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Taxes and “Big Box” Stores

Have any states or localities levied higher taxes on “big box” stores to address the adverse affect those stores might have on smaller retailers or on sprawl? The answer appears, for the most part, to be “no.”

A number of anti-sprawl groups from several states were contacted for this report and none had heard of a special or higher sales tax being imposed on “big-box stores.” States were also contacted to determine if they contained differing sales tax rates at either the state or local level. Connecticut, Massachusetts, Rhode Island, Washington, Alabama, and Georgia reported no such proposed or current sales tax. However, towns in Illinois, Maine, and California have developed solutions for dealing with increased growth.

In Illinois each town can have a different sales tax rate. The fee for general merchandise is generally 6.25% but goes as high as 7.75% in a few towns. Also, towns can levy different sales taxes in “zones” that are set up by each municipality. For more information on Illinois sales tax, visit their web site at: <http://www.revenue.state.il.us/LocalGovernment/LTAD/forms.htm>

Maine municipalities are supporting a proposal that would allow localities to levy a sales tax as an alternative to higher property taxes. With this 1% sales tax, commuters and visitors would be responsible for the costs of community projects, which would help to lower the expenses that community members have to pay. Surrounding towns could impose the sales tax, as long as voters approve the plan in all of the participating cities and towns. The sales tax revenue would be restricted to capital projects as opposed to ongoing operating expenses.

In California, State Assemblyman Darrell Steinberg, D-Sacramento, has proposed a bill (AB 680) in the 2002 Legislature to equalize revenues in the Sacramento area for the express purpose of encouraging cities to focus on housing rather than on big box stores. This bill is due to be heard in committee March 25, 2002. Senator Steinberg proposes dividing the sales tax three ways (Downey 2001):

- One-third would still go to the jurisdiction in which it was collected.
- Another third would be distributed region wide on a per capita basis.
- The final third would go back to the city or county of origin but only if they were meeting a laundry list of conditions, from providing affordable housing to protecting open space.

And, recently, on March 4, 2002 the residents of Williston, Vermont voted to approve a 1 percent local retail sales tax by a five-to-one margin. The new tax is expected to be implemented by July and bring in at least \$2.2 million for a town that has been dubbed “Big Box City” for its explosion of retail square footage at discount chains like Wal-Mart and Best Buy. Unless the Legislature extends the taxes, they will sunset at the end of 2004. Only one other Vermont town has passed the tax, Manchester (Walsh 2002).

Constitutionality of Differential Tax Rates:

The State of Vermont Tax Department has opined that the constitutionality of such a law may be challenged based on the statute regulating the “Blue” laws, the legality of regulating whether and which stores can be open on Sundays. In the opinion of the Vermont Supreme Court in *State of Vermont v. Ludlow Supermarkets* (141 VT 261,269)

Recent legislative history demonstrated that the core purpose of Sunday closing laws, confirmed by legislative language, was the special protection of small, locally owned, retail stores, and the Sunday closing laws were, therefore, invalid under the Constitution of Vermont. Stated purpose of Sunday closing law to promote the economic health of small business, which favored one part of the community over another, was totally irreconcilable with the Vermont Constitution where the preference was based on a declaration that small business enterprises "are essential and fundamental to the economy of the state," since the purpose of preferential legislation must be to further a goal independent of the preference awarded. Vt. Const. ch. I, art. 7 ; 13 V.S.A. § 3352. (*State of Vermont v. Ludlow Supermarkets*).

Currently, there is a Vermont statute allowing towns to impose up to a 1% sales tax on general merchandise, but no stipulation is made allowing the imposition of “zones” in a town. See the related statute (24 VSA s 138).

Sources

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