

# Local Option Municipal Sales Tax: A “Win-Win” Alternative?

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## 1. Introduction

The current state of government finance in Wisconsin is the subject of a great deal of controversy in both the state and local halls of government. While local government is the level that provides most essential services, in Wisconsin it is also the level having the least control of its own destiny. Because of state limitations on revenue sources, Wisconsin local government is limited to a system of state shared revenues, grants, and aids, over which they have little or no control, property taxes, and limited fees and charges for services. This has traditionally left local government highly dependent upon property taxes, which, according to a Wisconsin Taxpayers Alliance study, ranked third highest nationally on residential property in 2003-4 (Wisconsin Taxpayers Alliance, 2005). In fact, according to a Wisconsin Department of Revenue study (Wis. DOR, 1992), Wisconsin local government's **tax revenue** comes from the property tax at a rate of approximately 95% while the average from other states is 75%. Local sales and local income taxes account for 16% of local tax revenue in other states whereas in Wisconsin, where we have no local income tax and local sales taxes only at the county level (enacted in 57 counties) these county sales tax revenues account for only two percent of local tax revenue.

The same Wisconsin DOR study further notes that, while state aids in other states average only 33.8% of local **general government revenue**, Wisconsin's state aids account for 42.4%. Clearly, the current Wisconsin system fosters local government dependence upon State shared revenues. Because local government has virtually no other viable options for replacing revenue, in order to continue to provide local services *at current levels*, communities losing shared revenues will replace them with increased property taxes, fees, and debt, as research published by UW-Madison's Steve Deller and UW-Oshkosh's Craig Maher indicates (Maher, 2006 and Deller, 2006). While a local vehicle registration fee (the “wheel tax”) has been authorized by the legislature, it has only been adopted by two Wisconsin cities (Goldman, Corbett, and Wachs, 2001).

The Wisconsin shared revenues program was conceived in the early 1970's to compensate local governments for the State's exemption of manufacturing property and equipment from the local tax base (Maher, 2006). In short, the

program was designed to be a mechanism for reducing property taxes. When shared revenues were frozen or reduced, as has been the case since the mid-1990's, municipalities responded by replacing those lost revenues with increased property taxes, fees, and increased debt. Citizen concern over the increased property tax burden prompted the legislature to push forward legislation limiting property tax increases. All the while, municipalities continued to experience increased costs and increased demand for services.

## **2. Background**

The issue of residential property taxes has long been controversial. Defenders claim that the services received from property taxes are approximated in the assessed values of property on which the taxes are levied and are therefore an appropriate means of taxation. They also claim that property tax revenues are less influenced by short-term economic trends, which makes them a stable source of revenue. Critics claim the tax creates inefficiencies throughout the housing market not only creating barriers to entry for first-time homebuyers but also to families seeking to "move up" in the housing market. The tax is viewed as discriminatory against homeowners because it has them pay a disproportionate share of the cost of local government services, acts as a barrier to home ownership for lower income families, and makes it difficult for many elderly homeowners to remain in their homes. To some extent, all of these positions probably have some validity in the present system. There is little doubt that residential property taxes are among the most disliked of all taxes and are the constant target of legislators seeking to reduce the burden on their constituents via property tax and revenue limitation proposals such as the recently introduced Wisconsin Taxpayer Protection Amendment (WPTA). In fact, there is a growing school of thought stating that property taxes should eventually be abolished in favor of a system of sales and usage taxes.

Revenues have not kept up with the cost of providing services demanded by citizens, particularly where service demands have increased. Citizen demand may not be increasing for all services, but the cost of service provision has increased due to the components of providing public service. The Wisconsin Legislature continues to follow a practice of mandating property tax limitation and reduction, fueled by demands from constituents, which, when combined with freezes and reductions in state shared revenues, has resulted in financial distress for local government. As a result, in many communities streets are falling into disrepair; personnel vacancies in public safety departments are going unfilled; purchases of fire and emergency equipment are being postponed; and recreation programs are being cut back or eliminated. Municipalities can no longer turn to state and federal grants to sustain their operations because funds for those programs have been greatly reduced due to increased state and federal requirements, such as mitigating the recent trend in natural disasters and the requirements of Homeland Security.

If the Taxpayer Protection Amendment (WTPA) or a similar proposal becomes law, Wisconsin municipalities will experience heightened levels of financial stress. An artificial revenue limit will almost certainly have an adverse effect on Wisconsin municipalities. One needs only to look across our southern border to our neighbors in Illinois to see a similar program and its effects. The Illinois Property Tax Extension Limitation Law (PTELL) has been in effect in Illinois since 1991. Illinois counties vote by referendum as to whether they wish to be subject to PTELL. A few have opted out but most have subjected themselves to its restrictions. PTELL requires local governments to restrict their property tax increases to 5% or the current increase in the Consumer Price Index (CPI), whichever is *lower*, with an additional component for new construction. Any greater increase requires approval by referendum (35 ILCS200/). This has restricted local governments subject to PTELL to property tax increases of 1.9 percent on average while subject to dramatically increased fuel costs, health insurance premium increases averaging around 19%, and labor contracts requiring arbitration mandated wage increases as high as 6% or 7%. How have they managed? Drawing from my own experiences managing two Illinois municipalities in PTELL counties and as numerous conversations with other Illinois managers indicate, they have relied on local sales tax revenues to carry them through the restrictions of PTELL. Similar legislation aimed at limiting local government expenditures and/or reducing property taxes, such as the Taxpayer Protection Amendment, would place Wisconsin municipalities in a similar predicament but without the salvation of local sales taxes. From this, one can deduce that a change in the way Wisconsin addresses local government revenues should be considered.

### 3. Discussion

No one answer will alleviate local government's financial predicament. The recently proposed constitutional amendments, the Taxpayers Bill of Rights (TABOR) and the WTPA, assumes that local government revenues must be limited because local government growth is "out of control." In fact, recent research indicates that the size of government in Wisconsin, as measured by public sector employment, is on par with the national average and public sector employment tends to be lower than total employment growth (Deller and Maher, 2006). Additional research done by the University of Central Oklahoma's Policy Institute revealed that between 1992 and 2002, Wisconsin ranked 36<sup>th</sup> in tax revenue growth (University of Central Oklahoma Policy Institute, 2006). This research verifies that it is not government growth in Wisconsin but the means by which local government is funded that is the problem. In fact, the Governor's Blue-Ribbon Commission on State-Local Partnerships for the 21<sup>st</sup> Century (commonly known as the Kettl Commission) repeatedly called for a restructuring of the shared revenue program for municipalities and more flexibility in local government finance (Executive Summary and Highlights). A major component and logical first step in any restructuring effort could be the introduction of a **Local Option Sales Tax (LOST)** or **Special Purpose Local Option Sales Tax**

**(SPLOST).** Such a funding option can ease a great deal of a community's financial pain without adding to the property tax burden. A local option sales tax for municipalities, as part of a general restructuring of how municipalities are funded, would enable the state to address some of its fiscal woes by reducing the shared revenues while providing property tax relief. It would also force local policy makers to be more accountable for their budgeting practices in two ways: (1) they would be less reliant on state aid payments; and, (2) given that sales taxes are sensitive to economic cycles, communities would be forced to budget accordingly (Maher 2006). State approval of a municipal LOST, with a requirement for a portion to be used to reduce property taxes and without the requirement for county approval, would promote citizen acceptance and increase local government financial flexibility without having an artificial spending cap based on the Consumer Price Index (CPI), which is used in both PTELL and WPTA to be a basis for local government expenditure limitation. This benchmark is inappropriate because the CPI relates to consumer spending, not local government service provision costs whose inflation rate usually exceeds the CPI.

While our neighboring states have seen the necessity for such a tax, the Wisconsin legislature has not seen fit to provide such an option to Wisconsin municipalities. The fact that Wisconsin does provide for a county sales and use tax and, as of January 1, 2003, 57 Wisconsin counties have elected to impose a sales and use tax (Deller, 2006), indicates the level of acceptance for a local tax. The legislature has allowed the option of imposing a Premier Area Resort Tax under Section 77.994 of the Wisconsin statutes specifically for Eagle River and Bayfield, and in such other tourism intensive areas as The Dells, Lake Delton, and other locations where at least 40% of equalized assessed value of taxable property is used by tourism-related retailers, but this is a unique provision for funding infrastructure improvements related to tourism and in no way addresses the revenue requirements for the typical Wisconsin municipality. Wisconsin's two largest cities, Milwaukee and Madison, draw more tourism dollars than the resort areas but are not included in this provision and must fund their infrastructure largely from property taxes (Kammholz, 2006). In fact, the lack of a local option sales tax is only one aspect of Wisconsin's lack of a sustainable fiscal policy for local government. Wisconsin municipalities have very limited choices and minimal local control of revenues. State shared revenues, property taxes, and fees for services as funding sources provide limited flexibility for local government and act as a limiting factor for innovative budgeting.

When the aforementioned points are considered, enacting legislation providing for a local option municipal sales tax as the first step in any financial restructuring effort, regardless of whether the county in which the municipality is located has implemented a county sales tax, appears worthy of consideration. At first glance, the prospect of a new tax may be greeted with reactions ranging from raised eyebrows to outrage. Neither, however, is justified when the facts are considered. A local option sales tax not only can be used to relieve the effects of property tax restraint legislation, it supports the overall desire to move away from

property taxes as the primary supporting vehicle for municipal services which is commonly viewed as a burden on home ownership (although renters do indirectly pay property taxes as part of their rent). Furthermore, it serves to provide a more flexible tax structure and increases the responsiveness of the municipal revenue system to economic growth.

According to information compiled by the Sales Tax Institute and the Federation of Tax Administrators, as of March 1, 2006 forty-five states and the District of Columbia have state sales taxes. Of those forty-five states, thirty-four have provisions for local option sales taxes that extend as high as 8% (Alabama). Interestingly enough, Alaska has no state sales tax but provides for a local sales tax. The first local sales taxes were adopted in the 1930's in response to serious reductions in local government revenue caused by the Great Depression. They were authorized by state legislatures and apply only to the retail sale of tangible property and selective services. Wisconsin has only recently seen fit to allow a local option sales tax for counties and does not currently provide for a local option sales tax for municipalities (Sec. 77.70, Wis Stats.).

#### **4. Analysis**

A November 1992 study by the Wisconsin Department of Revenue (Local Option Taxes, 1992) studying local option taxes noted the following pros and cons to a local sales tax:

Pros:

- substantial revenue-raising potential
- commuters and tourists bear part of the tax burden
- a "pay-as-you-go" system
- the public views the sales tax as the least unpopular tax
- state-administered for a fee
- sales tax in Wisconsin is below national average

Cons:

- regressive
- consumers shop elsewhere
- retailers may locate elsewhere
- minimal tax revenue potential for a community with little retail trade
- not deductible for income tax purposes

The "pros" are self-evident in addition to the need for more local flexibility and a reduction of property taxes. The "cons" prove to be primarily perception rather than reality and can easily be addressed.

First, let us look at the "con" of not being deductible for income tax purposes. When local sales taxes are used to replace residential property taxes, part of the

intention is, indeed, a reduction of deductible property taxes. When considering Federal income tax returns, property taxes are only deductible when deductions are itemized and do not apply as a deduction to lower income taxpayers who do not file Schedule A. Sales taxes are, in fact, also deductible as, when itemizing deductions on Federal Form 1040, Schedule A, Line 5b allows a deduction for State and Local General Sales Taxes. The instructions for Schedule A even include optional tax tables, by state, for the deduction if detailed records have not been kept. Hence, this "con" cannot be viewed as a serious reason to discard the concept of a local sales tax because a reduction in one deduction can increase another.

The concern or "con" that consumers will travel to our neighboring states to do their shopping to avoid a local sales tax is also invalid. Considering that Wisconsin's state sales tax rate is currently 5% and there may be a county sales tax of .5%, the addition of a .5% local municipal sales tax would make the total sales tax for a participating Wisconsin municipality 6%. In contrast, Michigan has no local sales tax but the state rate is 6%. Iowa has a 5% state sales tax, a 1% tax for counties, and up to 1% for municipalities for a total of 7%. Minnesota has a state sales tax rate of 6.5% and local sales tax of 1% for a total of 7.5%. Illinois has a 6.25% state sales tax and local option sales taxes are variable up to 3% for a total of up to 9.25%. The addition of a .5% local sales tax would still only tie Wisconsin for the lowest sales tax rate when compared with our neighboring states and a 1% local sales tax would leave participating Wisconsin municipalities at 6.5%, still lower than all neighboring states except Michigan, which does not represent a significant business competitor. With no Metropolitan or Micropolitan Statistical Areas present, the Upper Peninsula Michigan border does not have a sufficient retail base to constitute a major local trade competitor or merit concern for loss of sales based on saving .5% in sales tax. Wisconsin residents shopping in Michigan would gain nothing. The "con" of consumers going to a different city, county, or state to shop does not hold up when all applicable cost factors are weighed. As recent research by UW-Madison Professor and Economist Steve Deller states:

*Simple economic theory tells us that a local option sales tax should introduce distortions into the local retail markets. The presence of the sales tax increases the effective price that consumers must pay for the goods and services that are subject to the tax. However, existing research and casual observation tells us that consumers tend not to be that sensitive to the tax. This is perhaps best thought of in terms of the effective price of the goods and services in a spatial setting. Effective price is composed of three parts: the price of the good or service charged at the store, the sales tax, and the cost of travel to make the purchase. With increasing opportunity cost of time, the time required to travel to the store, it makes sense that customers are willing to pay a slightly higher tax and avoid the cost of travel. In other words, it is not worth the time and effort to travel to another community to avoid the tax. (Deller, 2006)*

In short, the concern that customers will shop elsewhere has been proven invalid, as has the concern that retailers will move elsewhere. Why move when the customers are not going elsewhere?

As for the “con” related to a LOST being regressive, several factors must be considered. For a tax to be regressive, it must disproportionately affect those of lower income. According to data compiled by the Federation of Tax Administrators, of the forty-six states that provide for sales taxes, thirty-five states provide for some level of local government sales tax (34 with state sales taxes plus Alaska). Of those, sixteen mitigate the regressive effect by exempting food purchases, the greatest expense to low income groups other than housing. Of those twenty-three that do not exempt food purchases from the LOST, nine either tax food at a lower rate or provide an income tax credit to offset the sales tax on food. Prescription drugs, of particular concern to the elderly, are exempt from the LOST in all states except Alaska and Illinois (Federation of Tax Administrators, 2004). Another factor to be considered is the reduction in property taxes that can be required as a provision of the implementation of a LOST. While a low to moderate income may be sufficient to make mortgage payments of \$500 per month on a modest home and may even be able to secure a no down payment mortgage under certain criteria, if that home purchase includes an annual property tax of \$2,750, that equates to an additional \$225 per month which can easily put home ownership out of reach for that potential homeowner. In summary, if food and prescription drugs are exempt from the LOST and the LOST is used partially to reduce property taxes that reduce the barrier to home ownership, the LOST cannot be considered regressive.

With the “cons” effectively discounted, other factors must be considered when discussing the prospect of a LOST in Wisconsin.

Wisconsin’s municipalities have far less flexibility in terms of tax revenue sources than local governments in other states (DOR, 1992) and operate at a severe disadvantage when compared to neighboring states who have established local option sales taxes in place. Even before revenue restraint legislation such as WPTA is enacted, the disparity in available revenues to municipalities is significant and shows a negative impact upon economic development, tourism, and local service provision. For example, compare the City of Platteville, Wisconsin with its neighbor, the City of Dubuque, Iowa. Platteville receives its revenues only from property taxes; state shared revenues and aids, over which it has no control; and a few fees for services. Dubuque has property tax revenue, a similar system of state shared revenues and aids, fees for services, plus a 1% local sales tax and revenues from two gambling casinos. Despite an overall sales tax rate of 7% (5% state, 1% county, and 1% city) in Dubuque versus a 5.5% sales tax rate in Platteville (5% state, .5% county), Dubuque remains the primary shopping center for that region because greater selection and variety negates the effect of a higher sales tax. Consequently, Dubuque has proportionally far

greater resources to apply to economic development, tourism, and services, which serve to increase the disparity. Such disparities exist with many Wisconsin municipalities located close to state borders and those municipalities therefore operate at a disadvantage in competition for business, jobs, and tourism.

## **5. Benefits**

One might question if a .5% local municipal sales tax would generate sufficient revenues to justify the administrative burden or taxpayer dislike for an additional tax. A local option sales tax provides revenues at a level much higher than the average citizen may think. For instance, a .5% local option sales tax equates to an additional \$.50 added to a \$100 purchase. While this is unlikely to be noticeable to the average consumer, the annual revenue it produces for local government purposes can be tremendous. For example, a Wal-Mart Super Center will normally not be located on a site unless annual sales projections for that site fall in the \$100 to \$150 million range. Assuming \$150 million in annual gross sales, the .5% tax results in \$750,000 in local government revenue. Removing groceries and prescription drugs from taxable status in all likelihood reduces taxable gross sales to approximately \$90 million. This still yields \$450,000 in local government revenue. In a community with more than one "big box" retailer such as Kohl's, Target, Lowe's, K-Mart, Menard's, among others, each can be expected to produce taxable gross sales of \$40 to \$100 million depending on the market area and location.

If automobile and truck sales are subject to the tax, similar revenue benefits are realized. A small dealership may sell twenty new cars and trucks in a month with an average price of \$32,000 per vehicle. Assuming this trend is the average for the entire year, this represents \$7,680,000 in new car sales alone. Previously owned vehicle sales and service will likely increase taxable sales to approximately \$12 million for local sales tax revenue of \$60,000. When multiplied by the number of dealers, this becomes a significant source of revenue. Consumer reaction to the tax, while initially negative, should diminish when the consumer realizes this tax (.5%) added only \$175 to the price of a \$35,000 vehicle. Since auto sales are considered to take place at the purchaser's place of residence, even purchases in another location or state will still be subject to the tax and provide benefit to the purchaser's place of residence (DOR Pub 202).

Now, let us assume we have a municipality with a population of 10,000. It has a Wal-Mart Super Center, a Menard's, a Big K-Mart, a strip mall of upscale businesses, and three automobile dealerships. The municipality receives sales tax revenue of \$450,000 from the Wal-Mart Super Center; \$150,000 each from Menard's and K-Mart; \$75,000 from the strip mall; and \$180,000 from the three automobile dealerships. Without considering other businesses subject to the local option sales tax, with a .5% local sales tax, the municipality has realized revenue of over \$1 million and has experienced little or no negative impact on sales. With a 1% local sales tax, the revenues naturally double.



Citizen resentment toward a new tax and the fact that common complaints about local sales taxes in other states usually revolve around the usage of sales tax revenue may mandate restrictions on the use of those revenues in Wisconsin. A local option municipal sales tax could be restricted to use for major projects, such as those of \$250,000 or more, possibly debt reduction, and property tax relief. A one-time optional increase in local sales tax rates, allowed by referendum, in Illinois in 2003 restricted those increases to be used at rates of 50% for major projects and 50% for property tax relief. The referendum passed easily in the county where I was a city manager with results indicating that the taxpayers will approve such increases provided they have a say in where the money will be spent. If Wisconsin were to enact a LOST and mandate a portion to be used for property tax relief and infrastructure improvements, the new tax would probably be equally palatable for the average taxpayer and stand a good chance of success. If a similar provision were adopted in Wisconsin, the municipality mentioned earlier with the \$1 million sales tax revenue would be required to apply \$500,000 of those funds to property tax relief and could use the other \$500,000 for street construction, debt elimination, building construction, or purchase of major equipment such as fire trucks. The funds could not be used in any manner other than intended because the usage of the sales tax funds would be reportable to the Department of Revenue in a system similar to that utilized by the State of Illinois. Since the sales tax revenues are deposited with and redistributed through the Wisconsin Department of Revenue, no impropriety in fund use would be likely. In short, such a provision guarantees property tax relief and capital improvements for the municipality. While precisely following the Illinois lead from the noted example may not be feasible, a provision allocating a specific percentage of the LOST revenue be used for property tax relief and capital projects could potentially eliminate the perceived need for such legislation as the Taxpayer Protection Amendment, or some other state mandated limitation on revenues or property tax increases. In fact, the Taxpayer Protection Amendment does not ensure property tax relief where this option does. Under the Taxpayer Protection Amendment, State aid for municipalities is narrowly defined as shared revenue and general transportation aids. If those aids are reduced, under the Taxpayer Protection Amendment, municipalities are allowed to raise an equivalent amount of revenue through property taxes (Witynski, 2006). When the trends with state aids over the past several years are considered, the Taxpayer Protection Amendment would almost guarantee an increase in property taxes.

## **6. Enactment**

If a municipality, on its own, could elect to establish a local sales tax, it could enjoy increased revenue benefits and greater financial flexibility while providing property tax relief to its citizens. The largest challenge would likely be maintaining equitability. The Kettl Commission Summary, states: "Wisconsin is deeply committed to the idea of equalization, in which the State seeks to ensure

that how rich a community is does not determine the quality of basic services that citizens receive” (Kettl Commission, 2001). If inclusion of smaller or non-commercial municipalities located close to primary shopping areas but not enjoying similar sales opportunities is desired, a regionally based LOST could be implemented where a percentage of sales tax revenues is automatically allocated to those smaller adjacent communities or those commonly referred to as “bedroom” communities. Such a provision, once a local option sales tax is approved by the legislature, could be enacted through a local intergovernmental agreement with the participating government entities or required by the state to protect and achieve equity for smaller or rural communities with limited retail sales bases.

As an alternative, if the method previously mentioned and used by our neighboring states is unpalatable, another option currently being proposed in Oklahoma may be a solution. According to the Oklahoma Department of Revenue, Oklahoma has proposed the abolishment of existing municipal sales taxes in favor of creating a Statewide Local Sales Tax of 2.5% added to the state sales tax (Oklahoma DOR, 2006). A statutory provision would still allow for incorporated towns and cities to assess a Special Option Local Sales Tax, with referendum approval, to be distributed solely to the municipality in which they are collected. Were Wisconsin to adopt a similar option, revocation of the current .5% county sales tax authority in favor of a statewide local sales tax of 2.5% as proposed in Oklahoma, even without the Special Option Local Sales Tax, no harm would be done to Wisconsin counties if .5% of the total collected were allocated to each county on a per capita basis. Similarly, 1% could be distributed to the municipal governments and 1% to the local school districts on a per capita basis. Again, half of this amount could be restricted to property tax reduction and the other half to approved major projects. This option ensures that smaller communities with little or no sales tax base are still funded. Inclusion of a provision similar to the Oklahoma Special Option Local Sales Tax would ensure those municipalities with the greatest population and greatest expenses that have an appropriate funding option. Such an option would alleviate the issue of revenue for communities with minimal retail trade but fails to establish the local control so desperately needed. Again, as stated in the Kettl Commission report, such equalization invariably brings a state voice into local affairs; promoting local autonomy invariably reduces equalization.

The percentage of local sales tax could be determined, up to a state established maximum, by the citizens of the municipality or region based on their tolerance for property taxes; the state can set a statewide limit to allow for a LOST; or the Oklahoma model could be adopted. The legislature, the municipal governments, and, ultimately, the citizens will have to determine if one of these or some other LOST system fits their needs.

## **7. Summary**

With revenues decreasing and the demand for services increasing, a restructuring of how Wisconsin funds local governments should be considered. The first, and probably key, component of that restructuring effort could be a local option municipal sales tax. The sales tax, if implemented as described here, can be used to accomplish what current proposed legislation cannot: lower property taxes while improving local infrastructure. Such a measure which improves the financial lot of municipalities while reducing the property tax burden may be essential; otherwise, the level of government most responsive to citizens will have difficulty remaining responsive.

## **8. Acknowledgements**

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