

**JIMMA UNIVERSITY**  
**COLLEGE OF LAW AND GOVERNANCE**  
**School of Law**  
**Graduate Program on LL.M in Commercial and Investment Law**



**EXAMINING REAL PROPERTY TAXATION SYSTEM IN OROMIA REGIONAL STATE**  
**URBAN CENTERS: THE LAW AND PRACTICE**

**A THESIS SUBMITTED TO JIMMA UNIVERSITY COLLEGE OF LAW AND GOVERNANCE IN PARTIAL FULFILMENT FOR THE REQUIREMENTS OF LL.M DEGREE IN COMMERCIAL AND INVESTMENT LAW**

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DECLARATION

I declare that “Examining real property taxation in Oromia Regional state urban centers; The Law and Practice” is my own original work which has not been presented for any degree in any University and the sources used has been duly acknowledged and cited.

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The thesis has been submitted for examination with my approval as an advisor.

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## **DEDICATION**

I dedicate this work to the everlasting memory of my beloved uncle and friend, Mallasaa Beenyaa Lataa, whose ambition was to see my dream realized but who sadly passed away before it could come true.

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## **Abstract**

*Every government in the world is required to increase the public coffers through the imposition of mandatory fees on individuals and corporations in the form of taxes. Real estate taxes are one of the methods used by the local government to raise money. An efficient system of real property taxation is crucial for a sustainable economy to establish a foundation for the decentralization of public governance and to collect property value for local governments. Real property taxes, the tax on land and building, have evolved along with the effective land tenure systems that come with privately owned land. In Ethiopia the FDRE Constitution and regional constitutions do not recognize the notion of real property tax or property tax in general. On the other hand, there is the system of collection of tax on building/house in Oromia regional cities in the form of roof and wall.*

*So, the very purpose of this thesis was to examine the real property tax in Oromia regional state urban centers. The thesis was conducted with mixed type of research and both primary and secondary data sources were extensively used. To this end, the cities in the region has been selected based on their standards and also the convenience sampling has been applied. Real property taxes, in particular the tax on buildings, have been serving as a sources of income for cities in the Oromia regional state. The real property tax, however, is governed by the rules that govern the general revenue of the city and is not specifically outlined in any comprehensive statute.*

*The current state of affairs demonstrates that the region's real property tax administration system is insufficient for both the purposes of taxation and the fundamental principles of taxation. Therefore, the current regulations governing the tax on buildings, which appear to be a fee, should be reorganized, and the taxes on real property and general property should be included under distinct laws based on the fundamental tenets of taxation and the nation's taxation policy.*

**Key Words:** - Taxation, Real property tax, Municipality revenue, Urban centers

## **Abbreviations and Acronyms**

FDRE Const.	Federal Democratic Republic of Ethiopian Constitution
LPT	Local Property Tax
RPT	Real Property Tax
OECD	Organization for Economic Co-operation and Development
TPP Taxes	Tangible Personal Property Tax

## 1.1. Background

In order to raise a public revenue which is used to meet its budgetary demand government impose charges on citizens and businesses in the form of tax. Taxes are a portion of private wealth, exacted from individuals by the state for the purpose of meeting the expenditure essential to carrying out the functions of government.<sup>1</sup> Taxation is the earliest and most prevalent means of government interference with the economic life of an individual and enterprises. An organized political society will always have some sort of taxation, and whatever its name, it will eventually become the main source of funding for public purposes, serving as a direct correlation to the community services provided by the government. The first and most common way that governments intervene with people's and businesses' economic lives is through taxes.<sup>2</sup> Taxation in general, is an important conduit to generate revenue and also a tool to redistribute wealth. It can act as a tool to manage land use, urban density and expansion, speculations, economic cycles and transactions. Nowadays, property taxation is more important than ever, especially because a great number of countries are not able to finance their selves.<sup>3</sup> At the present time payment of taxes is obligatory in all civilized nations; where the rate or imposition is at all dependent upon the taxpayer, the tax takes the form of a fee or payment for contractual services. Assuming a certain level of revenue that needs to be raised, which depends on the broader economic and fiscal policies of the country concerned, there are a number of broad tax policy considerations that have traditionally guided the development of taxation systems. These include neutrality, efficiency, certainty and simplicity, effectiveness and fairness, as well as flexibility<sup>4</sup>.

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\*The term Property tax represents all taxes on the use, ownership, or transfer of property and as it has been defined for statistical purposes by the IMF, includes recurrent property taxes, capital transfer taxes (such as stamp duties and property transfer taxes), estate and inheritance taxes, gift taxes and net wealth taxes and real property tax. Real property tax refers to any tax on transfer, ownership and occupation of immovable property. Immovable property is land, as well as buildings and all permanent fixtures affixed to land, and is synonymous with the term real property used in some countries.

<sup>1</sup> Neumark, Fritz, Taxation, < <https://www.britannica.com/topic/taxation> >, accessed 9 September 2022.

<sup>2</sup> Tilahun Dires (2021) Int. J. Grad. Res. Rev. Vol 7(1): 1-10,

<sup>3</sup> Thomas Dimopoulos, Theory and Philosophy of Property taxation (Napoli's University 2015)

<sup>4</sup>OECD(2014), 'Addressing the tax challenges of the digital economy' <[https://www.oecd.org/docserver/9789264218789-5\\_en.pdf?expires=1662710311&id=id&accname=guest&checksum=50BF96467A48BC89CCAEEAACD8BF141E0](https://www.oecd.org/docserver/9789264218789-5_en.pdf?expires=1662710311&id=id&accname=guest&checksum=50BF96467A48BC89CCAEEAACD8BF141E0) > accessed 9 September, 2022

Depending on the legal framework of the nation, several taxes exist, including income tax, payroll tax, consumption tax, capital gains tax, progressive tax, regressive tax, proportional tax, and inheritance/estate tax. Among the forms of taxation property taxation raise revenue for provision of services by the local authority. Property taxes are the prime example of local taxation and are central to revenue creation by local governments.<sup>5</sup> Property tax is the backbone of municipal finance in most developed countries, and has been for some time. More recently, it has played an increasingly important role in financing local government services in a number of developing and transitional countries.<sup>6</sup> Recently, it is known around the world to be the most reliable and physically available sources of revenue to both national and local governments. Property tax provides for funding public service, social development, value capture while facilitating quick and easy monitoring of land markets. Besides, property taxation is believed to provide an element of autonomy and to some extent financial independence from central government<sup>7</sup>.

Property tax comprises the taxes to be paid on homes, land, equipment, machineries and commercial real estate.<sup>8</sup> Real property taxes are levied on land and buildings in some jurisdictions, whereas tangible personal property taxes (TPP taxes) are levied on the equipment and vehicles that both persons and businesses hold. Immovable property taxes, municipal, communal, and sewerage rates are all part of the property tax on real estate.<sup>9</sup> In principles real property tax is direct tax type. However, taxes on real property may entail indirect levies in the form of transfer fees, capital gains tax and VAT charged on new developments. In property taxation system a property's assessment is based on its market value.<sup>10</sup> Market value is how much a property would sell for under normal conditions. Assessments are determined by the assessor, a local official who independently estimates the value of real property for a city, town, or village. Compared to tangible property tax real property tax are relatively stable, neutral, and transparent.

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<sup>5</sup> Donald R. Haurin, 'The Effect of Property Taxes on Urban Areas', [1980] *Journal Of Urban Economics* 7, 384-396

<sup>6</sup> Harry Kitchen, *A primer On Property Tax; Administration and Policy*, Blackwell Publishing' (2013) p.1

<sup>7</sup> Xing Quen Zxang & Washington Olima, *Properry Tax Regimes in East Africa*, (2013) 1

<sup>8</sup> Richard M. Bird and Enid Slack, *Land and Property Taxation: A Review*, P.1

<sup>9</sup> Thomas Dimopoulos (n 2)

<sup>10</sup> New York state department of finance and taxation < [www.tax.ny.gov](http://www.tax.ny.gov)> accessed 1April, 2022

The administration of the real property tax is a sophisticated operation, with its life hanging on the appraisal of property values.<sup>11</sup> Property values may fluctuate with multiple factors which include three main dimensions. On the external macro side, the boom-and-bust cycle of the economy exerts exogenous influences on property; on the locational side, amenities and (in)convenience can increase or reduce property values; and finally, on the jurisdiction side, local tax burden and service quality capitalize into property value. The confluence of these factors makes the property tax a local tax because higher levels of government do not fit well for its administration

In Ethiopia the status of both urban and rural lands is under public ownership.<sup>12</sup> Thus, it is only the use right on the land that one acquires from public authorities. An urban land shall be permitted to be held by lease on auction or through negotiation or according to the decision of Region or City Government. Here, a land in urban center cannot be acquired other than in lease system.<sup>13</sup> A lease hold title deed shall be conferred on a person to whom urban land is so permitted.

Moreover, in Oromia regional state the urban land lease system is regulated by regulation No. 182/2008 which is issued based on federal urban land lease holding proclamation No.721/2008. In this regulation it is provided that urban land can be transferred only through lease system. Here, the payment on urban land is collected by considering the land lease holding system.

Concerning the building in urban center the existing practice of assessing real property tax in urban municipals shows the historically continued levying of tax on ‘roof and wall’ that tried to distinguish between property tax on land from building. That trend is more suitable in the context of private land tenure system that existed before the coming into power of the Derg regime. Post-derg legal and political system surrounding land tenure requires different path that take into account the overall political structure of the country. Here, determining the amount of tax by taking into consideration the size of plot of land on which the house is erected and the purpose for which the specific house built seems to lack clarity and justification. In the absence of private land ownership system it is difficult to assess the amount and manner of calculation of property tax.

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<sup>11</sup> Babawale, G. K. Designing Appropriate Valuation Model For Sustainable Property Tax System In Developing Countries. *International Journal of Law and Management* ,(2013) 55, 226–246.

<sup>12</sup> The Constitution of the Federal Democratic Republic of Ethiopia of 1995, arts. 40 (3), Proclamation No.1, Federal Negarit Gazeta, Year 1, No. 1.

<sup>13</sup> Urban Lands Lease Holding Proclamation, No. 721/2011, art, 5, Federal Negarit Gazeta 18<sup>th</sup>Year No. 4

Land being the property of state and the people of Ethiopia there is a dilemma of taking into account the value of land in determining the proper base of real property taxation.

In Oromia regional state urban centers, there is a system of collection of tax on buildings and dwellings, which seems to be the tax on real property. This system of collection of money from the owners of the buildings and houses lacks clarity as there are no specific regulations which govern the issue. Rather, it has been incorporated into Oromia city's revenue model regulation, which has been implemented throughout the region. This requires investigation of the existing legal frameworks and practice in line with the taxation policy of the country, which is to be applied in the study area.

## **1.2. Statement of problem**

Ethiopia has been using income taxes as one of the principal sources of domestic government revenue since the beginning of modern taxation in the 1940s.<sup>14</sup> Thereafter, different types of income taxes has been levied and collected based on the taxation policy of the country under different governments. Later, during the imperial rule, the idea of property taxation which includes taxes on land, homes, equipment, and machinery was also included. Currently, the Federal Democratic Republic of Ethiopia's 1995 Constitution mandates that the federal and state governments split the proceeds of the federal tax system.<sup>15</sup> Consistently, the exclusive power of taxation of each tier of these governments and concurrent power of taxation has been provided in the same document. Herein, what does not appear to be explicitly stated is the issue of property taxation. Property tax is not specifically mentioned in the constitution, which recognizes the federal and state governments' exclusive and concurrent taxing authority.

Moreover, article 96/6 and 97/6 of the FDRE constitution has respectively authorized the federal and states governments to levy and collect taxes on income derived from private houses and other properties within their respective jurisdictions. On the other hand, the same constitution under Article 40 (3) states that the right to ownership of rural and urban land, as well as of all natural resources, is exclusively vested in the state and in the peoples of Ethiopia. Land is a common

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<sup>14</sup> Tadesse Lencho, 'the Ethiopian Income Tax System' Policy, Design and Practice' (Tuscaloosa, Alabama. 2018) p.II< <http://purl.lib.ua.edu/105048> > accessed 21 October 2022

<sup>15</sup> FDRE Constitution Proclamation No.1/1995 Article 95

property of the Nations, Nationalities and Peoples of Ethiopia and shall not be subject to sale or to other means of exchange. Here, owing to the exclusion of land from private property regime, the tax to be imposed on land and building as property tax requires clarification. Due to legal, political, economic and social changes that demand revision in the property tax framework urban land rent and urban houses tax proclamation No. 80/1976 which has served for long time is not appropriate for real time taxation.

Currently, in Oromia regional state, most rights to utilize land within an administrative boundary of an urban center are obtained by leasing.<sup>16</sup> Accordingly, except for individuals who owned before Ethiopia's urban land leasing system was implemented, no one may acquire urban land through any other means than the lease holding system. In a land lease holding system, the lease holder would pay the price for the lease of the land as per the lease agreement. This implies that the tax on the land appears not to be recognized in the country.

Nonetheless, there is a system of levying tax on "roof and wall" (ጣርያና ግድግዳ) in Oromia regional state cities that attempts to differentiate between property tax on land and building. That trend is more suitable in the context of private land tenure system that existed before the coming into power of the Derg regime. Post-derg legal and political system surrounding land tenure requires different path that take into account the overall political structure of the country. But the existing practice of determining the amount of tax by taking into consideration the size of plot of land on which the house is erected and the purpose for which the specific house built seems to lack clarity and justification. This way the point worth studying in relation to real property tax system in Oromia touches the issue of land tenure system in place. In the absence of private land ownership system it is difficult to assess the amount and manner of calculation of property tax. Land being the property of state and the people of Ethiopia there is a dilemma of taking into account the value of land in determining the proper base of real property taxation. This requires investigation of the degree of accommodation of land tenure reform with real property tax system in the study area.

Hence there is ambiguity surrounding determination of tax base for property tax on buildings in Ethiopia in general in Oromia regional state in particular. The lack of clarity as to proper and

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<sup>16</sup> Proclamation No. 721/2011 Urban Lands Lease Holding Proclamation (which has nationwide application) and Oromia urban land lease regulation No.182/2008

uniform approach of valuation of property exists in relation to real property tax system. There is no clear standard and rules depicting the factors to be taken into account in assessing amount of tax on real property. Different factors such as plot area, capital value and rental value of the building may be taken into account. But this alternative or cumulative factors may result in the problem of double taxation or escaping goat for certain property.

In this case the system of determining and collecting tax on building is not clear for it commingle taxation on both the land and the building.

Furthermore, property tax has become the primary source of finance in urban areas, and Ethiopia has experienced rapid urbanization in recent years, necessitating a larger urban revenue stream to fund urban services. Thus, reforming the property tax laws and regulations, especially the real property tax in urban centers, is essential for promoting economic development in the country.

Hence, the purpose of this thesis will be to examine the legal regime governing real property tax in the region urban centers and to evaluate the degree of compliance of the practice with the constitution and fundamental principles of taxation.

### **1.3. Research Objectives**

#### **1.3.1.General Objective**

The general objectives of this research is to examine real property tax (tax on immovable property) in Oromia regional state with focus on the existing law and practice in urban centers.

#### **1.3.2.Specific Objectives**

Specifically the research objectives will be:-

- ✓ To provide a critical analysis of Ethiopia's tax legislation with an emphasis on real property tax and property tax in general.
- ✓ To evaluate the legislative framework regulating the taxation of real estate in Oromia regional state urban centers within the overall national tax legal system of Ethiopia and fundamental principles of taxation.



- ✓ To assess the thoroughness and clarity of the Oromia regional state's regulations and practices regarding the system of collection of tax in the form of roof and wall.
- ✓ To provide the possible legal and institutional recommendations that enable the effective implementation of the property tax in general and the real property tax in the study area.

## **1.4. Research Questions**

The research addresses the following questions:

- ✓ Does Ethiopia's legal system adequately provide a legal framework to sufficiently regulate property taxes in general and real property taxes in particular?
- ✓ Is there a system of real property taxation in Oromia regional state administration which is believed to be in line with the fundamental principles of taxation and taxation policy of Ethiopia?
- ✓ What are the legal and practical challenges of having and applying real property tax in Oromia regional state urban centers?
- ✓ How are the cities in the Oromia regional state implementing the real property tax in line with its role to raise revenue for local government?
- ✓ What kind of legislation must be enacted in the urban centers of Oromia regional state in order to establish an effective real tax regime?

## **1.5. Research Methodology and Methods**

### **1.5.1. Research Type and Design**

The research focuses on examining the real property tax in Oromia regional state administration by analyzing the real property tax laws and the practice in the state. Here, the researcher has conducted mixed (doctrinal and empirical) research type. The doctrinal research was employed in order to make legal analysis on the subject matter that helps to identify the stand of Ethiopian taxation law regarding property taxation in general and real property taxation in the study area. Besides, the legal analysis would help to clarify the existing laws which regulate the real property taxation system in Oromia regional state. More, some analysis has been made based on the interview from the key informants from Oromia regional state cities municipals experts, cities land

administrations officers and cities revenue authority experts and their respective legal experts wherefrom the existing reality can be identified that amounts to be non-doctrinal type.

Regarding to the research design it is both descriptive and explanatory as long as its ultimate purpose is to examine the real property taxation by analyzing the existing laws and practice. Additionally, the experience of some notable jurisdictions has been discussed, which is believed to help draw a lesson for the effective implementation of real property tax in the study area.

### **1.5.2. Sources of Data**

Primary and secondary sources were used in order to make a valuable analysis. The primary sources comprises legislative instruments (both domestic and other states legislations) and data from interviews. Secondary sources includes books, articles, journals, foreign legislative texts, reports, unpublished materials and legal dictionaries.

### **1.5.3. Tools of Data Collections**

The researcher has collected the data by using interview which help to gather the information in depth. Semi structured interview has been employed because of its potential importance in addressing all the necessary questions than that of specific questions. So, the data has collected by using semi structured interview. Besides, document review, legal review and literature review has also been employed to collect the data.

### **1.5.4. Sampling Technique and Sample Size**

Informants of interview were selected from selected cities located in Oromia regional state based on their group and by using the convenience sampling method. The researcher has employed the purposive sampling in order to address cities found under each group. As per Oromia cities establishment proclamation No 195/2008 and proclamation No.196/2008 all cities located in Oromia regional state administration has been grouped into the principal city administration, higher city administration, Intermediate city administration, Growing city administration, Municipality city administration and growing municipal city administration.<sup>17</sup> For this research

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<sup>17</sup> Oromia regional state cities administration proclamation No. 195/2008 article 5 and its revised proclamation No.196/2008 article 2/1.

purpose two cities from principal city administration, two cities from higher city administration and two from intermediate city administration has been selected.

Moreover, the researcher selected the cities from these group by using convenience sampling method from the point of the location of cities wherefrom the researcher can easily get the available data and with due consideration of vast area the region has covered. Accordingly, Adama city and Jimma city from principal city administration, Nekemt and Ambo city administration and mett and Shambu Cities from intermediate city administration were selected.

Here, the interview has made with key informants from urban municipal authorities, urban land use and management office, urban revenue authority bureau and urban development and housing offices located in the selected cities. All offices are found in each selected cities. Moreover, as long as the overall issue of the subject matter is regulated by Oromia urban development and housing bureau an interview and document reviews has been made with key informants from this office.

As far as sample size is concerned, three (3) key informants from Oromia urban development and housing bureau, two (2) key informants from each city revenue authority offices, two (2) experts from urban land management office of the selected towns and two (2) from municipal administration offices. Thus, the sample size is thirty nine (39) persons. All of these informants were purposefully chosen based on their role in the office, which is relevant to the subject matter under investigation.

### **1.5.5. Methods of Data Interpretation and Analysis**

The data was analyzed and interpreted by using qualitative method owing to its potential advantage to arrive at the conclusion. The researcher has used this methodology as a result because it makes it easier to thoroughly examine and reveal the Oromia regional state real property tax laws and regulations with it's the existing practices. Moreover, the researcher employed a qualitative study approach to analyze and characterize the existing taxation laws and regulations, both under the federal and Oromia regional states, in line with the existing reality of the need to have property tax in the study area.

### **1.5.6. Ethical Consideration**

In undertaking the interview, the researcher has taken into account all ethical consideration, and all the key informants have given their full consent before interview. The respondents for the interview were approached only after being informed for their free, full, and informed consent. Also, the respondents were informed that any confidential information taken from them would not be used unless they have consented to, and solely for the purpose of the study. Again, proper acknowledgments of interviewees' contribution to the study were made. Furthermore, proper citation and referencing was made for any information obtained from any sources

### **1.6. Scope of the study**

Thematically, the study was limited to examining the legal regime that regulates the real property tax system and its practice in urban centers in Oromia regional state. This is due to the fact that rural land is not subject to lease system is not subject to the same taxation with the immovable in urban center. In this sense the tax base is restricted to immovable things situated in urban centers only. Accordingly taxation on urban land and building houses will be focused upon.

As real property taxation is confined to immovable properties alone other movable and special movable as well as intangible property and rural land tax system will not fall within the ambit of this thesis.

Geographically, the study was restricted to Oromia regional state only. This is due to the fact that the researcher is familiar with the law and practice of Oromia regional state where the existing problem have explored.

Due to time and budget constraints, the whole national survey is difficult to handle, and thus, the researcher was confined to examining the legal and practical aspects of the real property tax system in Oromia Regional State.

### **1.7. Significance Of The Study**

The study is expected to have both an academic and legal significance. It is hoped that it would initiate further study on the subject matter, as it is unexplored area of law in Ethiopia as a whole. Moreover, it would give lessons for the federal and regional legislators to rethink over the property

taxation in general and real property taxation in particular. So, it helps as reference to the government authorities in adopting further laws and policies. The paper may also help the concerned governmental bodies, particularly those city administration regulators in the Oromia regional state, in comprehending the legality of the current taxation system on houses, which has been collected in the form of roof and wall taxes and behaves within legal bounds. Here,

### **1.8. Limitation of the Study**

Financial limitations were a problem for the researcher while the collection of the data. However, the researcher used the funds at his disposal wisely.

### **1.9. Organizations of the Study**

The thesis was organized in the way to address questions raised in the research. In addition to Chapter one (introduction), the thesis contains other four chapters organized as follows;

Chapter two describes the conceptual frameworks about taxation particularly property tax for its economic growth. Here, the importance of property taxation types of property taxes and the principles of taxation has discussed. In addition, the experience of some notable jurisdictions has been briefly stated.

Property tax particularly the real property tax under Ethiopian legal system has been discussed under chapter three of the research.

Under chapter four, the researcher analyzes the real property tax in Oromia regional state administration in line with the existing practices. The chapter sheds light on the current legal and practical challenges in the region.

Summary of the main findings, Conclusion and recommendations form the fifth Chapter of the research.

## **CHAPTER TWO**

### **CONCEPTUAL AND THEORETICAL FRAMEWORK OF TAXATION AND PROPERTY TAXATION; REVIEW OF LITERATURE**

#### **2.1. Introduction**

Taxation plays a critical role in state-building. Most importantly, it helps to forge a social contract between citizens and the state through bargaining processes between those subject to taxation and the government collecting the revenue. Since its birth taxation has different forms and classifications based on the policy framework of states. Among its classification direct and indirect taxes, progressive taxes, regressive taxes and proportional taxes are commonly applied in many jurisdictions. Property taxation, like other types direct taxes, has been served as a main source of revenue. It has paramount importance in financing local government that would help for the economic development especially in urbanization

Real property taxes and tangible property taxes are the two types of property taxes. It is primarily levied on immovable property like land and buildings, as well as on tangible personal property that is movable, like vehicles and equipment. Property taxes are the single largest source of state and local revenue in many countries. Property tax on real property includes; taxes on immovable property, municipal, communal and sewerage rates. Taxes on real property may entail indirect levies in the form of transfer fees, capital gains tax and VAT charged on new developments.

The bulk of literature reviewed in this chapter discusses the general concept of taxation and property taxes, its theoretical and policy justifications, the properties which are subject to property taxation and the mode of assessment and tax base for property taxes. In the subsequent sections of this chapter, the researcher offers some general remarks on taxation in general and as the main focus of the research is regarding property taxation (real property) it discusses the nature of property taxation and its types from review of the related literature against which the answer for research questions will be made and evaluated in the other chapters.

## **2.2. The Concept of Taxation**

Taxation is the imposition of compulsory levies on individuals or entities by governments. . Normally, taxes are the legal requirements that all taxpayers must pay within specified period of time for the purposes maintaining peace and security; public goods and services; ensuring economic stability; narrow the gap between rich and poor. Taxes are levied in almost every country of the world, primarily to raise revenue for government expenditures, although they serve other purposes as well. In modern economies taxes are the most important source of governmental revenue<sup>18</sup>. In today's society, taxes form the biggest part of any government's resources. Taxes are forced levies that are unrequited, meaning that they are typically not paid in exchange for a specific good or service, the sale of public property, or the issuing of public debt. This distinguishes taxes from other kinds of income. Generally, tax constitutes a significant part of public revenue in modern public finance system.

### **2.2.1. Classification of Taxation**

Taxes has existed in various forms since the earliest civilization began. In the ancient time, the source of wealth was land and its proceeds<sup>19</sup>. A commonly applied classification of taxes is into direct and indirect taxes. The classification of taxes into direct and indirect owes to the relationship between the nature of the taxes and the reason for payment of the taxes. Direct taxes are the personal liability of tax payer i.e that are paid straight or directly to the government. These are collected directly from the tax payers and they have to be paid by the persons on whom it is imposed. Direct taxes includes income tax, payroll tax land tax, and personal property tax<sup>20</sup>. Direct taxes are computed based on the ability of the tax payer to pay. Direct taxes has many advantages as it promotes equality among tax payers, certainty and elasticity, On the other hand, an indirect tax is a tax whereby the taxpayer's burden to pay the tax can easily be passed on to another person. They are usually imposed on a manufacturer or supplier who then pass on the tax to the consumer. Indirect taxes includes sales tax, excise tax and customs tax. Indirect tax discourage consumption

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<sup>18</sup> Available on < <https://www.britannica.com/topic/taxation> > accessed 15 July 2022

<sup>19</sup> Tilahun .Dires 'The Historical Development of Real Property Tax Laws in Ethiopia: A critical Review of the Laws' (2021) Int. J. Grad.Res,Re. Vol7(1):1-10

<sup>20</sup> CFI, Direct Taxes < <https://corporatefinanceinstitute.com/resources/knowledge/other/direct-taxes/> >accessed 22 July 2022

of harmful products and also unlike direct taxes the collection of indirect tax is easy as its payment is to be made at the moment a consumer buys a product from a supplier and then paid directly to the government.

Besides, taxes are classified based on their impact on different income groups. These are progressive taxes, regressive taxes and proportional taxes systems. Some taxes will redistribute from better-off groups to less well-off and these are called progressive taxes. Here, the average tax burden increases with income. However, others will have the opposite effect and these are called regressive taxes. Regressive taxes have a greater impact on lower-income individuals than on the wealthy. Proportional or flat tax system assesses the same rate on anyone regardless of income or wealth<sup>21</sup>. Taxation has micro-economic effects. It can affect the size and mode of consumption, pattern of production and distribution of income and wealth<sup>22</sup>. From this general overview of taxation, we can say that income, consumption and property are the base to levy tax.

### **2.2.2. Fundamental Principles of Taxation**

Numerous tax administrations in both advanced and developing countries have adopted basic principles of tax for intent of increases efficient and effectiveness in tax administrations<sup>23</sup>. Principles of taxation are those formal guidelines which are widely accepted and should be considered whenever specific laws are proposed, discussed and implemented. These principles of taxation has been applied since the time Adam smith's book of 1776 about the wealth of nations.

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<sup>21</sup> Understanding Taxes in USA; comparing Regressive, Progressive and Proportional Taxes [https://apps.irs.gov/app/understandingTaxes/whys/thm03/les05/media/ws\\_ans\\_thm03\\_les05.pdf](https://apps.irs.gov/app/understandingTaxes/whys/thm03/les05/media/ws_ans_thm03_les05.pdf) accessed 22 July 2022

<sup>22</sup> William G.Gale and Andrew A. Samwick, 'Effects of income tax changes of Economic growth' (Economic Studies at Brooking 2014) < [https://www.brookings.edu/wp-content/uploads/2016/06/09\\_effects\\_income\\_tax\\_changes\\_economic\\_growth\\_gale\\_samwick.pdf](https://www.brookings.edu/wp-content/uploads/2016/06/09_effects_income_tax_changes_economic_growth_gale_samwick.pdf) > accessed 21 October 2022

<sup>23</sup>Keno Telila, 'Investigating Principles and Objectives of Oromia Regional State Income Tax Systems: Evidence from Western Oromia' [2019] (Volume 6 Issue 1) (IJ RAR) <[https://www.researchgate.net/publication/350589024\\_INVESTIGATING\\_PRINCIPLES\\_AND\\_OBJECTIVES\\_OF\\_OROMIA\\_REGIONAL\\_STATE\\_INCOME\\_TAXES\\_SYSTEMS\\_EVIDENCE\\_FROM\\_WESTERN\\_OROMIA\\_1\\_KENO\\_TELILA\\_MIJENA](https://www.researchgate.net/publication/350589024_INVESTIGATING_PRINCIPLES_AND_OBJECTIVES_OF_OROMIA_REGIONAL_STATE_INCOME_TAXES_SYSTEMS_EVIDENCE_FROM_WESTERN_OROMIA_1_KENO_TELILA_MIJENA)> accessed 31 August 2022



### **2.2.2.1. Ability to pay principle**

The ability-to-pay principle asserts that each individual tax payer must pay in accordance with his or her financial capacity. This indicate that the amount of tax to be paid must rise with the increase of profit and vice versa. This principle intended to boost the perceptions of the taxpayers that he/she has involves equal forgo in paying tax. Accordingly, the notions of the ability to pay relay on the significant idea of fairness in taxations and indicated progressive kind of tax. Here, the business profits with high capacity to disburse must pay disburse high profit and vice versa. Ability to pay principle has the potential to pool more resources for government services and increase government revenue scales with earnings<sup>24</sup>.

Moreover, in the words, Adam Smith (1976):

"The subject of every state must to contribute towards the support of the government as early as possible in proportion to their respective abilities that is in proportion to the revenue which they respectively enjoy under the protection of the State"<sup>25</sup>.

This statement indicate that any person whether natural or juridical must pay tax from revenue based on what to earn from.

### **2.2.2.1. Efficiency Principle**

A tax is efficient if it distorts market processes as little as possible since economic agents attempt to limit, avoid and evade liability as much as possible<sup>26</sup>. Efficiency is mainly concerned with the allocation of resource. A good tax system should be efficient in that it should be able to waste as little money and resources as possible. Efficiency can be measured against three standpoints: administrative costs, compliance costs and excess costs. These three relate to the cost of operation of the tax system, to its flexibility and certainty. Administrative costs are the costs to the government (and ultimately to the taxpayer) of collecting tax revenue. In order to collect taxes, the

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<sup>24</sup> How Ability to pay principle work? < <https://corporatefinanceinstitute.com/resources/knowledge/other/ability-to-pay-taxation/> > accessed 31 August 2022

<sup>25</sup> Keno Telila, (n27) 4

<sup>26</sup> Musonda Kabinga, Principles of Taxation, 2016

< [https://www.taxjustice-and-poverty.org/fileadmin/Dateien/Taxjustice\\_and\\_Poverty/Introduction/05\\_Principles.pdf](https://www.taxjustice-and-poverty.org/fileadmin/Dateien/Taxjustice_and_Poverty/Introduction/05_Principles.pdf) > accessed 22 July 2022.

government must hire collectors to collect the revenue; data entry clerks to process the tax returns; auditors to inspect questionable returns; lawyers to deal with disputes; and accountants to track the flow of money. All these costs are those that are incurred by the government to administer the tax system. Compliance costs, on the other hand, are the costs (other than the taxes themselves) of making tax payments to the government. In order to comply with their obligation to pay taxes, citizens are bound to incur certain costs. These compliance costs include not only the money that people spend on accountants, tax preparers and/or tax lawyers, but also the time spent in filing tax returns and keeping records. The third aspect of efficiency, excess burden, relates to tax-induced change in behavior displayed by tax payers. When the government levies taxes on goods, it distorts consumer behavior as people are bound to buy less of taxed goods and more of other goods<sup>27</sup>.

#### **2.2.2.2. Principle of Tax Equity**

Taxation is key in promoting equity in society. Equity in taxation is mainly concerned with the distribution of income. It expresses the idea that taxes be fair as one of the principles that guide tax policy<sup>28</sup>. Equity has two main elements; horizontal equity and vertical equity<sup>29</sup>. Horizontal equity suggests that taxpayers in similar circumstances should bear a similar tax burden. Vertical equity is a normative concept, whose definition can differ from one user to another. In normal circumstances it suggests that taxpayers in better circumstances should bear a larger part of the tax burden as a proportion of their income. Thus, it addresses the questions of how people at different income levels should be taxed taking into account their relative abilities to pay. In property tax for instance, equity is related with regard to the effect of a property tax on the distribution of ownership rights.

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<sup>27</sup> Yohannis Mesfin and Siyum Bogale, Tax Law; General Theories and Principles of Taxation [https://www.abysinnialaw.com/study-on-line/item/1066-general-theories-and-principles-of-taxation#:~:text=The%20two%20central%20principles%20of,%E2%80%9Cequity%20\(fairness\)%E2%80%9D](https://www.abysinnialaw.com/study-on-line/item/1066-general-theories-and-principles-of-taxation#:~:text=The%20two%20central%20principles%20of,%E2%80%9Cequity%20(fairness)%E2%80%9D) accessed 20 July 2022

<sup>28</sup> Musonda (n26) p6

<sup>29</sup> Fundamental Principles of Taxation < <https://www.oecd-ilibrary.org/docserver/9789264218789-5-en.pdf?expires=1658340950&id=id&accname=guest&checksum=345AAF4644C4E53D9D44E101142E3303>> accessed 20 July 2022

### **2.2.2.3. Principle of Neutrality**

Taxation should seek to be neutral and equitable between forms of business activities. A neutral tax will contribute to efficiency by ensuring that optimal allocation of the means of production is achieved.<sup>30</sup> A good tax system should raise revenue and promote or support the growth of investments. Neutrality also entails that the tax system raises revenue while minimizing discrimination in favour of, or against, any particular economic choice.

### **2.2.2.4. Certainty and Simplicity**

Adam Smith argues that “the tax which each individual is bound to pay ought to be certain, and not arbitrary”<sup>31</sup>. In the same way, the period of assessment, disbursement, methods of disbursement and accounting systems must be certain, understandable and clear to the taxpayers. Besides, tax rules should be clear and simple to understand, so that taxpayers know where they stand. The principle of simplicity indicates that the tax rule must moderately easy, unadorned and comprehensible to the taxpayers because complex and awkward tax rules cause coercions, frauds, enforce the taxpayers and revenues authority to spent more of their time and efforts on none value added activities and increases tax administration expense. A simple tax system makes it easier for individuals and businesses to understand their obligations and entitlements. In the same path a tax assessment and determination should be easy to understand by an average tax payer. Hence, these principles helps the tax systems to be more effective in terms of its acceptability and to be understandable for the tax payers.

## **2.3. Concept and Theory of Property Taxes within the General Tax System**

The concept of property tax was arguably first introduced by Egypt around 300BC by to build warehouses, the pyramids and pay soldiers.<sup>32</sup> During this time there was no coined money and as a result the taxes were collected in the form of harvest yields, other property or labor. Several centuries later the property tax was introduced in Greece and Rome. The modern taxes based on

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<sup>30</sup> Musonda (n26)p7

<sup>31</sup> Ibid p8

<sup>32</sup> Amanda Farrell, The History Of Property Taxes <https://www.proplogix.com/blog/the-history-of-property-taxes/> accessed 14 October 2022

ownership of property has roots in feudal obligations owned to British and European kings and landlords.<sup>33</sup> In the fourteenth and fifteenth century, British tax assessors used ownership or occupancy of property to estimate a taxpayer's ability to pay. In time the tax came to be regarded as a tax on the property itself (*in rem*).<sup>34</sup> In the United Kingdom the tax developed into a system of "rates" based on the annual (rental) value of property.

Property taxes are levied on the use, transfer, and ownership of wealth and include annual property taxes, gift and inheritance taxes, taxes on real estate, and taxes on financial and capital transactions.<sup>35</sup> Through the time, property taxation is emerging on the international development agenda, amid growing recognition that it is widely under-utilized as a source of revenue mobilization, local state-building and urban redistribution. Theory and world-class practice cite the property tax as the most suitable municipal tax for continuing fiscal decentralization measures.<sup>36</sup> The property tax has strong potential for revenue mobilization, especially in rapidly urbanizing areas. Moreover, contemporary rapid urbanization and the concentration of capital in urban property underscore the need for states to develop effective property taxation and mechanisms to capture rising land and property values<sup>37</sup>. Property taxation are generally levied on all types of properties-residential, commercial and industrial, as well as on farm properties.<sup>38</sup> Some countries tax only land. A few tax only buildings. Most tax both land and buildings (improvements, usually, together but in some countries separately.

Reliance on the property tax as a source of local government revenue does not seem to vary according to whether the country is federal or unitary. Property taxes do vary across jurisdictions, however, according to the expenditure responsibilities assigned to local governments and the other

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<sup>33</sup>Fisher, Glenn, 'History of property taxes in the United States' EH.Net Encyclopedia, edited by Robertn Whaples, <http://eh.net/encyclopedia/history-of-property-taxes-in-the-united-states/> accessed 15 October 2022

<sup>34</sup> Ibid

<sup>35</sup> Tesfaye Kinde, Introducing a property Registration System for Taxation in Ethiopia; The case of Mettu Town, Munic GRIN Verlag (2020)/ <https://www.grin.com/document/976930> accessed 12 June 2022.

<sup>36</sup> Roy Kelly, Making the Property Tax Work, International Center for Public Policy, George State University, 2013 p.4

<sup>37</sup>Tom Goodfellow, Property taxation and economic development: lessons from Rwanda and Ethiopia, SPERI Global Political Economy Brief No. 4, university of Sheffield, Sheffield political economy research institute p.40

<sup>38</sup> Richard M. Bird and Enid Slack, International Handbook of Land and Property Taxation, UK,2004 p.19 [https://books.google.com.et/books?hl=en&lr=&id=vLtx\\_SmcnEkC&oi=fnd&pg=PP11&dq=land+and+property+tax+ation&ots=LLj20mlL2T&sig=oNWxYTNL-RC5Mb\\_8nXRvuB2S\\_Qo&redir\\_esc=y#v=onepage&q&f=false](https://books.google.com.et/books?hl=en&lr=&id=vLtx_SmcnEkC&oi=fnd&pg=PP11&dq=land+and+property+tax+ation&ots=LLj20mlL2T&sig=oNWxYTNL-RC5Mb_8nXRvuB2S_Qo&redir_esc=y#v=onepage&q&f=false) visited on June 27, 2022 at 1:10PM

revenues available to them (such as other taxes, intergovernmental transfers, and user fees)<sup>39</sup>. Dependence on the property tax also depends on the degree of freedom local governments have with respect to property taxation (for example, the authority they have with respect to setting the tax rates), the size and growth of the property tax base, and their willingness and ability to enforce such taxes<sup>40</sup>. A property tax system is characterized by three time-invariant tax rates: a tax rate on the market value of vacant land which applies prior to development, and separate post development tax rates on site value and structure value. Thus, according to this terminology, a site value tax system is a special case of a property tax system<sup>41</sup>.

The property tax is a highly visible tax. Unlike the income tax, for example, the property tax is not withheld at source. Rather, taxpayers generally have to pay it directly in periodic lump-sum payments<sup>42</sup>. As a result, taxpayers tend to be much more aware of the property taxes they pay. On the other hand, the real property tax refers only to recurrent taxes on property (residential and non-residential) and no other property-related taxes such as land transfer taxes (stamp duties), charges on developers, and other non-recurrent taxes on property<sup>43</sup>. As it is impossible to shift the location of the immovable property the collection of tax for the government would be easy.

Drafting a tax on land and buildings poses a number of challenges that may be surprising and frustrating in light of the simplicity of a typical property tax statute. These arise in part because many crucial issues regarding the tax resist uniform solutions.<sup>44</sup>

Concerning the property tax assessment many countries use area based assessment and value based assessment methodologies. An area-based method is simpler to administer than a value-based property tax system, however, it may be unable to generate adequate revenues to fund locally provided goods and services compared to the value-based tax.<sup>45</sup> In this case the tax assessor calculates the tax owed by multiplying the measured area of land and buildings by a per-unit assessment rate, instead

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<sup>39</sup> Richard M. Bird and Edin Slack (n26) p4

<sup>40</sup> Ibid

<sup>41</sup> Richard Arnott, Neutral property taxation, Boston College, 2002 p35

<sup>42</sup> Enid Slack 'The Property Tax in Theory and Practice' IMFG Working Paper 02, University of Toronto, Sept. 2010, p2

<sup>43</sup> Ibid p4

<sup>44</sup> Joan M 'Youngman, Tax on Land and Buildings' (volume 1; International Monetary Fund: 1996; Victor Thuronyi, ed.)

<sup>45</sup> Mark Randall, Area-Based Versus Value-Based Property Tax Systems, < <https://www.cga.ct.gov/2012/rpt/2012-R-0203.htm> > accessed 01 October 2022

of collecting a percentage of the market value of property as tax. On the other hand, value based (advalorem) method of property tax assessment is better on ability-to-pay equity grounds.

For all properties two distinct assessment methodologies are used for property taxation are area Each of the assessment methodologies have Property valuation takes many factors into consideration, including the physical home and the land it sits on. This value is determined by an assessor who works with a local taxing authority and keeps track of the local property values. A home's tax rate is determined by a local taxing authority and can vary based on a home's location and property type.

Generally, the growth of the property tax in many countries was closely related to the economic and political conditions of the concerned state. In pre-commercial agricultural areas the property tax was a feasible source of local government revenue and equal taxation of wealth was consistent with the prevailing equalitarian ideology.

### **2.3.1.Types of Property Taxes**

Dependence on property taxes as a source of local government revenue varies across jurisdictions depending upon many factors, such as the expenditure responsibilities assigned to local governments, the other revenues available to them (such as intergovernmental transfers, user fees, and other taxes), the degree of freedom local governments have with respect to property taxation, the size and growth of the tax base available to them, and their willingness and ability to enforce such taxes<sup>46</sup>.

All types of properties, including those that are residential, commercial, industrial, and agricultural, are typically subject to property taxes, subject to certain restrictions.<sup>47</sup> Here, Property tax is paid on real estate ownership for non-arable land, residential buildings or apartments, commercial buildings, administrative buildings, vacation or recreational buildings or apartments, garages, and other building structures.<sup>48</sup> Generally, tax on property is defined as recurrent and non-recurrent taxes on the use, ownership or transfer of property. These include taxes on immovable

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<sup>46</sup> Richard M. Bird and Enid Slack, (26) p5

<sup>47</sup> Richard M. Bird and Enid Slack, Land and Property Taxation: A Review, 2002 p12

<sup>48</sup> Property tax law; Official Gezette 80/93, 3/94, 71/96 which is available at [https://www.wto.org/english/thewto\\_e/acc\\_e/mkd\\_e/wtaccmkd12a1\\_leg\\_12.pdf](https://www.wto.org/english/thewto_e/acc_e/mkd_e/wtaccmkd12a1_leg_12.pdf) accessed 9 July 2022

property or net wealth, taxes on the change of ownership of property through inheritance or gift and taxes on financial and capital transactions.

There are two categories of property: real and personal.<sup>49</sup> Real property consists of land and buildings. Personal property consists of tangible personal property or all personal property that is not intangible and is not permanently affixed to real property. The assessment procedures and the tax rate will vary between these two categories<sup>50</sup>.

### **2.3.1.1. Real Property Tax**

The base of Real Property Tax is land and structures on land. The tax is levied on all land and structures that are residential, commercial, and industrial except specific exemptions, for example, land and buildings owned and used by government, religious, and nonprofit organizations in the United State.<sup>51</sup> It is a type of taxes are levied on a recurrent basis on the value of taxable property such as land, often including buildings and structures on the land. Real Property is classified as either residential property (owner-occupied, non-owner-occupied or other residential) or non-residential property. Property taxes are imposed on all real estate within a locality's border<sup>52</sup>. The payment and collection of real property tax among other factors is typically based on the value of owned property. Due to the fact that land is an immobile asset, property taxes on the value of land are generally seen as an efficient way to raise tax revenue.

If the tax also applies to buildings or structures on the land, it becomes a direct tax on capital. If a business builds any new buildings or structures, it results in a higher property tax bill. This increases the cost of business investment, discourages the formation of new capital, and can negatively impact business location decisions<sup>53</sup>. The RPT uses an advalorem rate structure the tax levy is a percentage of the market value of the property (both the land and the structure). In this

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<sup>49</sup> North Carolina Department Of Revenue which is available on <https://www.ncdor.gov/taxes-forms/property-tax/types-property-be-taxed> accessed on 9 July 2022

<sup>50</sup> Findlaw's team <https://www.findlaw.com/realestate/owning-a-home/types-of-property-for-tax-purposes.html> accessed on 9 July 2022

<sup>51</sup> Yilin Huhu and Qiang Ren and Ping Zhang, the property in China, History, Plots, and Prospects (Springer Switzerland 2015) 10

<sup>52</sup> The difference between real property and personal property taxes which is available at <https://www.cityofgrayling.org/faqcard.asp?sid=67#:~:text=Real%20property%20taxes%20are%20assessed,that%20is%20used%20in%20business> last visited on 2 August 2022

<sup>53</sup> Elke Asen, Real Property tax in Europe, < <https://taxfoundation.org/real-property-taxes-europe>> accessed 9 September 2022

sense, it is a proportional tax, not progressive or regressive.<sup>54</sup> The modern real property tax in many countries is typically a local tax.

The localization of RPT is a natural requirement of the tax due to several reasons. First and foremost, regular, accurate, and appropriate appraisal or assessment of property values has long been known as the weakest link of the RPT but is key to the efficiency and equity of the tax. Lack of, or lag in, appraisal will compromise the tax on these two grounds. In the government hierarchy, local governments are much better positioned than the higher levels in obtaining real time, full information (registry) regarding the tax base. Thus, the administration of the tax is best placed within the local level rather than other levels in order to overcome the (lack of) information problem. Advances in information technology in the past two decades have made appraisal much less of a time-consuming and mistake-prone process; the local level still remains the best agent to administer this tax.

Second, a local RPT acts as a benefit tax, when used mostly to finance key local public services such as basic education, health, public safety, streets, and recreational facilities. The explicit direct link between tax payment and services places a demanding requirement for transparent and democratic procedures and processes in its administration. Generally in each budget cycle, the tax rates and exemptions are fully and openly deliberated through public participation, then decided upon via referendum. The adopted budget becomes a public document to facilitate effective supervision of expenditures and program implementation, to hold local officials accountable to taxpayers, and to curb corruption and correct malpractices.<sup>55</sup>

### **2.3.1.2. Personal Property Tax**

Basically, personal property is any property that is not real property. Personal property is not permanently attached to land. Apart from real property tax personal property tax refers to the tax on to items that are mobile, rather than real property that's fixed<sup>56</sup>. In most cases, it is movable and

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<sup>54</sup> Yilin Huhu and Qiang Ren and Ping Zhang (n51) 15

<sup>55</sup> Ibid 16

<sup>56</sup> Real estate vs Property taxes, <https://www.hrblock.com/tax-center/income/real-estate/real-estate-taxes-vs-property-taxes/> accessed 12 July 2022



does not last as long as real property. Personal property includes, farm equipment, jewelry, household goods, stocks, and bonds.

Moreover, Personal property is divided into tangible and intangible forms. Tangible personal property is just that: it has a physical form. It can be seen, touched, and moved. Examples of tangible personal property include clothing, books, and computers.<sup>57</sup> On the other hand, the notion of intangible personal property is an abstraction. They do not usually have physical forms (other than certificates or accompanying records). These include assets such as patents, trademarks, stocks, and bonds.

### **2.3.2. Experiences from Some Notable Jurisdictions on Property Tax**

In the contemporary world so many jurisdictions have recognized and restructured their property tax due to rapid urbanization and the concentration of capital in urban property underscore the need for states to develop effective property taxation and mechanisms to capture rising land and property values. Most of the time introducing and implementing property tax is extremely challenging due to multiple factors such as historic property tax and land leasing systems, and how they interact; the concerns of politicians to maintain popular support and prevent resistance to reforms; and the desire to continue to attract investment from investors.<sup>58</sup> Herein, some of the experience of notable jurisdictions is important to discuss as they share one or more common property related laws and policy with Ethiopia.

#### **2.3.2.1. Kenya**

In Kenya, the central government decides on more than 95% of all public revenue and expenditure decisions, leaving local governments to decide on fewer than 5% of public expenditures.<sup>59</sup> Regarding the property tax base the Rating Act allows local authorities to tax either land or land and improvements.

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<sup>57</sup> Real property vs personal property tax <https://www.hrblock.com/tax-center/income/real-estate/real-estate-taxes-vs-property-taxes/#:~:text=While%20real%20estate%20taxes%20cover,trailers%2C%20or%20mobile%20homes>. Accessed on September 2022.

<sup>58</sup> Tom Goodfellow (n37) p8

<sup>59</sup> Richard M. Bird and Enid Slack, (44) 178

All property rates in Kenya are currently assessed only on land, despite the fact that the first application of "rating" in Mombasa in 1921 was based on land and improvements (i.e., the annual rental value of inhabited buildings).<sup>60</sup> Buildings and other improvements are exempt from taxes. Additionally, the majority of local governments do not include "freehold" land, agricultural land under 12 acres, and the majority of private land in the area rating rolls.

Kenyan fiscal cadastre data consists of two parts.<sup>61</sup> The valuation roll, which includes land and value details for properties taxed at an ad valorem rate, comes first. The second is an area rating roll, which is mainly applied to government forests and sizable farms. Local authorities are given the power to set a tax rate and responsible for property tax assessment.<sup>62</sup> In property tax assessment Local Authorities must identify a valuer who is responsible for gathering the necessary land information, ascertaining values, and producing the valuation roll for the local council. Besides, local authorities are responsible for all aspects of property tax administration, including the construction and maintenance of the tax roll, valuation, assessment, tax billing, collection, enforcement, appeals and taxpayer service.

### **2.3.2.2. USA**

The property tax has always been the mainstay of local government finance in the United States. When the first comprehensive census of governments was taken in 1902, property taxes comprised 73 percent of all revenues collected by local governments.<sup>63</sup> The kinds of property within the tax base for property taxes are land, buildings, financial assets, and other types of personal property. The power of taxation has been given to the local governments and as a result property tax is known as a tax of local government. The tax assessment method followed by the American states are the state tax rate, the assessment ration and the property value. There are also differences in property tax/value limitations among the states. In California for instance due to Proposition 13 that was passed in 1978, property tax may not exceed 1 % of the property's fair market value, and the annual increase rate of assessed value should not exceed 2 %. Under the condition of market

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<sup>60</sup> Gachuru, M. and Olima, W. 'Real property taxation-a dwindling revenue source for local authorities in Kenya' (Journal of Property Tax Assessment And Administration 1998), 3, 5-24.

<sup>61</sup> Richard M. Bird and Enid Slack, (26) 180

<sup>62</sup> Ibid 183

<sup>63</sup> John Joseph Wallis, 'History of the property tax in America' University of Maryland, <http://econweb.umd.edu/~wallis/mypapers/ptfinal.pdf> accessed 16 October 2022

transactions, however, the levy of property tax will be based on the fair market price. While most United States homeowners must pay property taxes, some properties are exempted. Property tax exemptions include qualifying individuals such as senior citizens, school tax relief participants, those with disabilities and veterans and certain government, non-government and religious entities.<sup>64</sup>

### **2.3.2.2. Tanzania**

The idea of real property tax in Tanzania is connected to the nation's system of collective land ownership, which is controlled by the President on behalf of all citizens. Accordingly, the land in the country is categorized as general land, village land, and reserved land. The General Land and Reserved Land are defined by the Land Act.<sup>65</sup>

Currently, urban councils' revenues are largely from business licenses (33 percent), property tax (21 percent) and development levy (19 percent).<sup>66</sup> The property tax itself is narrowly applied only to buildings in Tanzania. Land charges are collected through a system of annual land rents administered through the Ministry of Lands.

Rural real estate is essentially exempt from the property tax. Rural land that has not been surveyed is actually exempt from paying land rent. This indicates that the government has not fully utilized a significant amount of rural riches. In order to tax their agricultural bases, rural districts continue to rely on the agriculture. The Local Government Finance Act of 1982 permits district governments to use a flat rating approach, although just a few do so because the rating statute primarily applies to urban regions.<sup>67</sup>

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<sup>64</sup> Property Taxes by states: A comparative look at the highest to lowest states <https://www.rocketmortgage.com/learn/property-taxes-by-state> accessed 16 October 2022

<sup>65</sup> Hogan Lovells, 'Acquisition of Land by Foreigners in Tanzania' (2016) < <https://www.lexology.com/Account/Login?returnUrl=%2Flibrary%2Fdetail.aspx%3Fg%3Da18f7afa-4fe6-43cb-95b4-cb167cac7efe>> accessed 23 October 2022

<sup>66</sup> Roy Kelly and Zainab Musunu, 'Implementing Property Tax Reform in Tanzania' (Lincoln Institute of Land Policy Working Paper WP00RK1 2000) 8

<sup>67</sup> Richard M. Bird and Enid Slack, (n26) 188

The Local Government Finance Act of 1982 authorizes all local authorities to impose a flat rate property tax through enacting local by-laws subject to central government approval. These flat rate property taxes can be levied on buildings, adjusted by such factors as size, location and use.

### **2.3.2.3. China**

The property tax had long been an important, often the dominant revenue source for the Chinese governments in history. The status of it as mainstay of government revenue was from its stability; different dynasties in Chinese history used methods of tax levy calculation that reduced volatility in government revenue, but increased risk for land owners.<sup>68</sup> Here, property tax has deep root history in Chinese history. China started its housing reform in the late 1990s to encourage home ownership the term entails full property rights and transferability of housing on the real estate market. In the early years of this century, the Chinese government introduced the concept of real property tax on which is to be imposed on structures.<sup>69</sup>

Currently, China introduced the real property tax in urban areas in January 2011. The base for real property tax is house and it has been levied on the basis of houses value which is proportional.<sup>70</sup> Eligibility of the tax, the base, differentiates registered permanent residents from nonregistered permanent residents into two separate categories. For the first category, the tax applies to new purchases (either apartment or single-family house) that will be the second (or more) owned by the family. For the second category, the tax applies to all new purchases whether it is the first or second by the household or individual. That is, registered residents enjoy a more favorable tax status. They will pay the tax only if they have already owned a unit before the effective date of the policy, whereas nonregistered residents will have to pay the tax for their very first unit. The statutory incidence of the tax falls on owners of property.<sup>71</sup>

Regarding the land tenure system China has a dual system of urban and rural land. In urban districts, land is owned by the State, while in rural and suburban areas, except where otherwise provided for by the State, land is collectively owned by peasants.<sup>72</sup> The land in urban centers

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<sup>68</sup> Yilin Huhu and Qiang Ren and Ping Zhang, (n51) 35

<sup>69</sup> Ibid 10

<sup>70</sup> Richard M. Bird and Enid Slack, (n26) 188

<sup>71</sup> Yilin Huhu and Qiang Ren and Ping Zhang, (n51) 50

<sup>72</sup> Trappel, R, 'China's Agrarian Transition; Peasants, Property, and Politics' ( Lexington Books: London, UK, 2016)

cannot be subject to real property tax in this place, hence the urban land is purchased using a land lease holding system.

#### **2.3.2.4. United Kingdom**

In England property taxes on residential property (known as council rates) are set locally and property taxes on non-residential property (the non-domestic tax) are set nationally.<sup>73</sup> The council tax is a tax on the occupant of the dwelling and there is one council tax per dwelling. The full council tax bill assumes that there are two adults living in the dwelling. If there is only one adult, the council tax bill is reduced by 25 percent. The tax is reduced by 50 percent if the dwelling is no one's main home or if it is empty or a second home. Here, for the purpose of council tax the residential properties, are divided into different grades (Bands).<sup>74</sup> While the central government's valuation officer is in charge of banding, billing authorities are in charge of managing the tax (such as district councils, unitary authorities, metropolitan councils, a London borough council etc.).

Exemptions from the tax base include properties that are prohibited from occupation, kept for occupation by ministers of religion, resident elsewhere to care for others, vacant, undergoing structural or other major work, owned by a charity and vacant for less than six months, vacant for less than six months and vacant because owners or tenants are in prison, mental care, hospital or nursing home.<sup>75</sup>

Regarding the property tax assessment method a variation of the market value approach is used in the United Kingdom.<sup>76</sup> Under the British council tax, the value of each residential property is assessed and placed on a valuation list in one of eight valuation bands. The value assigned to each property only indicates the valuation band and not the actual value of the property

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<sup>73</sup> Enid Slack, Property Taxation in the United Kingdom, Enid Slack Consulting, Toronto 5  
<http://www1.worldbank.org/publicsector/decentralization/June2003Seminar/UnitedKingdom.pdf> accessed 17  
October 2022

<sup>74</sup> Yilin Huhu and Qiang Ren and Ping Zhang (n51) 20

<sup>75</sup> Enid Slack (n66) 8

<sup>76</sup> Richard M. Bird and Enid Slack (n26) 28

### **2.3.3. Justifications for Real Property Taxes**

Apart from personal property taxes and property taxes such as income taxes and consumption taxes, real property tax has a lot of theoretical and policy justifications that makes it more efficient and equitable.

#### **❖ Ideal sources of Local Government Revenue**

The tax base for real property tax is geographically delimited and paid by local and paid by local residents with limited mobility.<sup>77</sup> Moreover, real property tax is stable and predictable revenue sources for local authorities. This due to the fact that real properties are physically immovable, it is in principle relatively straightforward for governments to identify and tax properties, even where administrative capacity is limited.

#### **❖ Efficiency**

Real property tax is more efficient compared to other forms of taxes such as consumption and income tax because its imposition does not affect resource allocation by distorting the decision to supply and invest in the form of human and physical capital.<sup>78</sup> Because it is a tax on wealth, rather than productive activities, it does not undermine productive incentives – and can also encourage more productive use of land and property. This advantage holds because of the ‘immobile’ nature of the tax base

#### **❖ Promotes Transparency and Accountability**

Real property tax is highly visible to tax payers and, in principle, linked to improved local services.<sup>79</sup> As a result it holds unique potential to act as a foundation for bargaining between taxpayers and governments over revenue and public spending, hence, making policy makers and local officials more accountable.

#### **❖ Equitable**

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<sup>77</sup> Marema Ali & Odd-Helge Fjeldstad ‘Property Taxation in Developing Countries’ CMI BRIEF Vol.16 No.1 (2017). In this paper the features of property tax in African countries is examined and accordingly property tax raises an average revenues less than 1% of their GDP. This indicate that property tax regime in developing countries is not effective

<sup>78</sup> Tax Law Design and Drafting (volume 1; International Monetary Fund: 1996; Victor Thuronyi, ed.)

<sup>79</sup> Ibid

Real property tax is considered as a progressive tax because land and capital, in general, are owned by relatively wealthy individuals.<sup>80</sup> As a result, the burden of the tax is likely to be borne by middle and high income earners.

## **2.3.4. Property Tax Base, Rate and Assessment Methods**

### **2.3.4.1. Property Tax Base**

A wide variety of definitions of property have been used in determining the base of a property tax<sup>81</sup>. The primary reasons for imposing a property tax include incentives for efficient land use, a tax base that cannot be withdrawn from production, and establishment of an autonomous revenue source for local government. Property tax policy must define the composition of the tax base and the structure of the tax rates, along with the definition of the taxpayer (owner, occupier and/or beneficiary), valuation standards (valuation—capital or annual rental value—or area basis) and the related assessment, billing, collection, enforcement and dispute resolution issues<sup>82</sup>. In defining the tax base as to whether the property tax will be levied on land and /or building and/or equipment is not a major challenge rather what is real challenging is defining what will not be included in the tax base, that is, the exemptions and related tax expenditures. Although there are commonalities tax base exemptions vary across taxing jurisdictions, based on such factors as nationality, ownership, property use, property characteristics and/or characteristics of the property owners / occupier<sup>83</sup>. Based on the Vienna Convention on Diplomatic Relations, diplomatic property enjoys a universal property tax exemption. Government-owned facilities used for government purposes are usually typically exempt from taxation, while some nations offer grants in lieu of taxes (Kenya, Canada, and US), payments in lieu of taxes (PILT), or contributions in lieu of rates (Kenya) (Provincial Level in Canada)<sup>84</sup>.

Exemptions are sometimes granted for religious institutions' property as long as it is only used for places of worship or other specific religious reasons. Although some nations only offer partial exemptions by taxing privately-owned facilities at a reduced tax rate (South Africa), while other

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<sup>80</sup> Janet Stotsky & Zühtü Yücelik, Taxation of Land and Property, in Tax Policy Handbook 185

<sup>81</sup> Joan M. Youngman, Tax Law and Drafting; Volume1 International Monetary Fund, 1996, <<https://www.imf.org/external/pubs/nft/1998/tlaw/eng/ch9.pdf>>accessed 24 July 2022

<sup>82</sup> Roy Kelly, Making the Property Tax Work: International Center for Public Policy, Duke University, 2013, p7

<sup>83</sup> ibid

<sup>84</sup> Ibid

nations offer the opportunity for voluntary Payments in Lieu of Taxes (USA), education and health establishments are frequently given a full exemption.<sup>85</sup> In view of potential favorable social externalities produced by these attributes, it is also economically sensible to permit some degree of exemption or tax relief for religious, educational, and medical facilities, even though there may be a constitutional or legal justification for doing so.<sup>86</sup>

#### **2.3.4.2. Determining Property Tax Rate**

In effective regulation of property taxes the determination of the tax rate and its structure has paramount importance. Like tax base there is diversity throughout the world in determining property tax rate, with some jurisdictions levying a uniform single tax rate (either on a percentage basis or as a unit rate) while others apply differential rates across types or uses of property (e.g, a classified tax rate structure)<sup>87</sup>. Different classifications of property may be subject to various tax rates (residential, commercial and industrial, for example). This system offers local governments the authority to regulate the distribution of the tax burden among different property classes within their jurisdiction in addition to deciding the amount of the total tax burden on taxpayers.<sup>88</sup> Tax rate structures should be kept uniform, to the extent possible. Classified tax rate systems, if adopted, should be limited to few categories, such as residential, non-residential and agricultural properties.

#### **2.3.4.3. Determining Property Tax Assessment Methods**

On the other hand, tax assessment determines the value of piece of real state. In order to carry out a good assessment of property tax, government must put in place an effective tax system where tax payments are made by every citizen and where the canons of taxation are upheld. In general, two distinct assessment methodologies are used for property taxation: area-based assessment and value-based assessment, with the latter being divided into capital and rental value approaches.<sup>89</sup>

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<sup>85</sup> Ibid

<sup>86</sup> Id

<sup>87</sup> Ibid p10

<sup>88</sup> Richard M. Bird and Enid Slack (n26) 22

<sup>89</sup> Richard M. Bird and Enid Slack (n26) 26 by citing Joan M. Youngman and Jane H. Malme, 'An International Survey of Taxes on Land and Buildings' 1994 < <https://www.lincolnst.edu/publications/books/international-survey-taxes-land-buildings>> accessed 22 October 2022



An area-based assessment system assesses a fee per square meter of land, per square meter of a building (or occasionally per square meter of "useful" space), or some mix of the two. In situations where there are separate measurements for land and buildings, the assessment of the property is calculated as the sum of the assessment rate per square meter times the size of the land parcel and the assessment rate per square meter times the size of the building.<sup>90</sup> There is a possibility that the assessment rates for land and buildings will differ. The market value (or capital value) assessment, on the other hand, makes an estimate of the value that the market places on specific properties. Market value is defined as the price that would be agreed upon in an arm's length transaction between a willing buyer and a willing seller.<sup>91</sup>

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<sup>90</sup> Ibid

<sup>91</sup> Ibid

## **CHAPTER THREE**

### **REAL PROPEPRTY TAXATION IN ETHIOPIA**

#### **3.1. Introduction**

Although there is no comprehensive law that regulates it adequately, real property tax is not a new notion in Ethiopia. Based on the country's taxation policy under various ruling parties, it has been treated differently under various government systems. However, since the introduction of the modern income tax in the country in early 1940 real property tax has been posited as the ideal source of income for municipal governments, given the association between taxes raised locally and the delivery of municipal services and infrastructure.

In this chapter the legislative history of real property taxation under different regime will be discussed. Here, all laws and regulations which has been enacted in Ethiopia since the adoption of modern taxation system to regulate the real property tax to present will be discussed. In order to achieve this, a full discussion of real property tax laws during the imperial era, real property tax systems during the Derg regime, and the real property taxation system under the country's present federal tax system will be thoroughly discussed.

#### **3.2. Legislative History of Real Property Tax during Imperial Era**

Ethiopia has a long history with regard to taxation in general, which was described as a traditional system. However, once the Italians were expelled from Ethiopia in 1941, a modern taxation structure that forever changed the country's taxation practices came into being.<sup>92</sup> Although they have not been properly documented, hundreds of tax laws have been passed during the imperial reign. The Ethiopian tax system has been described as "chaotic, disorganized, uncoordinated and worse"<sup>93</sup> due to the absence of well-organized tax law documents. However, it is during the imperial era that the tax laws has begun to published on Negarit Gazeta.

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<sup>92</sup> Tadesse Lencho , Towards Legislative History of Modern Taxes in Ethiopia (1941 2008), which is available on [https://journals.co.za/doi/pdf/10.10520/AJA00220914\\_78](https://journals.co.za/doi/pdf/10.10520/AJA00220914_78) last visited on July 30, 2022 at 6:45AM

<sup>93</sup> Taddese Lencho, "The Ethiopian Tax System: Cutting Through the Labyrinth and Padding the Gaps," Journal of Ethiopian Law, vol. 25, No. 1 (September 2011), p. 86

Following the modern system of taxation several types of taxes has been introduced in Ethiopia. It during this time that a systematic real property tax has got life in Ethiopian legal system.

### **3.2.1. Land Tax Proclamation**

Land has played a significant role in Ethiopia's legislative and economic history from antiquity. Land tax is a property tax based on the wealth of the taxpayer (such as land) chargeable regardless of whether the owner obtains gain from the produce of the land or not. Land tax law was promulgated in 1942<sup>94</sup>, by categorizing land into "fertile," "semi-fertile," and "poor" lands, a primitive kind of graduated taxes is applied. <sup>95</sup>. This proclamation not the first in kind, not only regarding to the real property tax but also in the Ethiopian modern tax history. According to this proclamation an annual land tax is collected based on these classification of land into fertile, semi-fertile and poor land that different tax rate has been set for each type. The efficiency of this law has been in doubt due to the fact that land located in different provinces has not been measured and classified according to this particular law.

In 1944 a new Land Tax Proclamation No.70/1944 has replaced by amending the former proclamation which was believed to modernizing land tax. This land tax law took some of the modalities of land taxation of the 1942 law by dividing some lands into 'fertile', 'semi-fertile' and 'poor' lands but went further and divided the country into clusters of provinces. There are basically two land based taxes introduced by the proclamation - the Asrat and the Land Tax. Moreover, the 1944 tax marked an additional evidence of an advance towards full monetization of the Ethiopian tax system<sup>96</sup>. Later this proclamation was amended by proclamation No 230/1966 to harmonize the payment of both the land and other land based taxes by holders. In 1966 Ethiopia's land tax legislation was amended to require owners of land subject to Rist Gult or Siso Gult rights to pay their land tax directly to the Government treasury<sup>97</sup>. The 1966 legislation abolishes the gult system.

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<sup>94</sup> A Proclamation to Provide for a Tax on Land, 1942, Proc. No. 8, Negarit Gazeta, Year 1, No. 1

<sup>95</sup> Taddese Lecno, (n92) p108

<sup>96</sup> Ibid P,109

<sup>97</sup> A Proclamation to Amend the Land Tax Proclamation of 1944, Proclamation No. 230 of 1966, § 2(a), NEGARIT GAZETA 25th Year No. 9(A) (March 7, 1966). Siso means "one-third" and commonly is used in the southern provinces to refer to the parcel of land left to a local dignitary after a forced partition between the State and the dignitary.

### 3.2.1. The Education Tax Proclamation No.94/1947

In 1947, the Ethiopian government issued an Education Tax Law proclamation no. 95/1947 on landholders with a stated purpose of raising revenues for provision of education as a public good. The purpose of this proclamation was to expand the coverage of education throughout the country. The education tax was an ‘earmarked’ tax in the sense that the proceeds of the tax were destined for expenditure on education<sup>98</sup>. This was quite unlike many other taxes whose proceeds are deposited in general government accounts for appropriation in general government budgetary purposes. The Education Tax is basically a proportional tax since the relative tax burden remains constant with increases in the size of private land holding<sup>99</sup>.

Since, the education tax was tied to land, the tax followed the same principles and modalities of the land tax of 1944, except that the amounts charged were different. For this tax land was classified as ‘fertile’, ‘semi fertile’ and ‘non-fertile’. For the then provinces Harar, Shewa, Wollo and Arsi (now Arsi) Education tax paid Birr 15, 12 and 4.50 for fertile, semi fertile and non-fertile lands respectively and 6 Birr for unmeasured lands there. In the same token, for the provinces of Wellega, Sidamo (now sidama), Illubabur (now Iluababora), Gemugofa (now Gamogofa) and Kefa, the amount of tax paid Birr 13.50, 12, and 4.50 for fertile, semi fertile and non-fertile lands respectively and 6 Birr for unmeasured lands. To the rist holder in Shewa Amhara, the land was graded as first land, second land and third land and education tax was paid Birr 6, 4.50 and 1.50 respectively. Coming to the other then provinces, mainly Gojjam, Begemidir and Tigray, land was unmeasured for Education Tax. However, it does not mean that, they were exempted from the paying tax, rather the way they paid was different from the other then province<sup>100</sup>.

According to Article 8 of the Education Expenditure proclamation ‘the Local Education Tax collected pursuant to the Land Tax proclamation of 1944 and the amendment thereto shall be

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<sup>98</sup> Ibid p,114

<sup>99</sup> Teshome Mulat, Agricultural taxation in Ethiopia, FAO Agricultural Taxation Studies, Addis Ababa University (Sept. 03,2022, 7:07) <http://publication.eiar.gov.et:8080/xmlui/bitstream/handle/123456789/1339/agricultural%20taxation.pdfAbbhyyyyy.pdf?sequence=1&isAllowed=y> last visited on July 30, 2022 at 8:49 AM

<sup>100</sup> Tilahun Dires ‘The Historical Development of Real Property Tax Laws in Ethiopia: A Critical Review of the Laws’ Vol 7(1) Int. J. Grad. Res. Rev, 1-10 (2021)

expended only for the purpose of Elementary Education in the province from which the said tax was collected'. Here, the revenue acquired from the collection of tax is discharged only for school infrastructure.

### **3.2.3. The 1959 Health Tax Law**

The principle of 'earmarked' taxation extended to health services in 1959 with the coming into force of the Health Tax, which, like the education tax, was tied to land holding<sup>101</sup>. Health tax decree was introduced with the purposes of expanding and improving public health facilities. The preamble of the 'Health Tax' law states the reason for the introduction of the new tax as 'the need for additional finance for health services' and like the education tax, the Ministry of Finance was to set aside the proceeds from the tax for the specific purposes of providing public health. Like education tax the amount of tax to be paid based on the classification of land fertilities. Here, the then proclamation stipulated that the then provinces of Harar, Shewa, Wollo and Arsusi (now Arsi) Health tax paid Birr 15, 12 and 4.50 for fertile, semi fertile, and non-fertile lands respectively. In the same token, for the provinces of Wellega, Sidamo (now sidama), Illubabur (now Iluababora), Gemugofa (now Gamogofa) and Kefa, the amount of tax paid Birr 15, 12, and 4.50 for fertile, semi fertile, and non-fertile lands respectively.

To the 'rist' holder in Shewa Amhara, the land was graded as first land, second land and third to 8thland and Health tax was paid Birr 6, for first land and Birr 0.60 for the 8<sup>th</sup> land annually for example. Coming to the other then provinces, mainly Gojjam, Begemidir and Tigrai, land was unmeasured for Health Tax<sup>102</sup>. However, it does not mean that, they were exempted from the paying tax, rather the way they paid was different from the other then provinces. Taxpayers in these provinces paid 30% additional of the taxes he is expected to pay for the Government in the given fiscal year. This health tax law resemble real property tax as it's the center of tax base is land and the taxpayers are the land owners.

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<sup>101</sup> Taddese Lencho, Towards Legislative History of Modern Taxes in Ethiopia (1941 2008), (Sept. 03, 2022, 7:00PM) [https://journals.co.za/doi/pdf/10.10520/AJA00220914\\_78](https://journals.co.za/doi/pdf/10.10520/AJA00220914_78) html.

<sup>102</sup> Tilahun Dires (n100) 1-10

### 3.2.4. Municipal Real Property Tax Proclamation

During imperial era some municipals in Ethiopia had been given the power to fix the real property tax through their own councils. According the proclamation No.74/1945, the towns such as Addis Ababa, Harar, Gondar, Jimma, Dessie and Dire Dawa were declared as Municipalities where as other towns in the country were classified as Townships. Here, the municipality councils were empowered to considered and decide on different matters save the implementation of the decision come to force after approved by the then Ministry of interior. The municipality councils were given the power to decide over the matters such as to propose town budget and assessment and collection of taxes as well as administration of Municipal revenue of any kind<sup>103</sup>. Following this proclamation different rules and regulations has become enacted in Addis Ababa which provided the real/immovable property tax in the city. According to Legal Notice 86/145 land and buildings located in Addis Ababa was assessed based on the grade of the land and the income or profit that an owner or a user who has the right to occupy the government land generated.

Later in 1945, another Legal Notice 87/1945 was published, which for taxes purposes divided Addis Abeba into three class areas and each class area into two categories. These are the first-class areas mainly in the areas of what we are calling Piazza, Merkato, some part of Kollife, Arat Killo, Sidist killo and generally the then centre of Addis Ababa and had access of main roads in the centres were considered as first-class urban properties. The second-class areas were mainly next to the first-class areas. Like the first-class area the Legal Notice categorized in three. The third-class area comprised all the land within the limit of Addis Ababa municipality, which was not included in the two class areas mentioned above.

Later, some of the provisions of Legal Notice 86/1945, General Rate Rules, were repealed, and the general tax rate was substituted by the percentage rate. The Addis Ababa Municipal Taxes Assessment Committee determined that the owner of a building that was leased for rent or used for business purposes for a monthly price greater than Birr 10 was responsible for paying 2 percent of the rental value of the structure.

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<sup>103</sup> Ibid

### **3.3. Legislative History of Real Property Taxation during Derg Regime**

Up on the fall of imperial regime in 1975 all most all immovable properties are nationalized and private land ownership system is abolished in Ethiopia. The country is ruled by the Derg motto, "Land to tiller," and this nationalization was encouraged by many legislation. The land had been nationalized as part of the land reform decreed in the 1975 proclamation, and a further step had been taken by dividing it evenly among the peasants.

#### **3.3.1. Urban Land Rent and Urban Houses Tax Law**

In July 26, 1975 the PMAC issued Proclamation No. 47 of 1975, the "Government Ownership of Urban Lands and Extra Houses Proclamation with the purpose of nationalization of all urban land and "extra houses"<sup>104</sup> without compensation. One of the ultimate purpose of nationalization of urban land and extra house was that nationalization of urban land and houses is essential for careful planning and resource utilization, the extension of secure housing facilities to poor urban dwellers, and improved urban conditions.

After urban land and extra houses were nationalized in 1975 the Derg government has issued proclamation No.80/1976 whereby urban land rent was introduced which replaced urban land tax during imperial era. According to this proclamation urban land was classified into three grades. And as per Article 5 of the Proclamation, a legal possessor of urban land is required to pay annual land rent that is to be assessed on the basis of the size of the plot and location of the plot in the concerned city, to be categorized as Grade 1, 2, or 3. Moreover, the Proclamation clearly indicated that the plot used for the construction of residential or commercial purposes would be treated differently. The same proclamation under article 14 listed the real properties, which were exempted from the urban land rent and urban houses taxes. Accordingly, Public roads, squares, recreation and sports centers and cemeteries; Places of worship and their compounds, nonprofit making private schools, hospitals, charitable institutions; government institutions drawing their budgets

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<sup>104</sup>As per Art.2 (3) of Government Ownership of Urban Lands and Extra Houses Proclamation No.47, 1975 Extra house meant an urban house whether rented or used otherwise owned, other than a single house required or occupied as a dwelling place by person or family, urban houses required or occupied by an organization as a dwelling place for its employees or persons under its responsibility and urban houses required for running business of a person, family, or an organization.

from the central Treasury; and dwelling houses whose annual rental value is less than Birr 300, were exempt.

Later the then Ministry of urban development and housing pursuant to the authority vested in him by Art. 19(1) of urban land rent and urban houses tax proclamation No. 80/1976, it enacted Legal Notice No. 64 of 1979. The land classification was the same as the proclamation did with the additional of sub classifications. The urban land classified in to sub classes such as plot for agriculture and plot business and services. The new issue added was congress or council or policy committee is empowered to classify the urban land. Place of payment is on the Municipality or center of urban administration is also new thing added. The other provisions are the same as of the proclamation has and even, the Proclamation seems more detail than the regulation.

Concerning the assessment of urban land rent three factors were considered in the determination of the actual land rent. The first factor was the grading of the urban areas, which was divided into three categories for both residential and business zones. Each grade of urban area was further subdivided in two sub grades, namely, urban land for service and industry and agriculture<sup>105</sup>. The second factor was the use of the land plot for either dwelling or business and the third factor is size. A fixed annual rental rate is assigned to each category of the size of the land based on its grading and use. The third factor was the size of the urban land<sup>106</sup>.

According to Article 5 of the Proclamation, a legal possessor of urban land is required to pay annual land rent that is to be assessed on the basis of the size of the plot and location of the plot in the concerned city, to be categorized as Grade 1, 2, or 3. The Proclamation clearly indicates that the plot used for the construction of residential or commercial purposes would be treated differently. With respect to the property tax payable on urban houses, the Proclamation stipulates that the percentage of the annual rental value of the concerned house will be used as a basis for determination.

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<sup>105</sup> Proclamation 161/1979 Article 2[3]

<sup>106</sup> T.Dires (n100) p8



### 3.4. Post 1991 Real Property Tax Laws

The Ethiopian Peoples Revolution Democratic Front (EPRDF) which overthrew the former "socialist" government, which had controlled Ethiopia for 17 years, in 1991 has changed the economic policy of the country. Beginning in 1992, the EPRDF launched a broad range of reforms that included changes to the tax code as well as the exchange rate, interest rates, trade, domestic production, and distribution.<sup>107</sup> Thereafter, the federal taxation system has been introduced in the country.

The 1995 Constitution established the country's federal structure, which is composed of nine ethnic regional states and two special status cities.<sup>108</sup> The power of taxation, among others, has been categorized vertically between two tiers of governments. Thus, the constitution of Ethiopia itself formulates a clear division of revenues between the federal and the regional states. Accordingly, the power to levy and collect different taxes is allocated either 'exclusively to the federal government; exclusively to the regional states; concurrent to both the federal government and the regional states; [or is] undesignated'.<sup>109</sup> Under article 96 the federal constitution has provides exclusive federal power of taxation. Accordingly, employment from the employees of the federal government and its public enterprises and international organizations, federal stamp duties, monopoly tax, value added tax, national lottery, fees from licenses issued and services provided by organs of the federal government, taxes on income of houses and properties owned by the Federal Government are exclusively fall under federal power of taxation.

Besides, regional governments<sup>110</sup> are given the power to levy income tax on employees of the state government; agricultural tax from farmers; tax on individual traders, houses and other property owned by private persons or regional government; sales tax from public enterprises owned by the state government; forest products. They also receive income from shared taxes levied by the federal government on profit, sales, exercise, and personal taxes on enterprises (the list of

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<sup>107</sup> Geda Alemayehu & Shimeles Abebe, 'Taxes and tax reform in Ethiopia, 1990 – 2003', (2005) Research Paper, UNU-WIDER, United Nations University (UNU), <http://hdl.handle.net/10419/63498> accessed 10 September 2022

<sup>108</sup> The Constitution of Federal Democratic Republic of Ethiopia Proclamation No. 1/1995, Federal Negarit Gazeta, cumulative reading of art, 47/1

<sup>109</sup> The Constitution of Federal Democratic Republic of Ethiopia Proclamation No. 1/1995, Federal Negarit Gazeta, cumulative reading of art, 96, 97 & 97

<sup>110</sup> FDRE Const. article 97

whom is jointly established); taxes on the profits of shareholders (companies and individuals); taxes on the incomes of derived from large-scale mining, petroleum and gas operations.

Although, the constitution has provided an extensive power of taxation of federal and state governments, the power to levy and collect taxes on property in general and real property in particular is not explicitly provided in the federal constitution. Here, one can draw the conclusion that Ethiopia's constitution does not expressly grant the government the authority to tax real estate. In this scenario the House of the Federation and the House of Peoples' Representatives shall, in a joint session, has been given the power to determine by a two-thirds majority vote on the exercise of powers of taxation.<sup>111</sup> Thus, the power of taxation on property in general and real property in particular needs the decision of the federal houses in joint session, as the issue has not been recognized under the FDRE constitution.

Furthermore, the right to ownership of rural and urban land, as well as of all natural resources, is exclusively vested in the State and in the peoples of Ethiopia<sup>112</sup>. Here, as private land ownership is prohibited the tax to be paid on land cannot be applied. Rather, what has been implemented in the country is the urban land lease holding system whereby the land fee is served as source of revenue from land.

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<sup>111</sup> The Constitution of the Federal Democratic Republic of Ethiopia of 1995, arts. 99, Proclamation No.1, Federal Negarit Gazeta, Year 1, No. 1.

<sup>112</sup> The Constitution of the Federal Democratic Republic of Ethiopia of 1995, arts. 40 (3), Proclamation No.1, Federal Negarit Gazeta, Year 1, No. 1.

## **CHAPTER FOUR**

### **EXAMINING REAL PROPERTY TAXATION IN OROMIA REGIONAL STATE URBAN CENTERS**

#### **4.1. Introduction**

This chapter describes and explains the laws and the data collected pertaining to the real property taxes in Oromia regional state urban centers. The chapter begins with the brief description about Oromia cities establishment laws and regulations in line with the power of cities councils to determine over the revenue of their respective cities. Thereafter, the brief discussion will be made regarding the state power of taxation in general and property tax. This is followed by the mechanisms used by real property tax laws and regulations whereby the real property tax levy and collection system is regulated. Besides, the data collected from the selected cities/towns will be analyzed in line with the existing laws is believed to help to reach at the conclusions for the finding of thesis. The researcher largely relied on selected qualitative approach of data analysis. As mentioned in methodology section, interviews with selected employees from municipal office, municipal revenue authority and urban land bureau were used as main source of data.

#### **4.2. Brief Description about Oromia Urban Administration**

Urbanization is crucial to development and both are closely intertwined and sustained economic development cannot be achieved without urbanization. Recently, urbanization has taken high rate of growth in developing countries including Ethiopia. The conventional theory and historical experience from developed countries shows that cities are more efficient and contributed to structural changes in the economy<sup>113</sup>. Since 1995 the Oromia regional state government has been working different reforms in urban areas.<sup>114</sup> The purpose of the reform is to make the cities the center of technologies and developments and to make the cities comfortable for human life. Here, in order to make the cities the center of business the revenue whereby the necessary infrastructures to be provided is very important. Accordingly, the cities are established in the region by making

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<sup>113</sup> Tsega Gbrekirstos Mezgebo, 'Urbanization and Development: Policy Issues, Trends and Prospects', (2002) [https://eea-et.org/wp-content/uploads/2021/06/SEE-Book-2020\\_2021.pdf](https://eea-et.org/wp-content/uploads/2021/06/SEE-Book-2020_2021.pdf). Accessed 12 September 2022.

<sup>114</sup> Oromia Urban Development and Housing Bureau, Model Regulations on Taxes on Revenue Sources of Oromia Urban Centres, June 2014, Addis Ababa

their work procedures and structural organization to depend on the principle of good governance so as to enable them that by possessing higher development capacities, promote the growth of the regional state and improve the living standards of their residents. Accordingly, the cities in the regional state are grouped as the principal city administration, the higher city administration, the intermediate city administration, the growing city administration, the municipality city administration and the growing municipal city administration<sup>115</sup>. The grade of the cities are evaluated based the income which the city collects, number of population, the surface area of the city and its being center of administration seat. All the cities in the Oromia regional state administrations are empowered to have their own city council to decide all over the municipal revenue collection system. Here, each city councils enacts municipal revenue regulation based on their own source of municipal revenues.

### **4.3. Power of Taxation of Oromia Regional State**

As it has been highlighted in the previous chapter since the 1991 Ethiopia has been using federal taxation system where the power of taxation is distributed between the federal and state governments. Accordingly, the federal constitution has listed the exclusive federal and state power of taxation, concurrent power of taxation and undesignated power of taxation for unspecified sources of revenue to be decided by the federal parliaments (houses). The state power of taxation includes; employment from the employees of the state government and its public enterprises, fees for land usufructuary rights, income from private farmers and farmers incorporated in cooperative associations, tax on individual traders carrying out business within their territory, income on water transport services operated in their territory, taxes on income derived from private houses and other properties within the State, income taxes, sales taxes and excise taxes on income of enterprises owned by states, taxes on income derived from mining operations, and royalties and land rentals on such operations and also royalty for forest resources.<sup>116</sup>

In the same manner, the Oromia regional state constitution has authorized the regional government to levy and collect taxes on revenue sources allocated to the Region<sup>117</sup>. Nowadays, the Oromia

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<sup>115</sup> Oromia Regional State proclamation to Revise Oromia Regional state cities establishment proclamation NO 195/2015, Megeleta Oromia, 24<sup>th</sup> year No. 4/2014, art.5/1/A-G and aslo the revised proclamation No.196/2015 article 2/1.

<sup>116</sup> Constitution of Federal Democratic Republic of Ethiopia, No.1/1995, Negarit Gazeta, art 97

<sup>117</sup> Constitution of Oromia Regional state No. 46/1994, Megeleta Oromia, art.47/2/H.

regional council, Caffé, has issued different laws and regulations which regulates different types of taxes. Among many, income tax proclamation and stump duty proclamation has been applied for many years. Besides, The Oromia cities' establishment proclamations to make the cities of the regional state centers of development, industry, technology, information, and trade as well as comfortable centers for life in a modern way, observing their level of development, have authorized the city council to enact regulations whereby the revenue for city operations is generated.<sup>118</sup> On the other hand, neither the federal nor Oromia regional state constitutions has explicitly provides the power of taxation to levy and collect the property taxes.

#### **4.4. Real Property Tax in Oromia Urban Centers**

By its nature real property tax is the tax to be imposed on land and buildings. These type of taxes exists everywhere in the world. These taxes can have significant fiscal and non-fiscal impacts, both in theory and in fact. The money generated by these taxes is frequently a significant source of funding for local governments.<sup>119</sup> Under the current Ethiopian law of taxation as tried to aforementioned the power of taxation on properties in general and real property tax was not explicitly provided in both federal and Oromia regional state constitutions. Thus, property tax in its proper sense is not properly designated under the FDRE Constitution. Fees on usufructuary land rights and taxes on income from private houses only are designated as state taxation power under the Constitution.<sup>120</sup> On the other hand, though the Constitution under its Article 99 empowers the House of the Federation and the House of Peoples Representatives to jointly designate undesignated tax, yet there is no such designation with respect to real property tax. However, there are subsidiary regional legislations which have designated and regulated real property tax in the country.

Currently, the power to issue cities revenue collection regulation is given to Oromia Urban development and Housing Bureau<sup>121</sup>. The Oromia Urban development and Housing Bureau through the regulation authorizes the municipality councils the power to decide over the matters such as to propose town budget and assessment and collection of taxes as well as administration

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<sup>118</sup> A proclamation to Revise Oromia Regional state cities establishment proclamation NO 195/2015 , 24<sup>th</sup> year No. 4/2015 article 18/2/c

<sup>119</sup> Richard M.Bird and Enid Slack (N26) p 12

<sup>120</sup> FDRE Constitution, Art. 97(2)(6)

<sup>121</sup> Oromia Regional State proclamation to decide the power of Executive organs No. 242/2014, Megeleta Oromia.

of Municipal revenue of any kind. Besides, the power to decide over the tax revenue of the cities is granted to the cities administration<sup>122</sup>. Accordingly, the Oromia Urban Development and Housing Bureau has enacted a Model Regulations applicable to urban municipalities' revenue taxation.<sup>123</sup> The regulations intended to serve a minimum threshold for the determination and administration of taxes related to revenue sources of urban centers in the Region. To this end, all the cities wherefrom the data for this research is collected have already had their own municipal revenue collection regulation.<sup>124</sup> Here, although the status of the regulation by itself is not clear all the cities in the region collects all the municipal revenues based on this model of regulation.

Among other things, the model regulation recognizes the collection of tax from houses located within the urban boundary in the form of a roof and wall. However, the model regulation's provisions make no mention of paying a tax on real estate. Here, it appears that real property tax is only acknowledged with relation to buildings located in the urban boundary.

#### **4.4.1. Tax on land**

For a long period of time land has been playing a prominent role in the legislative and economic history of Ethiopia. The laws and regulations in the country under different government has been issued based on the land ownership system of the country. As it has been mentioned in the chapter three the current status of both urban and rural lands in Ethiopia is under public ownership. Since 1993, the Ethiopian government has been using the urban land leasing system to monetize the increase in land value created due to factors other than private investment. Here, it is only the use right that individual person can acquire on the land from public authorities. To this end, the land lease holding system has been implemented in the country over the land located within an administrative boundary of an urban center.<sup>125</sup> Accordingly, the right to use urban land is acquired only under a contract of a definite period. In Oromia regional state urban land has been regulated as per the federal urban land lease holding proclamation and specific regulation and directives has

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<sup>122</sup> Regulation No. 186/2008 article 37 which is enacted to implement Oromia regional state cities administration proclamation No. 195/2008 and its revised proclamation No.196/2008.

<sup>123</sup> Oromia Urban Development and Housing Bureau, Model Regulations on Taxes on Revenue Sources of Oromia Urban Centres, June 2014, Addis Ababa

<sup>124</sup> Interview made with w/ro Birhane Abdeta, urbans revenue generation higher officials division leader, Oromia regional state Urban development and Housing bureau (Addis Ababa 16 September 2022). In the same manner all legal experts of municipal offices have testified that as the model regulation has been issued at the city level.

<sup>125</sup> Federal Urban Land Lease Holding proclamation 721/2011.

been issued whereby the lease system is regulated. In land lease holding system the payment made for the government is in the form of land lease price not taxation. In this regard the city councils by urban revenue model regulation are authorized to determine amount of the payment of land lease price of their own city based on the grade of their city. The payment made for urban land lease is a lease price which would be regulated by urban land lease holding proclamation and regulation. On the other hand, land leasing systems are less sustainable and progressive than property tax due to the fact that land lease fees do not recapture any of the value of structures built on the land and do not capture increments to value over time, lease fees are fixed sums of money, determined at a specific point in time, that do not provide continuous payments like taxes and lease fees are an unpredictable and limited revenue source: property sales can vary hugely year-to-year, and urban land is ultimately finite.<sup>126</sup>

Thus, in Ethiopia in general and in Oromia regional state there is no tax on land under the current constitutional system rather the payment to be made in relation to land is the land usufructuary rights.

#### **4.4.2. Tax on House/Building**

Although there is no provision in the Oromia regional constitution that specifically governs the tax on houses, the Oromia municipal revenue model regulation has identified the tax on buildings as one of the cities' primary sources of revenue. As per the provisions of the model regulation the tax to be imposed on house/buildings is the tax which is collected from the building located in the urban centers in the form tax on roof and wall.<sup>127</sup> Here, what is challenging is that nowhere in the model regulation is the term "house" defined, and the standard of houses, which are subject to taxation in the form of a roof and wall, is addressed.<sup>128</sup> Regarding the type of houses there is no difference as all types of houses located in the boundaries of the cities are subject to tax on house/building. The difference between the houses/building is based on the owner of the

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<sup>126</sup> Tom Goodfellow (n37) p6

<sup>127</sup> Oromia Municipality Revenue Rate Model which has been enacted by Oromia Regional Urban Development and Housing Bureau article 2/5. This Model is mainly prepared by Oromia Revenue Authority and Urban development and Housing Bureau which is principally authorized to follow and assist the collection of urban revenues.

<sup>128</sup> Interview with Ato Tariku Teshome, legal directorate, Oromia regional state Urban Development and Housing Bureau (Addis Ababa 16 September 2022)

house/building. Here, religious institutions, schools, governmental institutions and other public institutions are not subject to tax on house/buildings.

Currently, in all cities in Oromia regional state all houses/buildings are subject to taxation which is known as tax on roof and wall<sup>129</sup>. However, practically the tax is collected only from a few houses. This is due to the fact that the municipal administration has no full data over all the houses and building in the cities and also the number of the houses built in illegal way exceeds those which are constructed according to the laws<sup>130</sup>. Moreover, there is no effective and efficient real property registration in the city as long as the existing registration system does not meet the real property registration requirements such as completeness of real property records, correctness of records, updating and sharing essential property information<sup>131</sup>. For the purpose of the tax on houses/buildings the houses in the cities are categorized based on the area they are located as residential and commercial houses.<sup>132</sup> The tax rate for residential and commercial houses are different.

#### **4.5. Real Property Tax Base and Rate**

According to the Model Regulations, the tax base for real property tax on building depends on market value of the roof and wall of the building, and the size of land area on which the building is built.<sup>133</sup> However, practically only the material from which the house (s) is/are built and the location of the land on which the house is built is considered<sup>134</sup>. Here, the value of the building and the size of land area has no relevance. Article 8(1) (a) of the Model Regulations has provided that the valuation has to be amended every three years. With respect to valuation of the building, since a vast majority of urban centres lack cadastral system and fixed value for buildings, the city

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<sup>129</sup> Interview with Ato Getacho Hirko, Head of Oromia Regional state Urban development and Housing Bureau (Addis Ababa 16 September 2022). According to him all houses/buildings built in the cities whether legally or illegally are subject to taxation on house.

<sup>130</sup> Interview wiith Ato Biranu Chali, Nekemt Municipal revenue expert, Nekemt Municipal office (20 August 2022). According to the interviewee the tax on house is collected only from 1/3 of the houses found in Nekemt city.

<sup>131</sup> Interview with Ato Ulfina Shifera, Nekemt Municipal administration office legal expert, (28 August 2022). According to him there is a problem in between city land management office, city revenue authority and municipal administration in cross checking all the houses/buildings which are being subject to tax and those which are not.

<sup>132</sup> Interview with Ato Taka Asaffa, Jimma city Municipal administration office legal expert, (8 October 2022).

<sup>133</sup> Model regulation, Art. 8(1)

<sup>134</sup> Interview with Ato Moti Asfaw, coordinator of revenue collection division within Shambu city revenue authority (Shambu 19 August 2022). Also interview with experts of all the selected cities gave me the same response.



councils are given the power to determine based on the standard of the concerned city.<sup>135</sup> Here, the model regulation lacks clarity whether all houses located in the urban center is subject to taxation or only those which are constructed legally may can be subject to the same. Nearly two thirds of the houses in metropolitan areas are deemed unlawful by the authorities and are not subject to taxes.<sup>136</sup> Accordingly, the tax base and rate of real property tax of the different municipalities is depicted as follow.

Urban building tax	Tax rate in the municipalities					
	Jimma	Nekemt	Ambo	Shambu	Mettu	Adama
<b>Dwelling houses</b>						
• Built from woods and mud	150	300	200	150	200	350
• Built from bricks and stone	300	450	350	250	380	500
• G+ buildings	400	600	700	300	600	800
<b>Business houses</b>						
• Built from woods and mud	250	350	400	200	400	600
• Built from bricks and stone	400	500	500	250	700	850
• G+2 buildings	500	700	750	400	900	1200
• G+4 buildings	800	900	1000	500	1050	1400
• Buildings over G+4	1000	1100	1200	700	1700	1700

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<sup>135</sup> Ibid, Art. 8(1)(c)

<sup>136</sup> An interview with experts from the revenue authority of the selected cities has been approved altogether, as almost two thirds of the houses located in the urban boundary were constructed without authorization from the concerned authority, and as a result, they are considered illegal houses. The houses considered illegal exceed those that are considered legal, and as a result, it is prohibited for the government to generate revenue from those houses.

*Table 1: Table showing tax rate of different municipalities (2012-2014)*

According to the schedule, the current real property tax rate on buildings demonstrates that each city council has adopted its own tax rate based on the current state of its respective city. The payment of tax on buildings are different between dwelling houses and business houses and also based on the material from which the house is built. Here, the cost of the structure and the size of the plot of land it is built on are not taken into account. This tax payment method equalizes payments for all buildings regardless of their real value, which would go against the basic tenet of taxation by failing to differentiate amongst tax payers based on the size and value of their separate structures.

Additionally, the tax rates of various municipalities demonstrate that the amount of tax paid (tax rate) on buildings falls short of what the government needs to raise through real property tax and also it is challenging to determine whether sort of taxes is acknowledged because tax payers are all treated the same.

Moreover, the existing practice and the model regulation demonstrate that the principles of taxation such as ability to pay, convenience, and equity are not incorporated. This is due to the fact that the tax rate to be paid, as indicated in the table, is too low, and the money collected does not even cover the necessary budget to collect the tax. Furthermore, the amount of tax that must be paid by taxpayers was determined without taking into consideration their capacity to pay, which ought to have distinguished between the taxes payers according to their capacity to do so. As a result, the principle of convenience and ability to pay are neglected.

#### **4.6. Period of Payment and Consequences of Default**

Due to the lack of specific laws governing property taxes in general and real property taxes in particular, the real property tax payment period is governed by the same regulations as business tax payments, including business income tax administration proclamations.<sup>137</sup> Business income tax administration laws base the payment period on the taxpayers' accounting year. Here, the time term for business income tax payment is to be dependent on its category. As an illustration, the payment period for Category A is from July 1 to October 30, Category B is from August 1 to

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<sup>137</sup> Ibid, Art.21

September 1, and Category C is from July 1 to October 30. The business income tax directive defines the penalty amount and the percentage that must be paid in the event of a default payment. Since real property tax is a direct tax with regressive characteristics implementing its payment period and consequences of failure would provide unique difficulties. Since it is unclear under which category the tax is to be regulated, the timing of real property tax payment is contradictory at this point.

The current practice demonstrates that real property tax is paid from July 1 to June 30 (the entire year), and that the tax payer is not subject to any penalties for nonpayment.<sup>138</sup> This shows that the government isn't paying particular attention to levying and collecting taxes on real estate.

#### **4.7. Real Property Tax Grievance Handling Mechanisms**

According to the model rule, the method for resolving real property tax disputes is identical to the system for resolving income tax disputes, which is governed by the income tax administration proclamation. In business income tax administration system the tax payer can submit its grievance regarding the assessment and determination of the tax to the board established to adjudicate the issue. Here, at the city level tax appeal board is established to hear appeal against appealable decisions.<sup>139</sup> According to the business income tax administration laws a tax payer might can appeal an appealable decision by filing a notice of appeal against the decision with the board in the approved form and within 30 (thirty) days of service of notice of the decision. Additionally, the taxpayers are provided the right to court review based on a thorough assertion from the appeals board. When it comes to real property taxes on buildings, the city council sets the tax tariff and amount, and it would appear to be a difficult challenge to get the city council's decision overturned on appeal to the tax appellate board. As a result, real property tax grievance handling mechanisms should be different from business income tax administration laws of the area. Practically speaking, the mechanism for handling real property tax grievances has not been employed, the appeals board does not accept and litigate the claim, and the tax payers are also unaware of the procedure.<sup>140</sup>

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<sup>138</sup> Interview with Ato Birhanu Chali revenue collection division coordinator of Nekemt City municipal office 21 August 2022) and interview with Ato Moti Asfaw coordinator of revenue collection division within Shambu city revenue authority (Shambu 19 August 2022).

<sup>139</sup> Oromia Income Tax Administration Proclamation No.203/2009 Article 87

<sup>140</sup> Interview with Ato Tariku Teshome, legal directorate, Oromia regional state Urban Development and Housing Bureau, (Addis Ababa 16 September 2022)

#### **4.8. Challenges of Real Property Tax in Oromia (Legal and Practical)**

The existing land policy of the country is one of the most notable challenge to proper property tax system in the country in general and in Oromia Regional State in particular. Since 1974 land policy of Ethiopia has adopted public ownership by prohibiting private ownership property right over land. The fictitious public ownership of land and the recognition of private ownership of buildings pose a legal issue as to the separability of land from the structure built on it. This is because the value of buildings usually, if not often, depends on the very location of the building thereby showing the significance of land on which it is built. Without recognition for the commercial value of the land it is inconvenient to determine the property tax.<sup>141</sup> Thus, the existing fictitious public ownership of land adversely affects the transparent property tax system.

Furthermore, the issue has become challenging because the notion of property tax is not recognized by the present Ethiopian legal framework. Thus, the recognition of property tax in general and real property tax needs the decision of the federal parliaments as it has been provided undesignated taxation.<sup>142</sup> Nevertheless, property tax represent an important stable and reliable source of revenue for local governments. The fact that building and land cannot easily be moved out of the taxing jurisdiction serves easy for its administration.

Besides, although the Oromia regional state constitutions do not acknowledge the idea of real property taxes, the Oromia regional government has established regulations that have allowed for real property taxes, notably the tax on buildings, to be one of the main sources of municipal income. But not all substantive and procedural issues that are important for regulating the real property tax are included in this regulation. Rather, the regulation sets the rate for all local sources of funding, and it is insufficient to control the tax on buildings and the tax rate imposed on buildings in nominal. So, it seems that the significance of property taxation as a source of local government revenue is also undermined in the study area.<sup>143</sup> It has been observed that property tax in the study area is least tapped. The proliferation of informal property ownership has also an

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<sup>141</sup> An interview with Jamal Ibrahim, Adama City No.2 revenue authority office tax collection division coordinator, (Adama 09 August 2022)

<sup>142</sup> FDRE Constitution Article 99

<sup>143</sup> Interview made with w/ro Birhane Abdeta, urbans revenue generation higher officials division leader, Oromia regional state Urban development and Housing bureau (Addis Ababa 16 September 2022)

impact on the effective administration of real property tax. Informal immovable property in the study area is posing the difficulty of inaccessibility to tax authority and municipalities.<sup>144</sup>

Administrative weakness is also another challenge in a proper collection of property tax. Urban local governments are not active in identifying the tax payers due to policy gaps and lack of capacity.<sup>145</sup> Besides, the absence of structured law whereby all the tax payers and tax officers should bound by caused the administration of real property to be ineffective.

#### **4.9. Summary**

The federal constitution grants the federal and state governments the ability to levy taxes in two ways: exclusively and concurrently. The federal parliaments' ability decide on undesignated power of taxation has been specifically mentioned in the federal constitution. However, no provision of the constitution has stated about the power of taxation on property tax. So the power of taxation on property tax in general and property tax is to be decided by the joint session of federal parliaments. The tax on buildings and homes has been acknowledged in the Oromia regional state under the local revenue source tariff model legislation. According to this regulation tax on houses/building is the tax to be paid by the owner of the building/houses in the city boundary in the form of roof and wall. The majority of the cities in the area have adopted this taxing structure. This taxation method, though, has run into a number of practical and legal issues. Additionally, because the tax to be collected has a low tax rate, the money collected from the building/dwelling tax is insufficient to achieve the taxation's goals and violates the principle of convenience. The successful execution of the taxation was hampered by these issues. According to general laws and practice, the taxation of buildings and dwellings has not been adequately managed in the study area, and the current system should be terminated and reorganized in accordance with the law.

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<sup>144</sup> Interview with Yerosan Geleta, Head of Ambo town Urban development and Housing Office, (Ambo 15 September 2022)

<sup>145</sup> Interview made with w/ro Birhane Abdeta, urbans revenue generation higher officials division leader, Oromia regional state Urban development and Housing bureau (Addis Ababa 16 September 2022)

## **CHAPTER FIVE**

### **SUMMARY OF THE MAIN FINDINGS, CONCLUSIONS AND RECOMMENDATIONS**

#### **5.1. Summary of the Main Findings**

The analysis of the existing laws and practice made in this research revealed that the concept of property tax has not been recognized under FDRE constitution and the constitution of Oromia regional state. As a result, the country lacks an efficient property tax regime. In Oromia regional state urban centers, the tax is imposed on buildings and houses which serve as a source of city revenue in the form of roof and wall. It is administered under the Oromia urban development and housing bureau's Model Regulations which is titled as taxes on revenue sources of Oromia urban centers. Since the property tax scheme has not been governed by either the federal or regional state constitutions, this model regulation has never had a constitutional basis. On the other hand, the real property tax, which is typically imposed on land and buildings/houses, serves as a source of income for local government because it would raise tax revenue to meet needs and also because it helps to expand the tax base for fixed asset tax, whose exemption threshold is most significantly impacted.

As long as Ethiopia's state and people retain ownership rights to the country's land, no real property tax can be charged to it. In this instance, just the land lease price is collected in place of the land tax because only the land lease holding system has been established in the urban boundary. The fictitious public ownership of land and the recognition of private ownership of buildings pose a legal issue as to the separability of land from the structure built on it. The tax base and tax rate for structures and residences that are situated in urban areas are subject to approval by municipal councils. The actual practice, however, demonstrates that all buildings in the city are subject to taxation and that only a predetermined sum of money has been established based on the material from which the building or dwellings are constructed.

On the other hand, due to the fact that the majority of homes are constructed illegally, the practice in the study region shows that not all structures or residences inside the city limits are exempt from taxation. In addition, as the current regulation has referred to the business income tax proclamation it is insufficient to address all of the concerns highlighted about the payment period and grievance

procedure. The current state of affairs demonstrates that this system of collecting taxes from houses located in cities does not take into account the essential principles of taxation, such as the ability to pay, convenience, and efficiency. In a nutshell, Oromia regional state urban centers' current taxation on homes and buildings in the form of roofs and walls cannot be considered as real property taxation; rather, it should be seen as a fee for the building's placement on the land. Therefore, it is reasonable to draw the conclusion that real property taxes is not yet properly recognized in Oromia regional state based on the study done of the existing laws and regulations as well as the practice in Oromia regional state cities.

## **5.2. Conclusions**

Taxation is the earliest and most prevalent means of government interference with the economic life of an individual and enterprises. It is an important conduit to generate revenue and also a tool to redistribute wealth. It can act as a tool to manage land use, urban density and expansion, speculations, economic cycles and transactions. Many tax administrations, both in developed and developing nations, have embraced fundamental tax principles in an effort to improve the efficacy and efficiency of tax administrations. These principles of taxation concepts have been in use since Adam Smith published his book on the wealth of nations in 1776. Some of these principles are ability to pay principle, principle of tax equity, principle of convenience, efficiency, neutrality, certainty and simplicity

Depending on the legal framework of the nation, several taxes exist, including income tax, payroll tax, consumption tax, capital gains tax, progressive tax, regressive tax, proportional tax, and inheritance/estate tax. Local governments mostly generate their money from property taxes, which are the best illustration of local taxes. In most industrialized nations, property tax has long been the main source of funding for local governments. Property taxes include those owed on buildings, land, machinery, equipment, and commercial real estate. Real property taxes are levied on land and buildings in some jurisdictions, whereas tangible personal property taxes (TPP taxes) are levied on the equipment and vehicles that both persons and businesses hold. Immovable property taxes, municipal, communal, and sewerage rates are all part of the property tax on real estate. Real estate taxes are essentially a direct tax. Taxes on real estate may, however, also include indirect levies like transfer fees, capital gains tax, and VAT levied on new construction. A property's assessment under the system of property taxes is determined by its market value.

Since the beginning of time, several nations have understood the notion of property taxes since many of them have connected it to the tax on land and used it to increase their tax revenues. Moreover, contemporary rapid urbanization and the concentration of capital in urban property underscore the need for states to develop effective property taxation and mechanisms to capture rising land and property values.

While Ethiopia was under imperial authority, the idea of property taxes was embraced, and many property taxation laws were passed during this time. Accordingly, in 1942 the first land tax proclamation was enacted in Ethiopian modern tax history. According to this proclamation an annual land tax is collected based on these classification of land into fertile, semi-fertile and poor land that different tax rate has been set for each type. The health tax proclamation of 1959, the education tax proclamation of 1947, and the municipal real property tax proclamation of 1945 are a few of the later declarations that have been passed.

After the imperial regime fell in 1975, almost all movable property was nationalized, and the system of private land ownership was eliminated in Ethiopia. After urban land and additional housing were nationalized in 1975, the Derg government issued Proclamation No. 80/1976, which replaced the imperial era urban land tax with an urban land rent. Urban land was divided into three grades in accordance with this declaration. In accordance with Article 5 of the Proclamation, a legitimate owner of urban land is also required to pay annual land rent, which will be determined by the size and location of the plot in the relevant city and classified as Grade 1, 2, or 3. Besides, residential and commercial houses has been subjected to the taxation with different taxation rate. Public roads, squares, sporting and recreation areas, and cemeteries were exempt during this time, as were places of worship and their grounds, nonprofit private schools, hospitals, and charity organizations. Additionally, welling homes with yearly rental values under Birr 300 were also exempt.

The old "socialist" government, which had ruled Ethiopia for 17 years, was overthrown in 1991 by the Ethiopian Peoples Revolution Democratic Front (EPRDF). Beginning in 1992, the EPRDF launched a broad range of reforms that included changes to the tax code as well as the exchange rate, interest rates, trade, domestic production, and distribution.



Under the FDRE constitution both urban and rural areas in Ethiopia are owned by the government. As a result, all that is obtained from public authorities is the use right over the land. Urban land may be held by lease through negotiation, auction, or lease upon auction, as determined by the Region or City Government. Land in the metropolitan core can only be purchased here through a leasing arrangement. There is a system of tax collection on buildings and residences, which appears to be the tax on real property, in the urban areas of the Oromia regional state. The lack of clear legislation governing the matter makes it unclear how this system of collecting money from home and building owners. The system of levying and collecting the tax on buildings and residences does not have a strong foundation, according to practice in the research region, and is more akin to paying a fee for various services. Moreover, the existing situation does not incorporate the fundamental principles of taxation which has been adopted in other types of taxes. In a nutshell, the existing practice of collection of taxes from buildings and houses in Oromia regional state city's center does not qualify the general principles of real property taxation.

### **5.3. Recommendations**

The following legal and institutional recommendations are provided in light of the study's findings in an effort to achieve the main goal of real property taxes in the study area while also resolving any existing legal and practical problems.

#### **5.3.1. Legal Recommendations**

- ❖ To raise the government revenue Ethiopia would be advised to pass a real property tax that applies to buildings/houses located in urban areas.
- ❖ For the determination of the power of taxation between the federal and regional governments on real property tax in Ethiopia, a joint session of the federal houses is required, as it is stated in Article 99 of the FDRE constitution. Here, the federal chambers should take into account the country's fiscal federalism system and the effects of a fiscal federalism imbalance that would likely occur between the local governments before deciding on the power of property taxes.
- ❖ The Oromia regional state government state council should pass a precise and comprehensive real property tax proclamation to be implemented in urban areas after the

issue of power of taxation on real property tax is determined by the joint session of federal houses.

- ❖ It is necessary to annul the current model legislation adopted by the Oromia Urban Development and Housing and to stop collecting taxes from houses in the form of walls and roofs in the cities situated in the Oromia regional state.
- ❖ The real property tax to be enacted in Oromia regional state urban center should specify the buildings and houses to be exempted from taxation. Accordingly, public roads, squares, sporting and recreation areas, places of worship and their grounds, nonprofit private schools, hospitals, and charity organizations should be exempted

### **5.3.2. Institutional Recommendations**

- All cities located in the Oromia regional state is required to develop a cadastral map, which is necessary for property identification. Here, an exhaustive inventory of all properties is required to be completed in order to give each parcel a special property identification number that will enable tracking of all parcels.
- The regulatory authority in the city administration of Oromia regional state should bring all buildings and houses located within the urban boundary under the jurisdiction of real property, creating uniformity among tax payers.
- There should be a responsible authority that conducts recurring, uniform property assessments and evaluations in the municipal administrations of the metropolitan centers in the Oromia regional state.
- The regulatory body ought to create public awareness among the city's general populace before real property taxes are adopted. Because of this, society would be able to fully understand real property taxes.

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**ANNEX (INTERVIEW QUESTIONNAIRE)**

**JIMMA UNIVERSITY**

**COLLEGE OF LAW AND GOVERNANCE**

**SCHOOL OF LAW**

Name of Respondent (if he /she is consented) \_\_\_\_\_

City Name: \_\_\_\_\_ Office: \_\_\_\_\_

Position: \_\_\_\_\_

Type of the Study: A Master Thesis in Law (LL.M Thesis)

Title: Examining Real property Taxation in Oromia Regional State Administration Urban Centers:  
Law and Practice

Objective of the Interview: To gather information so as to examine the practice on real property taxation in Oromia regional state Urban Centers and to suggest the possible solutions based on the findings.

Therefore, you are kindly requested to respond to the interviews as your information will be helpful for effective accomplishment of the study and as it will be kept confidential and analyzed anonymously unless you consented for the disclosure of your identity and personal views.

**Thank You, in advance, for your Co-operation!**

**Questions for Oromia Urban Development and Management Bureau, (*experts and legal advisors*).**

1. What types of properties are subject to taxation in Oromia regional state cities?
2. What is the role of your office in generating and raising the cities revenue in Oromia regional state?
3. Do you think that real property taxation in Oromia regional state has constitutional guarantee? If yes; which provisions of the constitution FDRE constitution and/or Oromia regional constitution support that system?

4. Do you think that the law which regulate the real property taxation in Oromia regional state is comprehensive and clear on the subject matter? If not, what law has to be
5. Does the real property tax laws includes all the principles of taxation of the country? If not. Which principle (s) is/are missing?
6. How you evaluate the effectiveness of real property tax in Oromia regional state in raising the revenue?

**Interview Questions for Respondents from selected Cities Municipality/administrations and Revenue authority. (*For Experts and legal advisors of concerned office*)**

- A. What property tax bases are currently used, which are performing best in your city? Why?
- B. Is there tax collection system on (real) immovable property in your city/town? If yes; which immovable properties are subject to tax?
- C. Is there law which regulate real property taxation in your city? What is the role of your office in collecting or valuating the real property taxation in the city?
- D. Is there difference between houses/buildings and land for taxation? If yes: what is the requirements for its classification?
- E. Is there cadastral mapping system in your city? If yes, which type of cadaster (s) is/are recognized? And what is its benefit to non-cadastral system?
- F. Which government office is responsible to administration of immovable property taxation? Who is authorized to collect the tax from tax payers?
- G. Is there gap between the law and the practice? If yes; what is cause for that disparity?
- H. Which type of real properties are exempted from taxation?
- I. How do you assess the effectiveness of the current immovable property taxation system in terms of revenue generation?