer if directed by the Civil Court.

Arbitration: The act does not prescribe provision for arbitration.

9. Jaipur Municipal Corporation

Appeal provision: When the property is entered in the assessment book for the first time or where the rateable value of the property already fixed is increased a special notice is served on the owner or the occupier intimating that he may lodge complaint against the rateable value within 30 days. If the owner wishes to contest the valuation made he can file his objection in writing stating the grounds on which the valuation and assessment are disputed.

First appeal: The objections are considered by the revising authority to which consists of a Board or a committee or an officer of the State Government.

Second appeal: The second appeal lies with the District Collector.

Appointment of valuer: Section 114 of the RM Act provides for the appointment of a valuer.

Arbitration: The Corporation Act has no provision for arbitration.

10. Brihanmumbai Mahanagar Palika

Appeal provision: When the property is entered in the assessment book for the first time or where the rateable value of the property already fixed is increased on account of alteration, additions and change in the usage etc, a special notice is served on the assessee intimating that he may lodge complaint against the rateable value within 15 days.

First appeal: If the objections are received within 15 days a special designated officer appointed under Section 165 will hear the case and dispose the same. The appeal made to the notice issued is considered as the first appeal.

Second appeal: If the assessee is not satisfied with the decision of the investigating officer he can file an appeal in Small Causes Court within 15 days from the date of disposal of the objections. The assessee can also file an appeal before the Small Causes Court against the amount of tax entered in the property tax bill within 15 days from the date of service of the bill (Section 217).

Pre-conditions for filing appeal: No appeal can be preferred before the Chief Judge of the small causes Court unless it is filed within 15 days from the date of passing of the order by the Commissioner. The appeal filed will be entertained but not heard and decided until the amount of disputed tax claimed from the appellant or the amount of tax chargeable on the basis of disputed

rateable value as the case may be has been deposited by the appellant with the Commissioner. There is no waiver from the deposit of tax before the Commissioner.

Arbitration: The Act also provides for arbitration while the matter is pending before the Chief Judge of the Small Causes Court. An application has to be made to the judge requesting for arbitration proceedings. The arbitration proceedings are conducted as per the Arbitration Act, 1940.

Appointment of valuer: While the matter is before the Judge the assessee can request for appointing a valuer to value the premises under appeal. The Judge can appoint a valuer for the purpose and the cost of valuation is to be borne by the assessee and the sum has to be paid by way of security before the valuation is made. An appeal against the order of the judge lies with the High Court.

The MMC Act does not provide for a Taxation and Appeal Committee nor is there a move to set up one such.

11. Mirzapur Municipal Corporation

Appeal provision: Section 160 of the UP Municipalities Act, 1916 provides for appeals against order passed under by the assessing officer under Section 143 and 147.

First appeal: Section 143 provides an opportunity to the assessee to file objections against the assessment made by the valuer before the Board. The Board Committee will hear the objections and pass orders.

Second appeal: The second appeal is before the Civil Court. The appeal before the District Magistrate enables the assessee to file additional evidence against the tax levied.

Pre-conditions for filing appeal: Before the appeal is taken up for hearing the disputed tax amount is to be deposited.

Appointment of valuer: The Act provides for the appointment of a valuer if ordered by the Civil Court.

12. Patna Municipal Corporation

Appeal provision: Section 150 of the Patna Municipal Corporation Act, 1951 provides opportunity to any person who is dissatisfied with the amount assessed upon him or the valuation or assessment of any holding or who disputes his occupation of any holding or his liability to be

assessed to apply to the Chief Executive Officer or an officer empowered in this behalf by the State Government to review the amount of assessment or valuation or to exempt him from the assessment or tax.

First appeal: All such applications containing objections should be made in writing within 30 days after the publication or receipt of the notice of assessment. The CEO can extend the period up to 60 days to file the objections. The CEO shall examine the objections filed and pass order. The CEO can suo moto revise the assessment of the holding by virtue of addition or alteration of the holding. The CEO shall furnish to any person who applies for a copy of the valuation or assessment list after payment of the prescribed fee.

Second appeal: Any person dissatisfied with the order passed can appeal to the District Judge whose decision shall be final.

Pre-conditions for filing appeal: An appeal before the District Judge has to be made within 30 days from the date of the order passed by the CEO and should be accompanied by a copy of the order of the CEO. The District Judge will not entertain any appeal unless it has been heard and disposed of by the CEO. While the case is pending in appeal before the District Judge it does not delay or prevent the levy and realization of any tax or installment payable in respect of any

holding according to the order of assessment that has been finally decided by the CEO. However, if the District Judge decides the case in favour of the assessee the amount of tax collected in excess shall be refunded to the assessee.

13. Thiruvananthapuram Municipal Corporation

First appeal: A property owner has a right to file a revision petition against the assessment order of the Secretary. It is open to the party to file an appeal to the standing committee for tax appeal. The Standing Committee will offer an opportunity of being heard before disposal of the case.

The Standing Committee is provided for under Section 20 of the Kerala Municipal Act, 1994. The Council chooses the Members of the Standing Committee from among its members. The Standing Committee Members select their Chairman. The Act does not stipulate any time limit for the disposal of the case. If a decision is rendered against the interest of the Corporation the Municipal Council can ask the Taxation Appeal Committee to reconsider its decision. However,

the Council is not empowered to set aside any decision of the Standing Committee if it is not against the provisions of the KM Act 1994.

Second Appeal: The next appeal lies with the civil court.

Table3

Composition of Appeals Committee in different States

States where Taxation Appeal Committee consists of elected representatives and no judicial member	Taxation Appeal Committee with elected representative and with judicial member	States which do not have Taxation Appeal Committee
Karnataka	Kolkata	Mumbai
Bhopal	Chennai	
Ludhiana		
Thriuvananthapuram		

V. Property Tax Administration in the selected cities

1. Ahmedabad Municipal Corporation

General administration: The Revenue functions of the Corporation are managed by Zonal Deputy Commissioners. Under each Zonal Deputy Commissioner there is a zonal deputy assessor and tax collector. Under each deputy assessor and tax collector there are assistant managers, superintendent and ward inspectors. The Deputy Municipal Commissioner (Tax) is in charge of the Tax department and he is responsible for policy decisions. The assessor and tax collector is directly under Deputy Municipal Commissioner.

Cadre and recruitment of staff: The posts are filled up by direct recruitment and by promotion from the Municipal Cadre.

Pre-conditions for promotions: At clerical level departmental examinations are to be passed for further promotion. If promotion is to be granted on the basis of selection then written examination/oral interview have to be passed.

Training: Training is imparted to clerical staff through Local Self Government Department.

Responsibilities: Other than the revenue functions with the tax administration the staff is not allocated other duties.

2. Bangalore City Corporation

General Administration

The Revenue functions of the City Corporation are managed by three Zonal Deputy Commissioners. Currently the 3 Zonal Deputy Commissioners are deputed to the Corporation from the IAS cadre. Under each Zonal Deputy Commissioners there are 5 Revenue Officers and under each Revenue Officer 2 Deputy Revenue Officers are placed and they are in charge of a sub-division. Each Deputy Revenue Officer has 2-3 Assistant Revenue Officers under them and these Assistant Revenue Officers are in charge of a range. Bangalore City consists of 100 wards. These wards are grouped into 28 Ranges. Each Range office is headed by Assistant Revenue officer.

The 100 wards have been further divided into 260 Revenue circles. Each circle has a defined jurisdiction and within this jurisdiction a Revenue Inspector or Assessor is assigned work under the supervision of the Assistant Revenue Officer.

Cadre and recruitment of staff: There is no direct recruitment to the post of the assessing officer. The posts are filled up by promotion from the Bangalore Mahanagara Palike establishment.

Per-conditions for promotions: The Corporation has prescribed departmental exams as pre-conditions for promotions. The examination is to test knowledge of local Self Government, accounts and revenue issues.

Training: The clerical staff is sent for training courses organized by the All India Local Self Government; however senior officers do not have any training course specified for them.

Responsibilities: Other than the revenue collection is the revenue staff entrusted with other responsibilities. They process files relating to registration of Katha¹³ bifurcation and amalgamation of Katha. The revenue staff is also entrusted with work related to census and general election.

¹³ Katha is term used to mean opening of an account by a property owner with the local body. Likewise bifurcation of katha means dividing of the original account when the property gets divided.

3. Bhopal City Corporation:

A Property Tax Officer, who is the Head of the Department, controls the revenue function.

Under him, 11 Zonal officers and 66 ward officers are involved in property collection functions. Each Zone is comprises of 6 ward officers. The Zonal Office comprises of a Deputy/Assistant Property Tax Officer, Inspector, Collection clerks and supporting staff. .

Cadre and recruitment of staff: The procedure for appointment is prescribed in the Madhya Pradesh Municipal Corporation (Appointment and Conditions of service of officers and servant Rules 2000).

Pre-conditions for promotion: Departmental examination and quota for promotion between direct recruitment and in-service candidates are prescribed in the service rules.

Training: No specialized or formal training facilities provided for any staff.

4. Kolkata Municipal Corporation

The Revenue functions of the Kollata Municipal Corporation are managed by three Deputy Municipal Commissioners, who are mainly on deputation from the State Administrative services. The revenue administration consists of 15 boroughs (divisions) comprising of 141 wards. At the bottom of the hierarchy is the revenue inspector who manages one ward or part of it. Over him is the Assistant Assessor-Collector in charge of a division consisting of 2/3 wards. The work of the Assistant –Collector is supervised by Deputy Assessor-Collector who hold charge of 3/4 divisions and on top of the 5/6 Deputy Assessor-Collectors is the Assessor-Collector who has jurisdiction over 20-50 wards.

Cadre and recruitment of staff: There is no direct recruitment to the post of the assessing officer. Tax Inspectors are appointed by way of promotion from the clerical cadre and Assistant Assessor-Collector from Inspector. Deputy Assessor-Collectors who belong to the cadre of Deputy Manager are recruited both directly and on promotion from the cadre of Assistant Assessor/ Manager. There is no direct recruitment the post of Assessor-Collector, who are appointed on promotion from the cadre of Deputy Manager.

Per-conditions for promotions: The Corporation has prescribed departmental exams as pre-conditions for promotions.

5. Municipal Corporation of Chennai

The Corporation is divided into 10 zones and 155 wards. The revenue administrative hierarchy is as follows:

Per-conditions for promotions: The Corporation has prescribed departmental exams as pre-conditions for promotions.

Training: Other than local training for lower staff, no formal training offered to tax assessors, tax inspector and senior level officers.

Other Responsibilities: Apart from revenue collection work related to election, census, house numbering flood relief work are attended to by the revenue officials.

6. Municipal Corporation Hyderabad

The property tax administration is under the administrative control of the additional Commissioner (General). The entire jurisdiction of the Corporation has been divided into two divisions, viz. Hyderabad and Secunderabad divisions. While Hyderabad division comprises of 6 Circles, 23 Wards and 163 Blocks, Secunderabad division comprises of 12 Wards and 67 Blocks. Each Circle office in Hyderabad Division is under the control of one Deputy Commissioner and the Secunderabad Division functions under the Addl. Commissioner (SD). For the levy and collection of property tax, each Circle office in Hyderabad there is one Assistant Commissioner and in Secunderabad each circle has one Assistant Assessor and a Collector. Both the divisions have valuation officers at each Circle office whose role is to assess the property in their jurisdiction. Supervising their work is a Chief Valuation Officer. The CVO also is the designated officer to appear before all the tax appeal court including High Court and Small Causes Court. He also supervises the preparation and service of computerized Tax bills of both the divisions.

Cadre and recruitment of staff: There is no direct recruitment to the post of assessing officer. Tax inspectors (Upper division clerk cadre) are appointed by promotion from the post of Lower division clerk cadre. Bill Collectors are appointed by direct recruitment and by promotion from record assistant cadre.

Pre-condition for promotion: There is no examination prescribed for promotions.

Training: No specific training in tax administration is being imparted.

Other responsibilities: The revenue staff is being engaged in the work of enumeration of voters and in election work from time to time.

7. Jaipur Municipal Corporation:

Jaipur city is divided into 70 wards and a staff pattern is fixed by the State government:

Cadre and recruitment: There are six zones in Jaipur City Corporation which is being looked after by Zonal Commissioners from State Services and persons promoted to the post from revenue officers. Revenue officers are both from direct recruitment and by promotion from the post of assessors of municipal services. The other posts are from promotions from lower cadres.

Pre-conditions for promotions: Assessors have to undergo a diploma course of one month conducted by the Local Self-government Institute.

Training: There is no special training course for the staff.

Other responsibilities: The revenue staff is mainly entrusted with the duties connected with revenue collection. However officers posted in zonal offices have to take care of other matters of the zones like encroachment, sanitation etc.

8. Nagar Nigam Lucknow

The Corporation is divided into 27 wards and is headed by an Executive Officer. The Executive officer is responsible for all tax collection function of his ward.

Cadre and recruitment: The Executive officer is appointed by the Government and the rest of the revenue staff by the local authority.

Pre-conditions for promotions: The promotions are on seniority and no examinations are prescribed.

Training: No specialized training is imparted to the revenue staff.

Other responsibilities: The revenue staff is engaged for revenue functions only.

9. Municipal Corporation of Ludhiana

The Corporation is divided into 4 zones and each zone is headed by Zonal Commissioner. The city is divided into 86 units for the purpose of house tax and each unit is looked after by Unit Inspector.

Cadre and recruitment: 50% Inspectors and Superintendents are recruited by direct appoint and 50% by promotion from the Corporation cadre.

10. Nagar Palika Parishad, Mirzapur

The Corporation is divided into 12 wards and is headed by an Executive Officer. The staff pattern of the Corporation is:

Cadre and recruitment: The Executive officer is appointed by the Government and the rest of the revenue staff by the local authority.

Pre-conditions for promotions: The promotions are on seniority and no examinations are prescribed.

Other responsibilities: The revenue staff is engaged for revenue functions only.

11. Brihanmumbai Municipal Corporation

The tax administration works directly under the joint Municipal Commissioner (I). The tax department consists of two wings, viz Executive and Administrative. Under the Joint Commissioner is a post of Assessor & Collector who in turn is assisted by Joint Assessors & Collectors. The Corporation is divided into 24 wards and the wards are under the supervision of Deputy Assessors & Collectors and Assistant Assessors & Collectors. The wards are also supported by Superintendents, Deputy Superintendents, Inspectors administrative officers office Superintendents Head clerks and clerks.

Cadre and recruitment: Recruitment to the post of clerk is by direct recruitment and other promotions are by promotions from the clerical level. There are examinations prescribed for promotions.

Training: No formal training in tax administration available to staff.

12. Patna Municipal Corporation

The Patna Municipal Corporation consists of three Administrative Circles. Each Circle is headed by an officer of the Bihar Administrative Services, and is designated as Assistant Administrator. The Assistant Administrator is assisted by one Revenue Officer. Revenue inspectors and Tax collectors assist the Revenue Officer. The staff pattern is:

Pre-conditions for promotion: The Patna Municipal Corporation Act 1951 prescribes specific examinations to be passed to qualify for promotions.

Training: No specialized training imparted to revenue staff.

Other responsibility: Generally other than revenue functions the staff are not assigned other responsibility.

13. Corporation of Thiruvananthapuram

The Revenue Officer is the head of the division and is responsible for the tax a collection. The staff pattern is as follows:

Cadre and recruitment: The Director of Municipal administration on the advice of the State Public Service Commission directly appoints tax collectors (Bill Collectors). The other posts, viz. Revenue Inspectors, Assistant Revenue Officers and Revenue Officers are filled by promotion from after they acquire the requisite grade in the departmental tests conducted by the State Public service commission.

Summary of Recommendations

Chapter 1

- ◆ There is a tendency to view property tax as a charge that should relate to income, assets and capacity of the owner to pay. Property tax should more appropriately be regarded as payment for a variety of services provided.
- ◆ The States need to legislate new laws or make suitable changes in the current laws to overcome the hurdles in the reform process. The legislation should aim at appropriate policy framework to withstand the requirements of Article 14, 21, 300A and 265 of the Constitution.
- ◆ A strong institutional framework is a pre-requisite for the success of any reform measures. If the spirit of 74th Constitutional Amendment has to be realised, there has to be effective decentralisation of fiscal powers. The inter-governmental relationship will have to be clearly defined to achieve functional efficiency.
- ◆ Reforms are also needed in areas like land ceiling, rent control legislation, floor space index, securitization of mortgages and stamp duties.
- ◆ Political dimension in ensuring the success of tax reforms will have to be recognised. It is essential to gain political acceptance of reform measures and also communicate the benefits to the public to ensure their support in bringing about the reform.

Chapter 2

- ◆ There are several options to deal with the problems of rent control. One obvious choice is to abolish rent control or de-link property tax from rent control regulations. Another solution is to amend the Rent Control Act to fix rent on the basis of “hypothetical market rent”.

- ◆ It appears to be a pragmatic to bring the reform process by introducing the area based principles of assessment even where it would be politically difficult to do away with the rent control laws. The courts have upheld the area based models in the country, on the grounds of the system being non-discriminatory, simple classification and the good intention to provide relief to taxpayers.

Chapter 3

- ◆ Property tax reform is an on going process and not a one-time event. There should be continuous effort each year to assess new properties, (coverage) in addition to discovering all changes in ownership and new construction, revision of valuation at the appropriate time, issue of bill and the follow up with collection of the tax.
- ◆ Capturing the increase in the value of properties should be done each year and creation of tax base drawn from market data for construction values and site value.
- ◆ Though the property valuation is revised once in 4-5 years, it is sound policy to have guidance value published every year.
- ◆ Introduce self-reporting system. It is not only transparent but would free the revenue officials to do a variety of work like updating the property records, survey of new properties, collection of old arrears, etc. The revaluation of properties would take place after a lapse 4-5 years, and hence the revenue officials during this interval can be given performance targets in each of these areas of work.
- ◆ The property tax should be horizontally equal. When properties are taxed differently, some parts of the population are burdened more than others. It is important that this concern for horizontal equity is addressed if the area-based system is to gain credibility. One way is to set separate treatment for unique and high value properties like star hotels, factory buildings and posh dwelling units.

Chapter 4

- ◆ Have an independent and efficient enforcement machinery to identify new properties and additional constructions made to old properties. The mere fact that there exists special enforcement machinery in the city corporation will have the psychological advantage to increase the tax base every year by voluntary compliance.
- ◆ The rental that an owner of a building or land receives from letting out space for erecting hoardings and telecommunication towers could be a new source of revenue for municipalities.
- ◆ Levy tax on vacant land/plot. This is an urgent issue since a large number of vacant lands are out of the tax base.
- ◆ Prune the list of exemptions. Educational institutions that charge capitation fee/donations etc and charitable hospitals that charge high rates should be disentitled to exemption. Maintain a centralised record for properties granted exemptions. Review this each year.
- ◆ Municipal properties, which are leased or let out, must be taxed. Occupier to be made liable to pay the tax.
- ◆ Preferential treatment for owner-occupied properties reduces the tax base. One solution is to factor a mean rate between the preferential rates and adopt this rate uniformly to residential and tenanted residential properties. This would help in better compliance under the area-based self-assessment that is becoming common practice of assessment in many municipalities.
- ◆ Do away with incentives for industrial sheds. They are not desirable both from economic and equity point of view.
- ◆ Impose hard budget constraint if periodic revisions as per statute are not made. The taxpayer would not resist incremental increase once in four years by proper indexing. It is one-time large increases that will draw protest.

- ◆ Buildings coming up in the peripheral areas of growing cities, which are beyond the Corporation limits generally, escape assessment. The local bodies within whose jurisdiction they fall must be vigilant and bring them to tax net. This can be ensured by periodical review with other agencies.
- ◆ Audits must be driven by the desire to capture a maximum amount of revenue for their efforts. Focus on large taxpayers, e.g., industrial and commercial establishments and large rental complexes.
- ◆ Audits must be concerned about the issue of coverage. Every parcel of property should have a very high probability that it will be on the tax rolls regardless of taxable value. The implementation of an effective audit program would significantly increase revenue.
- ◆ The tax collection must be made convenient for the taxpayer. Most municipalities insist taxpayers to appear personally and pay the tax by cash/cheque and obtain receipt. Some municipalities do not accept the bank entries in the passbook as proof of payment and insist upon a certificate from the tax officer. This can be corrected by a property tax passbook system issued by the bank and maintained by the taxpayer for proof of payments for the various years.
- ◆ For collection to be effective penalties must be deterrent. It is suggested that the penal rate of penalty should be 1 per cent more than the bank rate of interest, calculated monthly, be adopted. A rebate/discount if the taxpayer pays the tax in one installment before the due date can be considered as an incentive for prompt payment.
- ◆ Weak enforcement is one of the primary reasons for the poor collection in the country as a whole. It is recommended that a separate recovery wing be established in each Corporation with officers drawn from the State Revenue department. A post of Revenue Recovery Officer could be created to head the wing.

- ◆ Generally, the time limit to file an appeal is 15 days from the date of receipt of the notice. A minimum of 30 days time must be given subject to depositing the tax amount. A time limit must also be set to dispose of the appeal at the Corporation level.
- ◆ The municipalities should make the process of appeal transparent and inform the assessee about the procedures to be followed.
- ◆ The order must show an application of mind of the assessing authority and must be a speaking order.
- ◆ The practice of having elected representatives to hear tax appeals must be given up. The appellate power may be vested with a Property Tax Tribunal or the State Appellate Tribunal.
- ◆ There is no practice of communicating important decisions of the Courts to the all the assessing officers in the municipality. A compendium of case laws should be brought out by each State.
- ◆ Very few municipalities have any element of direct recruitment at key levels. To develop internal capacity it is very essential that there should be a statutory provision of 50 per cent lateral entry to middle management positions. There is a case for better pay scales to attract professional managers in the urban sector.
- ◆ While top posts in health, engineering and town planning have specialists on deputation, there are no specialists for tax administration. Employ tax specialists from the law department or from any other tax enforcing departments, at least in large city Corporations.
- ◆ It is important for the municipalities to bring in administrative reforms before attempting major overhaul in the property tax system. Without adequate capacity building within the

organization, any attempt to reform the property tax system would not yield the desired result.

- ◆ It would be of great value if a national quarterly journal of review of case laws on property tax and other local taxes is brought out to keep the municipal staff informed about current issues on property tax in the country and abroad. Equally important are periodic inter-State and national tax conferences and workshops for senior officers to exchange views and recent developments on property tax management.

Chapter 5

- ◆ Develop an effective communication strategy to inform the taxpayers, about the drawbacks of the existing system (ARV), the need for reform and the advantages to shift to a better system which would ensure some uniformity in property tax assessment.
- ◆ Capital valuation will help augment revenue for the municipalities. But it would be prudent in Indian context to make adequate preparation before introducing the capital value system.
- ◆ Preparation would include bringing all properties in the jurisdiction into the tax net, program for updating valuation of land, training staff in the new method of assessment etc. Institutional or professional help can be taken in all these areas including methods to factor the cost of construction for different categories of buildings.
- ◆ Valuation by the Department of Stamp and Registration appears more or less acceptable to both the taxpayer and the Municipal Tax Administration.
- ◆ Central Valuation Committees for land valuation could be set up in each State to be the source code for all related departments in the Central, State and the Local governments.

- ◆ It is prudent to shift the tax burden to the occupier in case of non-residential tenanted properties with concurrent liability on the owners, since any improvements in the locality would be to the advantages of the occupier and not necessarily to the owner.
- ◆ The mass appraisal technique may be used under capital value system.
- ◆ Notify a class of properties, like luxurious apartments, shopping malls, hotels, large industries and the like, for special assessment to assess the property value more accurately. Such treatment of class of properties would be legally sustainable and will not amount to discrimination.
- ◆ The site value taxation method is objective, transparent, and easy to understand. The sital valuations must however be periodically updated and revision of valuation should also be periodic say once in 4 years. This method is worth a try.
- ◆ The choice of the property tax system would depend upon factors, which are unique to a particular city. Chose a system that is appropriate at a given point of time and one that can work.
- ◆ There could not be a better moment than now to push property tax reforms ahead. People are aware that they need to pay more taxes to meet the requirements of the city's growth. They must also be assured of better quality of services.

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