Ohio Taxes Through Time

In 2003, Ohio celebrated its 200th year of statehood. This Bicentennial occasion gives opportunity to explore the role of taxes during Ohio's transition from territory to one of this country's most significant states.

Life has changed much in the 200 years since Ohio became a state, and with it, so has the government and tax structure. With all these changes, however, there have been some constants:

- There has been a consistent effort to ensure that all citizens and businesses pay their fair share of the cost of government and the services it provides.
- The most significant changes in Ohio tax laws follow growth in the state's population, significant changes in business and industry, or swings in the economy.
- When business and industry changed, the state would frequently roll out a tax study commission or committee to find and recommend new ways to fund state government.

The most notable constant, perhaps, of Ohio's tax system over 200 years is that it has constantly changed.

For this discussion, those changes have been sorted into four time periods, each having contributed to the composite character of Ohio and its tax system of today. Those periods are:

- The Frontier Era, roughly spanning the transition from the early territory period of the 1700s to the early statehood days ending in the 1820s.
- The Post-Frontier Era covering the years from the 1820s to the Ohio Constitution of 1851.
- The decades following adoption of the Ohio Constitution of 1851 until the establishment of the first Ohio Tax Commission in 1910.
- The Modern Era, moving from the beginnings of the Ohio Tax Commission through and to today's Ohio Department of Taxation as headed by the Ohio Tax Commissioner.

The Frontier Era: Finding a Way Out Of the Wilderness

One of the first known mentions of Ohio and taxes found in the history books chronicled a type of transaction that occurred in 1748, and remains today a prominent part of the tax landscape; e.g. the tax abatement. The request for an abatement came from a group of investors from Maryland and Virginia who asked the British government to forego taxes on 200,000 acres along both sides of the Ohio River in exchange for settling the area. The British government granted the request in an effort to prevent French encroachment into the area. All of this happened while Maryland and Virginia were still British colonies. With this country's independence from England, Ohio and its first government began to emerge from the Northwest Territory created by the Ordinance of 1787. The ordinance defined how new states would be admitted, and five states that were once part of the Northwest Territory, including Ohio, eventually joined the Union.

The first taxes in what is now Ohio were enacted in 1792 by a territorial government that consisted of a governor and three judges, all appointed by Congress. Tax dollars were to be collected based on what territorial officials determined would be the cost of running the government. Those officials appointed commissioners who apportioned sums to be raised from the inhabitants of each county. The territory also received a small amount of revenue from the federal government.

Most of the taxes collected by the territorial government paid for the salaries of territorial officials, for public roads and for surveying public lands.

Each township, village or district in the territory was to have three tax assessors. The assessors were to determine each individual's share of the cost of government based on the amount of property, real and personal, owned by the individual. The more property the individual owned, the more taxes the individual was to pay.

On the same date the territorial government enacted the first taxes, it also enacted laws requiring that some businesses be licensed. Frontier businesses required to have licenses included sellers of whiskey and other spirits, merchants, taverns, auctioneers, ferry operators, and traders and peddlers of foreign merchandise (either made or grown outside the U.S.). Auctioneers, in addition to being required to have licenses, also had to collect and remit taxes on their sales, which may have been the first example of a sales tax in Ohio.

Licenses were an important source of revenue for government during the frontier era, but they also were used to regulate businesses. For example, a tavern in the county had to have at least four rooms, three fireplaces and a stable with six stalls for horses.

The territorial government on January 19, 1795 adopted a system modeled after Pennsylvania's law "…for raising county rates and levies." As a result of these new laws, three commissioners were appointed in each county, and the free inhabitants in each township were to elect a tax assessor on November 3rd annually by ballot. Tax assessors served one-year terms, and if they did not do their duty, they could be fined $20.

Commissioners and assessors appointed tax collectors. The commissioners met on a fixed day each year to hear tax grievances.

The first Ohio Territorial Assembly enacted a law on Dec. 19, 1799 that was more specific than earlier laws regarding what counties could tax. One section, for example, declared what was taxable in towns, such as houses and lots as well as mansions in the country valued at $200 and more. Water and windmills, ferries, livestock and bondservants above the age of 21 also were taxed.

Laws were enacted during the frontier period to tax land on the basis of three grades of soil quality. The rates changed several times, as an example, in 1800 land was taxed at 55, 35 and 17 cents per 100 acres. The taxing of land by soil quality continued into the early years of statehood.

The first general, statewide valuation of real estate was conducted in 1810, seven years after Ohio became a state. As a result of that valuation, land tax revenues rose from $85,964 in 1810 to $170,546 in 1811. General valuations or reappraisals of real property have been conducted in Ohio ever since.

Ohio's territorial government enacted a poll tax, but the only mention of this tax in Ohio's first constitution (written in 1802) was the prohibition of a poll tax at the state or county level. A citizen still had to be a taxpayer to vote, however. Work on township roads could be counted towards the payment of taxes and, therefore, make a citizen an eligible voter.

As a side note, the 1802 constitution denied the governor veto power because a number of vetoes by the territorial governor, Arthur St. Clair, had enraged the territorial legislature. This put most of the powers of state government in the hands of the General Assembly. The General Assembly appointed state-level officials and judges at all levels. Commissioners, sheriffs and coroners were the only popularly elected officials at the county level. This first constitution, incidentally, was adopted without popular vote when Ohio was admitted to the Union on Feb. 19, 1803.

Post-Frontier: Moving Ohio Forward

Many of the dangers of the frontier caused by wars with the Indians came to an end following the War of 1812.

The end of the Indian wars in Ohio brought growth in population and business and ensuing demands on government. The General Assembly authorized the voluntary use of property tax to support schools in 1821. The next year, however, the General Assembly mandated that a portion of the property tax revenues pay for schools.

The middle 1820s saw an end to the practice of taxing land based on soil quality as part of a compromise to win support for the building of the Ohio canal system. The new practice was to tax land at its true value. State officials believed that where the canals ran, land values would rise and with that tax revenues would increase, too.

Everyone paid taxes on personal property, but in the middle 1820s the General Assembly broadened the list of taxable items. The list reflects how far Ohio had come – from the days of hacking its way out of a pure wilderness to a time where lawmakers were adding pleasure carriages to property tax lists.

Concern over everyone paying a fair share of the cost of government was reflected in the creation of county and state boards of tax equalization in the middle 1820s. County boards could raise or lower valuations. The state board could equalize values among counties. The state board's purpose was to prevent counties from adjusting tax rates unfairly, which some had done to attract business and settlement.

Some businesses were specifically exempted from taxes in 1825, but then lost that status in 1831 in a general tightening of tax exemptions. Previously exempted businesses that went back on the tax rolls in 1831 were grist, oil and saw mills, all manufacturers of iron, glass, paper, clocks and nails, all distilleries, breweries and tanneries, and iron, brass and copper foundries. Another example of this tightening was the reduction from 15 to 10 acres of land that was tax exempt for churches or burial grounds.

Other taxes passed during the period included ones for public shows in 1827, insurance companies in 1830 and bridge companies in 1831. Taxes in each instance varied. Insurance companies, for example, paid a 4 percent tax on dividends. Insurance agents for companies incorporated outside of Ohio paid an annual license fee of $50. Each agent also was required to report profits on premiums received annually, and the state auditor taxed those profits 4 percent, less the $50 license fee.

The Ohio economy changed dramatically with the building of the Ohio canal system that was completed in 1831. The canals meant goods in the interior of Ohio could be transported by barge at low cost north to Lake Erie and from there through the Erie Canal and to eastern markets or south to the Ohio River and New Orleans. The result was a 200 percent increase in the value of products produced in the interior of the state.

The success of the canals inspired the state to dive deeper into the direct financing of other "internal improvements," such as railroads and turnpikes. Many railroad ventures failed, however. Those failures combined with a general economic downturn in the late 1830s led to a crisis in government finances.

It was also during this period that county auditors became the most important cogs in what was, in practice, a highly decentralized tax system.

All during this period taxes were continually tinkered with in attempts to make certain that all, individuals and business, were paying their fair share of the cost of government. However, all the tax measures passed during this period were not uniformly enforced. That, along with a general unhappiness with state government, led to the writing of a new constitution.

The Constitution of 1851: A Quest for Fairness

There would have been an Ohio Constitution of 1850, but a cholera epidemic forced postponement of the writing of the new constitution until 1851. The representatives to the constitutional convention that hammered out the new constitution and the constitution itself were approved by popular vote.

The Ohio Constitution of 1802 made almost no mention of taxes, but the Ohio Constitution of 1851 includes an entire section entitled, "Finance and

Taxation." The section was aimed at ending inequalities in and preventing abuses of the state's tax system. Unsound investments during the era of "internal improvements," for example, led to this sentence in the new constitution: "The State shall never contract any debt for the purpose of internal improvement."

Article XII, Section 2, of the 1851 constitution, also attempted to equalize taxes as so many laws before had tried to do by stating: "Laws shall be passed, taxing, by a uniform rule, all moneys, credits, investments in bonds, stocks, joint stock companies and otherwise, and also all real and personal property according to its true value in money…"

And, it continues, "personal property to an amount not exceeding in value $200 on each individual, may, by general laws, be exempted from taxation…"

The constitution introduced uniformity to the tax system by requiring that all classes of property be taxed at the same rate. Prior to this, state and local governments had some latitude in setting tax rates, and they used that freedom to support business development or expansion. The uniformity clause eliminated the latitude with the objective of making certain all taxpayers were subject to the same tax rates.

The law also attempted to curb some abuses. The 1851 constitution refers to corporations and draws the line on using taxes to influence business decisions or otherwise provide favored treatment by stating, "The property of corporations, now existing, or hereafter created shall forever be subject to taxation, the same as the property of individuals."

The constitution directed the General Assembly to "provide for the organization of cities and incorporated villages by general laws, and restrict their power of taxation, assessment, borrowing money, contracting debts, and loaning their credit, so as to prevent the abuse of such power."

The constitution also changed the procedure whereby the General Assembly appointed many state and county officials to one where voters elected them.

Ohio's tax system remained highly decentralized, however, with administration of the state's taxes resting with the county auditors.

The state weathered the Civil War in good financial shape. Dips in the national economy in the 1870s and again in the 1890s led to the birthing of several tax studies and commissions. Their purposes generally concerned the frequent deficits in state spending and the belief among many that the state's tax laws were often ignored and widely abused.

Concerns over the abuse of tax laws were serious enough that in 1888 the General Assembly created the position of Tax Inquisitor. This law allowed county commissioners to hire private individuals to detect and report property kept off the tax duplicate. The program eventually lost favor and the position of Tax Inquisitor was eliminated in 1904.

The principal concern was over property tax, which everyone, individuals and business, was supposed to pay. Individuals also had to pay tax on their personal belongings, to include the table and chairs and many other items in their homes.

One historian summarized many of the concerns people in Ohio had for their tax system at the time, by saying, "The whole tax system of Ohio was one vast system of hypocrisy, evasion, illegal exemption and moral perjury…"

That statement reflects the fact that with tax authorities unable to accurately establish the taxable value of all personal property, most taxpayers vastly underreported their taxable property.

The problem was so serious that one observer noted that the value of personal property reported for tax purposes in Ohio in 1903 was $2 billion, while honest estimates put the true value of the property at $6.5 billion. On that the observer added: "It is a good thing people are not struck dead for withholding their possessions from the tax gatherer. If they were, Ohio would be depopulated every April."

While some taxes were being evaded, the work of various tax studies and tax commissions was producing new taxes. The first tax on cigarettes in Ohio appeared in 1883. Inheritance and business franchise taxes also were enacted during this period, in 1893 and 1902, respectively. Taxes also were levied against railroad sleeping car companies, electric light and gas utilities, natural gas, pipelines, waterworks, street railroads and telegraph and express companies.

The legislature ended the practice of allocating a portion of property taxes to the state, and designated that all property tax receipts go to the counties.

Frequent deficits in state budgets led to voter approval in 1903 of a constitutional amendment that gave the governor the veto, a power that had been denied for 100 years.

The Modern Era: From Commission to Commissioner

Continued displeasure with what many felt were inequalities in a tax system that was too decentralized led to the establishment of the Tax Commission of Ohio in 1910.

The need for the commission was perhaps best expressed by Governor Judson Harmon, who said: "I am more firmly convinced than ever that the cost of the Tax Commission, provided with all the necessary help, is the most productive investment the state can make. But, apart from the returns in actual revenue, however great these may be, the moral affect of the assurances that fairness and justice will rule with respect to all taxpayers alike is an asset in good government whose value cannot be expressed in figures."

Duties assigned to the new commission reflected many of the concerns with Ohio's tax system. The commission was to centralize tax functions spread among many state agencies and departments. It was to promulgate tax rules and regulations, assess taxes, be responsible for the equalization of real estate values, approve bonds and obligations issued by taxing districts and hear appeals from local budget commissions. It also replaced the state board of equalization.

In addition, the new commission was to suggest new tax laws and regulations as well as to see to the enforcement and better administration of existing laws.

The three-member commission's most important role in the beginning was to assess railroads, express, telegraph and telephone companies, railroad sleeping cars, pipelines and equipment companies and public utilities. All had previous been assessed by a number of special boards or officials.

The new commission also was authorized to order reassessment of real and personal property in any taxing district when, in its judgement, the property had not been assessed at its true value in money.

The new commission also recommended and saw passage of a constitutional amendment that abolished the uniformity clause for taxes, which had required all classes of property to be taxed at the same rate. The clause by then was viewed as too restrictive when government wanted to encourage business development.

Three commissioners, with no more than two being from the same political party, were appointed in 1910. A fourth commissioner was added in 1931. The fourth commissioner's sole responsibility was personal property.

Notable changes during the period of the new tax commission were the separating of tangible property from real property and intangible property. Additionally, only businesses were required to pay personal property taxes. Individuals were exempted from that tax.

The early 20th Century further saw the enactment of "sin" taxes. A tax on cigarettes and other tobacco products became law in 1931. Beer and wine were first taxed in 1933, following the repeal of the nationwide prohibition on alcohol. A tax on liquor gallonage was added in 1934.

Ohio also took action to capture revenue from consumer sales transactions. A statewide sales and use tax was enacted in 1935. It first included only retail sales at stores, but was later expanded to include alcohol, cigarettes, and vehicles and a number of other items and services.

The Ohio Department of Taxation, headed by one Ohio Tax Commissioner, replaced the Ohio Tax Commission in 1939. The Department of Taxation created in 1939 exists today very much as it did in 1939.

Ohio continues to rely on tax revenues to fund the operations of government. An individual income tax was first enacted in 1972. The Department of Tax Equalization was created in 1976 to oversee the administration of local property taxes. However, this department was abolished in 1983, and its functions were transferred to ODT. The Department of Taxation also absorbed the processing functions for the sales, corporation franchise and excise taxes from the Treasurer of State in 2002.

While state revenues will fluctuate with the ups and downs of the economy, and tax systems will change, the Ohio Department of Taxation will continue a mission that took root more than 200 years ago of raising the funds – in the fairest possible fashion – required by Ohioans to pay for the government and services of their choosing.