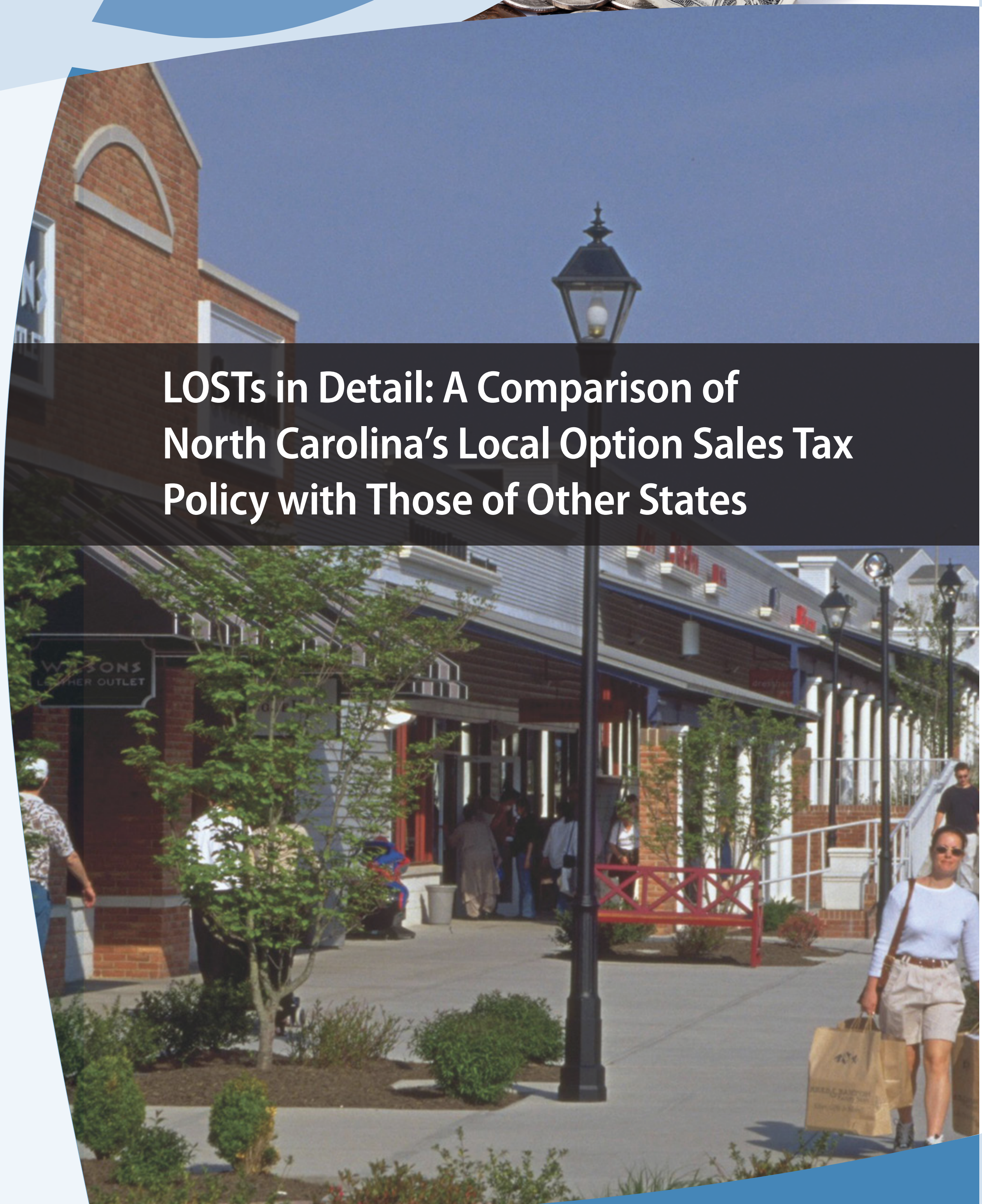
REPORT



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LOSTs in Detail: A Comparison of North Carolina's Local Option Sales Tax Policy with Those of Other States

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Introduction

Note: This an updated version of the report of the same name originally posted in 2016. That version contained an appendix titled "Survey of State Local Option Sales Taxes," which can now be found at afonso.web.unc.edu/local-sales-tax-laws.

Local option sales taxes (LOSTs) are sales taxes adopted at the local level, usually by county or municipal governments, and typically passed by voter referendum. LOSTs can have a sunset date or restrictions on how the generated revenue can be used—though generally the revenue goes into the general fund of the county or municipality. LOST use has become widespread over the past thirty years, its popularity often attributed to increasing tax expenditure limitations that can restrict the flexibility of property taxes. These limitations have forced local governments to look for ways to expand their own-source revenue. In recent decades, the adoption of a LOST has become one of those ways. Forty[1] states currently permit LOSTs, and approximately ten thousand local governments have one in place.[2]

Background

LOSTs are levied in addition to state sales taxes.[3] In North Carolina, only counties are authorized to adopt a LOST, but in other states it is common for more than one unit of local government (e.g., municipalities and special districts) to be permitted to adopt them, which can result in high total tax rates: state + county + municipality. LOSTs also are typically collected with state sales taxes and usually tax the same items as the state sales tax. However, in North Carolina, Georgia, Utah, Arkansas, and Louisiana there are LOSTs that tax food, which is exempt at the state level.[4]

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1. Kentucky has a LOST statute, but it is written in such a way that no local governments have been able to adopt one. Montana permits LOSTs only in relation to resorts. Kentucky and Montana are often omitted from the overviews in other research of states that permit LOSTs.

2. Scott Drenkard, "State and Local Sales Tax Rates in 2014," Tax Foundation Fiscal Fact No. 420 (March 18, 2014), http://taxfoundation.org/article/state-and-local-sales-tax-rates-2014.

3. The exception is Salem County, New Jersey, which is not required to levy state sales tax.

4. Tax Policy Center, "State and Local Tax Policy: How Do State and Local Sales Taxes Work?" In *The Tax Policy Briefing Book* (Washington, D.C.: Urban Institute and the Brookings Institution, 2013), www.taxpolicycenter.org/briefing-book/state-local/specific/sales.cfm; Tax Policy Center, "Sales Tax Rates

LOSTs are important to understand because they are becoming critical sources of revenue for local governments. On average, LOSTs make up 15 percent of own-source tax revenue.[5] This number is somewhat misleading for two reasons: (1) it includes states that do not have LOSTs and (2) it does not include inter-governmental transfers or user fees. Nonetheless, it is clear that the number of local governments adopting LOSTs is growing and that LOSTs will continue to be an important tax instrument available to local governments, second only to property taxes.[6]

While LOSTs are politically popular and citizens prefer sales taxes to property taxes, there are nonetheless concerns about the growing heavy reliance on them. The three primary concerns are: (1) that they are inequitable and regressive, (2) that they are volatile and less consistently reliable sources of revenue, and (3) that they encourage people to shop (and spend their money) outside of the taxing jurisdiction.

First, sales taxes are notoriously inequitable and regressive. *Regressive* simply means that lower income taxpayers pay a larger portion of their income on sales taxes than do wealthier taxpayers. (This does not mean, however, that lower income taxpayers have a higher tax burden overall.) This is why many states exempt food from sales taxes and often clothing and prescription drugs as well. An aspect of local sales taxes that offsets their inherently inequitable nature should be noted, however. Because commuters and tourists benefit from local services provided for them but do not otherwise help pay for them, a LOST enables local governments to derive financial assistance from visitors to help pay for services that otherwise are financed primarily through local property taxes.

Second, sales taxes fluctuate more than property taxes due to shifts in the economy. Such fluctuation is advantageous during "good" periods, when revenues raised by sales taxes outpace economic growth. However, this also means that during economic downturns the revenues they generate will drop off faster than the economy declines. This problem is compounded by the fact that such necessities as food and clothing go untaxed in many states.[7] As noted above, North Carolina counties, unlike the state, are less vulnerable to these fluctuations because the majority of LOSTs tax food, which is not taxed at the state level. Nonetheless, LOSTs are inherently more volatile than property taxes.[8]

2000–2015" (Washington, D.C.: Urban Institute and the Brookings Institution, 2006; updated Jan. 1, 2015), www.taxpolicycenter.org/statistics/sales-tax-rates-2000-2015.

5. Tax Policy Center, "State and Local Tax Policy: What Are the Sources of Revenue for Local Governments?" In *The Tax Policy Briefing Book* (Washington, D.C.: Urban Institute and the Brookings Institution, 2013), www.taxpolicycenter.org/briefing-book/state-local/revenues/local_revenue.cfm.

6. A map of county adoption rates in a multi-state analysis can be found in Whitney Afonso, "Diversification toward Stability? The Effect of Local Sales Taxes on Own Source Revenue," *Journal of Public Budgeting, Accounting and Financial Management* 25, no. 4 (2013): 649–74.

7. Afonso, "Diversification toward Stability?"

8. Whitney B. Afonso, "Revenue Portfolio and Expenditures: An Examination of the Volatility of Tax Revenue and Expenditure Patterns during the Great Recession." Paper presented at the Seventh Azienda Publica Workshop, "Theory and Experiences in Management Science," May 25–27, 2016, University of Palermo, Italy.

Third, there is concern that raising taxes in one jurisdiction encourages consumers to shop and spend their money in another, a phenomenon often referred to as tax leakage.[9] This is especially problematic in places where sales tax rates vary drastically among jurisdictions. This is not much of an issue in North Carolina, but it is in states like Oklahoma, where municipalities are unrestricted on the LOST rate that can be imposed.[10]

Much of the academic attention on LOSTs has focused on issues surrounding the size of government expenditures—examining whether LOST revenue is used to reduce property tax burdens or increase own-source revenue. In North Carolina, state law dictates that LOST revenue is to be used as additional own-source revenue.[11] However, in the neighboring states of Georgia and South Carolina, LOST revenue is required to be used to reduce property tax burdens. Although the literature has found that LOST revenue both decreases property tax burdens and increases the size of the general fund,[12] LOSTs often are framed as a means of reducing property tax burdens rather than of increasing own-source revenue. Two possible reasons for this are that (1) property taxes are viewed extremely unfavorably by most citizens and (2) in some areas there is an underlying distrust in government. As a consequence, LOSTs are more politically palatable if they are used to reduce other taxes, if they expire, and if their revenue is earmarked for specific purposes—all restrictions that are present in LOST laws.

There is another side to that coin, however, and that other side is fiscal federalism. As a nation, we often view the autonomy of state and local governments as an extremely valuable, defining characteristic of our governance structure. But, as intergovernmental aid continues to increase and the lines between levels of government become blurred, local government autonomy wanes. This blurring will become more pronounced as tax and expenditure limits grow; these limits often restrict the amount of property taxes a local government is able to collect. LOSTs can help fill the revenue void created by this situation.

This report proceeds with an explanation of LOSTs in North Carolina followed by a description of the key elements of North Carolina's laws as compared with those of other states—with special attention paid to why some of the differences are in place. The report then presents information on LOSTs across the country and concludes with an overview of what elements of LOSTs are unique to North Carolina and a brief discussion of how this state measures up to others with regard to equity concerns. A survey of LOSTs in every state is presented here. The analysis offered here is current as of fall 2015.

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9. Georgeanne Artz and Kenneth E. Stone, "An Analysis of the Transfer of Funds from Weak Retail Counties to Strong Retail Counties in Iowa via Local Option Sales Taxes." Paper presented at the 2003 Annual Meeting of American Agricultural Economics Association, July 27–30, Montreal.

10. Cynthia L. Rogers, "Local Option Sales Tax (LOST) Policy on the Urban Fringe," *Journal of Regional Analysis and Policy* 34, no. 1 (2004): 25–50.

11. N.C. Gen. Stat. §§ 105-464, -481, -496.

12. Whitney B. Afonso, "LOST and Found Tax Dollars: Local Option Sales Taxes, Property Taxes, and Own Source Revenue," *Journal of Public Budgeting, Accounting and Financial Management* 27, no. 3 (2015): 318–51, and "Local Sales Taxes as a Means of Increasing Revenues and Reducing Property Tax Burdens: An Analysis Using Propensity Score Matching," *Public Budgeting & Finance* 34, no. 2 (2014): 24–43; David Sjoquist, Mary Beth Walker, and Sally Wallace, "Estimating Differential Responses to Local Fiscal Conditions: A Mixture Model Analysis," *Public Finance Review* 33, no. 1 (2005): 36–61; Chang-hoon Jung, "Does the Local-Option Sales Tax Provide Property Tax Relief? The Georgia Case," *Public Budgeting & Finance* 21, no. 1 (2001): 73–86.

North Carolina's LOSTs

In North Carolina, only counties may adopt LOSTs, which are subject to public referendum.[13] The state department of revenue collects and administers these local option taxes for the counties.[14] Each county can impose local taxes up to 2.25 percent, and those counties with public transportation systems can impose an additional 0.5 percent for funding such a system. Under Article 39 of Chapter 105 of the North Carolina General Statutes, counties can choose to adopt an initial 1 percent sales and use local option tax. After the Article 39 tax is adopted, counties are allowed to adopt an additional 1.75 percent.[15] This must be done in increments of 0.5 percent, 0.5 percent, and 0.25 percent, with each increment contingent upon the adoption of the previous local option.[16] Some counties are also eligible to adopt an additional 0.5 percent LOST earmarked for transportation. The articles authorizing the first 2 percent explicitly state that LOST revenue is to be "an added source of revenue with which to meet their growing financial needs."[17]

Under Article 39, the first 1 percent of this 2.25 percent maximum local option tax rate may be imposed on the sales price of tangible personal property, gross receipts from the lease or sale of personal property, some food sales, laundry services, accommodations rentals, satellite radio, and/or prepaid calling services.[18] If these items are not sold but instead used, consumed, or stored for use in the taxing county, counties can impose a use tax rather than a sales tax on them.[19] Counties are required to share the revenue they receive from local option taxes with municipalities within their jurisdictions. Counties may choose whether to distribute these funds through a per capita or an ad valorem method,[20] but the same method must be used for all municipalities within the county. These distribution methods differ in that one is based on the population of the county and its cities, whereas the other is based on the amount of property tax levied (and collected). The revenue generated by these local option taxes may be used for any allowable use by counties. The state returns the revenue to the counties on a point-of-sale basis.[21]

Under Article 40, the next 0.5 percent of the 2.25 percent maximum local option tax may apply to the sales and use classifications under Article 39. One of the major differences with this portion of the local option tax is that 40 percent of the revenue received by a county within the first five fiscal years, and 30 percent of that revenue received thereafter, may be used only for public school capital outlays or to retire indebtedness for such purposes.[22] The tax levied is subject to the same classifications and restrictions as the state sales tax, except that the exemption for building materials contained in Article 39 does not apply.[23] The state returns the revenue generated by Article 40 to the counties on a weighted, per capita basis according to annual population estimates. After establishing the per capita amount, the amount allocated for each county is then

13. N.C. Gen. Stat. § 105-465.
14. N.C. Gen. Stat. § 105-469.
15. This 1.75 percent includes the 0.5 percent for transportation.
16. N.C. Gen. Stat. §§ 105-480, -497, -536.
17. N.C. Gen. Stat. §§ 105-464, -481, -496.
18. N.C. Gen. Stat. §§ 105-467 & -164.4.
19. N.C. Gen. Stat. § 105-468.
20. N.C. Gen. Stat. § 105-472.
21. More specifically, it is a point of delivery, but largely that means point of sale. The exception is mostly for large items, such as furniture, which can be delivered in a county outside of the county where it was purchased.
22. N.C. Gen. Stat. § 105-487(a).
23. N.C. Gen. Stat. § 105-483.

multiplied by an adjustment factor listed in the statute. If the resulting total is more or less than the net proceeds to be distributed, the amount is proportionately adjusted to eliminate the difference.[24] Once the amount of revenue to be sent to each county is determined, that revenue is distributed between counties and cities using either the per capita or ad valorem method used to distribute the Article 39 tax.[25]

Under Article 42, counties must use 60 percent of the revenue generated by the proceeding 0.5 percent of the 2.25 percent maximum local option tax to provide for public school capital outlays or to retire indebtedness for that effect.[26] The classifications and restrictions on which items are subject to tax are the same as in Article 39, except for the building materials exemption, which does not apply.[27] The state Local Government Commission might decide to authorize an exception under Article 42, as well as Article 40, so that counties may instead use a portion or all of the funds designated for public school outlays for any other lawful purpose.[28] The net proceeds from this additional .5 percent sales tax are distributed to counties based on their portion of the tax revenue in the same manner that Article 39 funds are distributed.[29]

Article 46 outlines the final .25 percent of the 2.25 percent maximum local option sales tax rate that counties are authorized to levy. The Article 46 tax is administered in the same way as the state and local sales tax.[30] Unlike the portions in Articles 39, 40, and 42, the Article 46 portion is not distributed between counties and municipalities and is exclusively for county use.[31] The state places no restrictions on the use of funds generated by this additional .25 percent.

Transportation Sales Tax

Under Article 43, the Local Government Public Transportation Sales Tax Act, counties and transportation authorities are authorized to levy an additional .5 percent sales and use tax to meet their needs in financing a public transportation system.[32]

For counties with a public transportation system that is not part of a regional transportation authority, a majority of voters in a referendum can approve the levy of the Article 43 sales and use tax in addition to any other state and local taxes.[33] The adoption, levy, collection, administration, and repeal procedures of Article 43 special purpose transportation taxes are largely the same as in Articles 39, 40, 42, and 46.[34] There are distinct differences, however, between these special purpose taxes and other local option taxes in the state. First, the distribution of the Article 43 tax, designated to counties, is based on a per capita basis between counties and local government units that operate a public transportation system. This allocation can take three forms: (1) If the unincorporated area and all municipalities within a county operate a public transportation system, the net proceeds are allocated on a per capita basis. (2) If a municipality does not operate or contract for the operation of a public transportation system, the municipality is excluded from

24. N.C. Gen. Stat. § 105-486.
25. N.C. Gen. Stat. § 105-486(c).
26. N.C. Gen. Stat. § 105-502(a).
27. N.C. Gen. Stat. § 105-498.
28. N.C. Gen. Stat. §§ 105-502(b) & -486(b).
29. N.C. Gen. Stat. § 105-501(a).
30. N.C. Gen. Stat. § 105-538.
31. *Id*.
32. N.C. Gen. Stat. § 105-506.
33. N.C. Gen. Stat. § 105-511.2.
34. N.C. Gen. Stat. § 105-511.3.

the per capita allocation. (3) If the unincorporated area of a county does not operate or contract for the operation of a public transportation system, the county is excluded from the per capita allocation.[35]

Diversity in LOST Policies

This section aims to outline key features of North Carolina's local sales tax in order to compare LOST structure both within North Carolina and across the United States. These key features include how much power local governments are granted, which governments can levy local sales taxes, the authorized rates of LOST, and how local governments can use LOST funds.

Dillon's Rule versus Home Rule

LOSTs rely on localities having the authority to levy a sales tax. States authorize localities to levy sales tax through legislation, and many state laws include restrictions on the rate imposed, how the funds may be used, and which entities can levy a LOST. How much taxing authority is granted to local governments by the state is largely dependent on whether the state employs Dillon's Rule or Home Rule. The dominant legal theory in local–state relations, Dillon's Rule gives localities taxing authority only in those areas expressly granted to them by the state.[36] The commonly associated alternative to Dillon's Rule is Home Rule, which gives localities broad powers over local affairs unless expressly prohibited by the state. However, the reality of local powers does not fall neatly into these categories: 39 states are classified as employing Dillon's Rule; 31 states apply Dillon's Rule to all municipalities; the remaining 8 states apply Dillon's Rule only to certain municipalities.[37] Based on the power allocated to municipalities by state statute, constitution, and legal interpretations, the level of authority that local governments have in states that adhere to Dillon's rule varies. However, of the 40 states authorized to implement a LOST, all are described in state statutes. North Carolina is typically considered a Dillon's Rule state but truly is neither.[38]

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35. N.C. Gen. Stat. § 105-511.4. The second distinction between the state and local sales tax is the creation of transportation authorities. Local transportation authorities can create a special district, and that district can levy a tax if the authority operates a public transportation system, develops a financial plan, and the tax is approved by a majority of voters within that district (N.C. Gen. Stat. 105-508.1). The net proceeds of the tax are distributed to counties on a monthly basis. The special district must use the net proceeds according to its financial plan for financing, constructing, operating, and maintaining public transportation systems (N.C. Gen. Stat. 105-508.2). Part 4 of the Local Government Public Transportation Sales Tax Act authorizes the Triangle Regional Transportation Authority to levy a 0.5 percent sales and use tax, upon voter approval, to be used for public transportation systems (N.C. Gen. Stat. 105-509). Under Part 5, the Triad Regional Transportation Authority, which operates only in Forsyth and Guilford counties, is authorized to levy a 0.5 percent sales and use tax, subject to voter approval (N.C. Gen. Stat. 105-510). Finally, Part 2 applies only to Mecklenburg County, which, subject to voter approval and the development of an equitable financial plan, is authorized to levy a 0.5 percent sales and use tax for "local public transportation systems in the county, countywide human service transportation systems, and expansion of public transportation service to unserved areas in the county" (N.C. Gen. Stat. 105-507).

36. Dale Krane, Platon N. Rigos, and Melvin B. Hill Jr., *Home Rule in America: A Fifty-State Handbook* (Washington, D.C.: CQ Press, 2001).

37. Krane, Rigos, and Hill, *Home Rule in America*.

38. Frayda S. Bluestein, "Is North Carolina a Dillon's Rule State?" *Coates' Canons: NC Local Government Law* blog (Oct. 24, 2012), http://canons.sog.unc.edu/?p=6894.

Table 1. Local Government Units Authorized to Collect LOSTs

State	Counties	Municipalities	Special Districts
North Carolina	Yes	No	No
South Carolina	Yes	Yes	No
Virginia	Yes	Yes	Yes
Alabama	Yes	Yes	No
Georgia	Yes	No	Yes

Table 2. State and Local Rates, with Rankings, of Neighboring States

State	State Rate	Rank	Local	Rank	Combined	Rank
North Carolina	4.75%	35	2.15%	14	6.9%	25
South Carolina	6.00%	16	1.13%	24	7.13%	18
Virginia	5.30%	31	0.33%	34	5.63%	41
Alabama	4.00%	38	4.91%	2	8.91%	3
Georgia	4.00%	38	2.96%	8	6.96%	24

Source: Scott Drenkard and Nicole Kaeding, "State and Local Sales Tax Rates in 2016," Tax Foundation Fiscal Fact No. 504 (March 9, 2016).

Who Can Levy

In addition to granting authority, state statutes also dictate which local government entities can impose a sales tax. As previously mentioned, only North Carolina counties[39] can levy a local sales tax. In other states, municipalities and special districts also may be authorized in addition to or instead of counties. Table 1 compares whether counties, municipalities, and/or special districts are authorized to impose a sales tax in the neighboring states of Virginia, South Carolina, Georgia, and Alabama. The comparison is representative of nationwide variance in sales tax structures. Counties are the most common level of local government enabled to levy a LOST, receiving authorization in 32 states. Municipalities levy a LOST in 31 states, and special districts are created to impose local sales taxes in 20 states.

Another distinction in addition to which governments can impose a LOST is whether multiple governmental levels in the same state may levy a sales tax. Currently, 11 states authorize one level of government to levy a local sales tax, 17 states authorize two levels, and 12 states authorize counties, municipalities, and special districts to do so. In addition to North Carolina, Iowa, Nevada, and Hawaii grant counties exclusive power to impose LOSTs.

Rates

While the state sales tax rate is set by statute, the local sales tax rate varies within states depending on both the applicability of LOSTs and the decision by localities to levy. For instance, in North Carolina, only counties with public transportation systems are authorized to levy the additional .5 percent in addition to the 2.25 percent general county rate, and counties are not required to impose the full 2.25 percent.

Obviously the combined state and local rates contribute to the amount of tax imposed on consumers, and Table 2 illustrates how both rates play a factor in state rankings. This comparison is

39. Counties and the special transportation authorities of multiple counties.

especially important when considering how the sales tax may affect economic behavior within states as well as across state borders.

North Carolina's average state and local combined sales tax rate of 6.90 percent falls in the middle range of combined tax rates due to the combination of a relatively low state rate and high local rates. North Carolina's state rate of 4.75 percent ranks 35th in the country. Of the states that levy a state sales tax, only 10 have a lower state tax rate, including Alabama and Georgia, at 4 percent. However, despite Alabama's low state rate, its combined rate ranks 5th in the nation due to its large local option rate. Some Alabama localities levy a 7 percent local sales tax in addition to the state rate. Alabama's combined average rate is 8.93 percent. In comparison, North Carolina's local rate, at an average of 2.15 percent, ranks 14th.[40]

Restrictions

Finally, states may place restrictions on how revenue from local sales tax may be used. Of the states that allow LOSTs, 33 restrict the use of funds in some way, often by earmarking the revenue for a specific purpose. However, other states, like Georgia, earmark the revenue to reduce property tax burdens, most often by combining restricted and unrestricted LOSTs that are available. For instance, Texas municipalities may adopt a 1 percent LOST with unrestricted revenue. However, in addition to that 1 percent LOST, the municipality, county, and/or special district can adopt additional LOSTs that are earmarked for such purposes as economic development, transit, and libraries. The overall local rate may not exceed 2 percent, however. Five states, including Alabama, Indiana, and Tennessee, do not restrict the use of local sales tax revenue.

50 State Comparisons

Because so many factors are at play in the structure of the local option sales tax, no two states have the same system. Each differs in its rate, intention for use, and where the power to implement a local sales tax lies. The complexity of crafting a local option sales tax and the resulting variance of local sales tax structures may be the primary reason why relatively little research has compared local sales tax options. This report seeks to remedy this situation by providing a comprehensive, comparative view of local sales tax structures among the 50 states, paying special attention to the factors discussed so far. Table 3 describes the local governmental units in each state that are enabled to levy a LOST and presents the enabling statutes. Table 4 lists the state rate, the local rate (if applicable), the type of governmental unit authorized to levy a LOST, and whether or not state law restricts how these funds are used.

Policy innovations often are spread by neighboring states taking them up. Thus, one may reasonably expect to see regional trends develop in the adoption and structuring of LOST policies. The data in this report, however, indicate that LOST policies do not reflect regional trends. Maps 1 through 3 present the different levels of government permitted to adopt LOSTs across the country. The primary regional trend they reveal is that, except for Vermont, New England has virtually no LOSTs. Map 4 presents the restrictions that states impose on local governments with regard to the earmarking of revenue and rate limits (or caps). As these maps show, there is great diversity within regions with regard to the structure of LOST policies.

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40. Scott Drenkard and Nicole Kaeding, "State and Local Sales Tax Rates in 2016," Tax Foundation Fiscal Fact No. 504 (March 9, 2016), http://taxfoundation.org/article/state-and-local-sales-tax-rates-2016.

Table 3. LOST Enabling Statutes by State

State	Gov't Type	Statutory Authorization
Alabama	C M	Ala. Code § 11-3-11.2 Ala. Code §§ 11-51-200 & 11-51-205
Alaska	C M	Alaska Stat. Ann. § 29.45.650 Alaska Stat. Ann. § 29.45.700
Arizona	C M S	Ariz. Rev. Stat. § 42-6103 Ariz. Rev. Stat. §§ 42-5029, -6001, -6103 Ariz. Rev. Stat. §§ 48-1910; -4022; -4236, -5314, -5805; -6253, -6406, -6431, -6432, -6654
Arkansas	C M	Ark. Code Ann. §§ 26-75-207, 26-74-407, 26-74-307 Ark. Code Ann. § 26-75-207
California	C C, S, M	Cal. Rev. & Tax Code § 7202 Cal. Rev. & Tax Code § 7261
Colorado	C, M S	Colo. Rev. Stat. § 29-2-104 Colo. Rev. Stat. §§ 29-2-106, 39-26-102, 32-9-119, 32-13-107, 32-15-110, 32-17-113, 32-18-106, 32-19-112, 32-1-1004, 37-50-110
Florida	C, S	Fla. Stat. § 212.055
Georgia	C S	Ga. Code Ann. §§ 48-8-85, 48-8-102, 48-8-141, 48-8-110, 48-8-202 Ga. Code Ann. §§ 48-8-240–241
Hawaii	C	Haw. Rev. Stat. Ann. § 46-16.8
Idaho	C, S	Idaho Code §§ 50-1044, 67-4917C
Illinois	M S	55 Ill. Comp. Stat. 5/5-1006; 65 Ill. Comp. Stat. 5/8-11-1, 5/8-11-1.1, 5/8-11-1.3, 5/8-11-1.4, 5/8-11-1.5 70 Ill. Comp. Stat. 3615/4.03
Iowa	C	Iowa Code Ann. § 423b.1
Kansas	C, M C	Kan. Stat. Ann. §§ 12-189 & -187 Kan. Stat. Ann. § 12-187
Kentucky	S	Ky. Rev. Stat. Ann. § 96A.320
Louisiana	C, M S	La. Stat. Ann. §§ 47:337(3) & (4) La. Stat. Ann. § 47:338
Minnesota	C	Minn. Stat. §§ 297A.99, .992, .993
Mississippi	M	Miss. Code Ann. § 27-65-241
Missouri	C, M S	Mo. Rev. Stat. § 32.085 Mo. Rev. Stat. § 238.235
Montana	C, M	Mont. Code Ann. § 7-6-1503
Nebraska	C, M	Neb. Rev. Stat. Ann. §§ 77-27, 142, 143
Nevada	C S	Nev. Rev. Stat. §§ 377B.100; 376A.040 Nev. Rev. Stat. §§ 376A.050; 377A.020 & .030; 374A.010
New Jersey	M	N.J. Stat. Ann. § 34:1B-194
New Mexico	C M	N.M. Stat. Ann. § 7-20E N.M. Stat. Ann. §§ 7-19, -19D
New York	C, M S	N.Y. Tax Law § 1210(i) N.Y. Tax Law § 1109

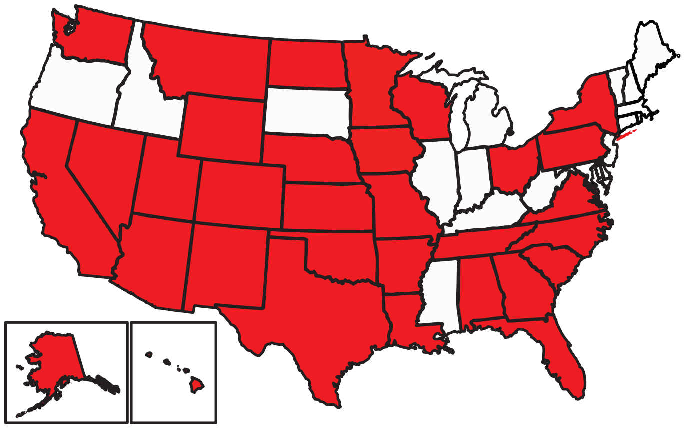
Table 3. LOST Enabling Statutes by State *(continued)*

State	Gov't Type	Statutory Authorization
North Carolina	C	N.C. Gen. Stat. §§ 105-465, -483, -498, -536(c)
	S†	N.C. Gen. Stat. § 105-511.3
North Dakota	C	N.D. Cent. Code § 11-09.1-05(2)
	M	N.D. Cent. Code § 40-05.1-06.2
Ohio	C	Ohio Rev. Code Ann. §§ 5739.021.A & .026.A
	S	Ohio Rev. Code Ann. § 5739.023.A.1
Oklahoma	C	Okla. Stat. tit. 68 §§ 1370, 1370.1, .2, .2A, .3, .4, .5, .6
	M	Okla. Stat. tit. 68 § 2705
	S	Okla. Stat. tit. 68 §§ 1370.7 & .8
Pennsylvania	M	53 Pa. Cons. Stat. §§ 12720.503 & .508
	C	16 Pa. Cons. Stat. § 6152-B
South Carolina	C	S.C. Code Ann. §§ 4-10-90; 40-10-10, 40-10-300, 40-10-510, 40-10-720, 40-10-420.A
	S	S.C. Code Ann. § 4-10-910
South Dakota	M	S.D. Codified Laws § 10-52-2
Tennessee	C, M	Tenn. Code. Ann. § 67-6-702
Texas	M	Tex. Tax Code Ann. § 321.101(a)
	C	Tex. Tax Code Ann. § 323-101(a)
	S	Tex. Tax Code Ann. § 323-105(a)
Utah	M, C	Utah Code Ann. §§ 59-12-203, 59-12-2202, 59-12-2003, 59-12-1401, 59-12-701, 59-12-1401
	C	Utah Code Ann. §§ 59-12-402.1, 59-12-1102
Vermont	M	Vt. Stat. Ann. tit. 24, § 138
Virginia	C, M	Va. Code Ann. § 58.1-605
	S	Va. Code Ann. § 58.1-603.1
Washington	C, S	Wash. Rev. Code Ann. §§ 82.14.030(1) & (2), 82.14.400(1), 82.14.460(1)–(3), 82.14.475(1), 82.14.480(1), 82.14.510(1)
	C, M	Wash. Rev. Code Ann. § 82.14.045(1)
	C	Wash. Rev. Code Ann. §§ 82.14.0485(1), 82.14.360(1), 82.14.049(1), 82.14.0494(1), 82.14.340, 82.14.350, 82.14.370(1), 82.14.420, .82.14.450(1), 82.14.485(1)
	M	Wash. Rev. Code Ann. § 82.14.415(1)
	S	Wash. Rev. Code Ann. §§ 82.14.0455, 82.14.0455(2), 82.14.390(2)(a), 82.14.430(1), 82.14.440
West Virginia	M	W. Va. Code § 8-13C-4
	S	W. Va. Code §§ 8-38-12 & 7-22-12
Wisconsin	C	Wisc. Stat. § 77.70
	S	Wisc. Stat. §§ 229.64 & .823
Wyoming	C, M, S	Wyo. Stat. Ann. § 39-15-203
	C	Wyo. Stat. Ann. § 39-15-204

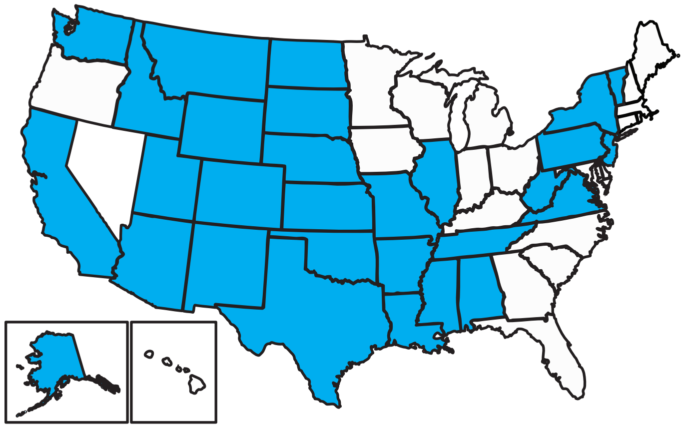
Note: C = county; M = municipality; S = special district.

†North Carolina transit authorities are permitted to adopt the .5 percent transportation sales and use tax provided by Article 43 (Sections 506 through 514 of Chapter 105 of the North Carolina General Statutes), but the transit authorities themselves are adopted by counties and have countywide jurisdiction. The only two transit authorities that have adopted Article 43 are the Triangle Transit Authority and the Triad Transit Authority via Durham, Orange, Wake, Forsyth, and Guilford counties. Otherwise, all Article 43 adoptions have been explicitly at the county level by counties with public transportation.

Map 1. States with County Governments Authorized to Have Local Option Sales Taxes



Map 2. States with Municipal Governments Authorized to Have Local Option Sales Taxes



Map 3. States with Special Districts Authorized to Have Local Option Sales Taxes

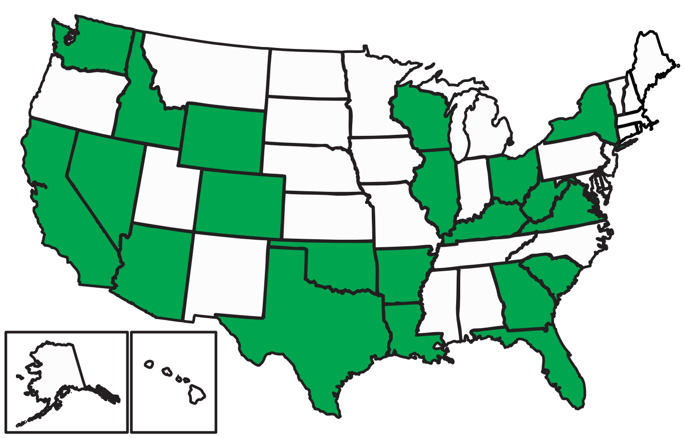


Table 4. Authorized Units and Restrictions

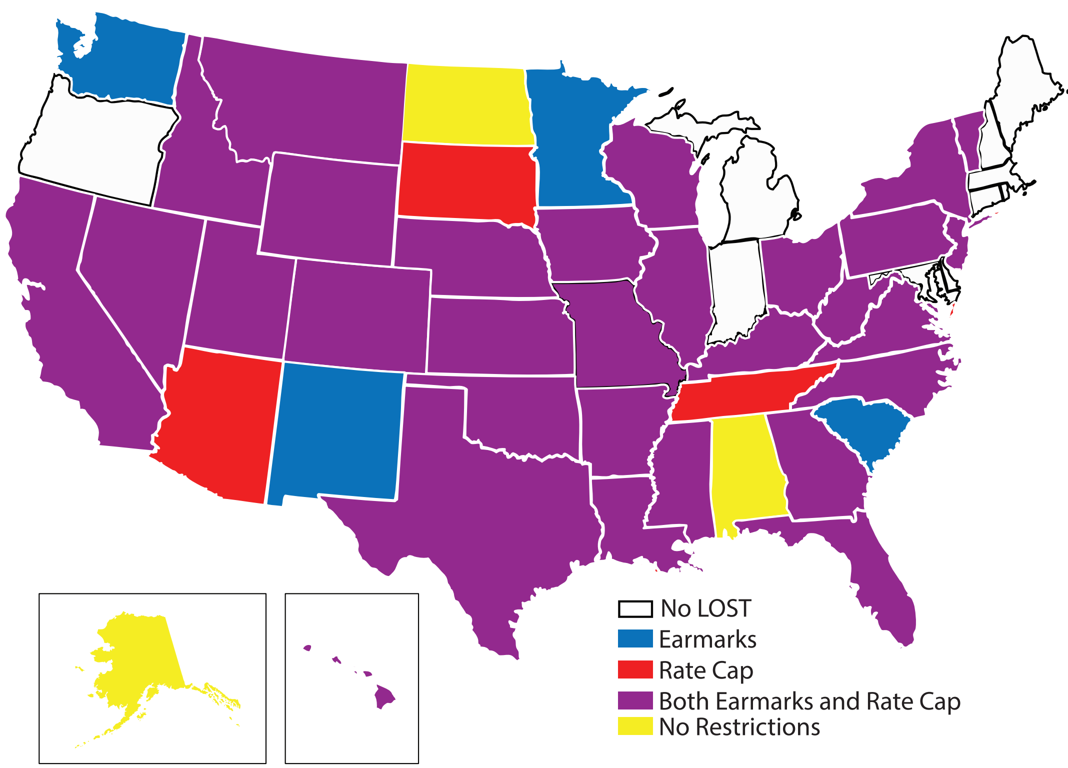
State	State Rate	Local	Combined	County	Restrict	MUNI	Restrict	Special	Restrict
Alabama	4	4.93	8.93	✔		✔			
Alaska	0	1.78	1.78	✔		✔			
Arizona	5.6	2.58	8.18	✔	✔	✔	✔	✔	✔
Arkansas	6.5	2.77	9.27	✔	✔	✔	✔		
California	7.5	0.98	8.48	✔	✔	✔		✔	✔
Colorado	2.9	4.54	7.44	✔		✔		✔	✔
Connecticut	6.35	0	6.35						
Delaware	0	0	0						
Florida	6	0.65	6.65	✔	✔	✔			
Georgia	4	3.02	7.02	✔	✔			✔	✔
Hawaii	4	0.35	4.35	✔	✔				
Idaho	6	0.01	6.01			✔		✔	✔
Illinois	6.25	1.97	8.22	✔		✔		✔	✔
Indiana	7	0	7						
Iowa	6	0.79	0.79	✔					
Kansas	6.5	2.09	8.59	✔	✔	✔	✔		
Kentucky	6	0	6					✔	✔
Louisiana	4	5.01	9.01	✔		✔		✔	✔
Maine	5.5	0	5.5						
Maryland	6	0	6						
Massachusetts	6.25	0	6.25						
Michigan	6	0	6						
Minnesota	6.88	0.35	7.22	✔	✔	✔			
Mississippi	7	0.07	7.07			✔	✔		
Missouri	4.23	3.62	7.84	✔		✔		✔	✔
Montana	0	0	0						✔
Nebraska	5.5	1.33	6.83	✔		✔	✔		✔
Nevada	6.8	1.09	7.94	✔	✔			✔	✔
New Hampshire	0	0	0						
New Jersey	7	-0.03	6.97			✔	✔		
New Mexico	5.13	2.37	7.49	✔	✔	✔	✔		
New York	4	4.48	8.48	✔		✔		✔	✔
North Carolina	4.75	2.15	6.9	✔	✔				✔
North Dakota	5	1.77	6.77	✔		✔			
Ohio	5.75	1.39	7.14	✔	✔			✔	✔
Oklahoma	4.5	4.28	8.78	✔		✔		✔	✔
Oregon	0	0	0						
Pennsylvania	6	0.34	6.34	✔		✔			

Table 4. Authorized Units and Restrictions *(continued)*

State	State Rate	Local	Combined	County	Restrict	MUNI	Restrict	Special	Restrict
Rhode Island	7	0	7						
South Carolina	6	1.22	7.22	✔	✔	✔	✔		
South Dakota	4	1.84	5.84			✔			
Tennessee	7	2.46	9.46	✔		✔			
Texas	6.25	1.92	8.17	✔	✔	✔	✔	✔	✔
Utah	5.95	0.74	6.69	✔	✔	✔	✔	✔	✔
Vermont	6	0.14	6.14			✔	✔		
Virginia	5.3	0.33	5.63	✔		✔		✔	✔
Washington	6.5	2.4	8.9	✔	✔	✔	✔	✔	✔
West Virginia	6	0.1	6.1			✔	✔	✔	✔
Wisconsin	5	0.43	5.43	✔	✔			✔	✔

Note: State and local rates are from Scott Drenkard and Nicole Kaeding, “State and Local Sales Tax Rates in 2016,” Tax Foundation Fiscal Fact No. 504 (March 9, 2016); restrictions are from forthcoming research.

Map 4. Local Option Sales Tax Restrictions: Revenue Earmarking and Rate Limits



Note: In states with earmarks, at least some of the revenue is dedicated for specific purposes. The designation does not mean that all of the revenue generated by LOSTs is earmarked. In states with a rate cap it signifies that there is a LOST rate restriction for at least one of the LOST instruments. It does not necessarily mean that there is a total rate cap.

Other State Structures

To further illuminate the difference in LOST structure by state, the structures of other states are detailed below. The first two, Georgia and South Carolina, present a neighboring state, complex structure, whereas Virginia and Tennessee present a neighboring state, simpler structure. Finally, West Virginia presents a simpler structure similar to North Carolina's wherein counties and transportation authorities can levy a LOST.

Georgia

Georgia's statewide sales and use tax is 4.0 percent.[41] Local option sales taxes can be adopted for rapid transit, local education, property tax reduction, capital outlays, and transportation. In most counties, the combined state and local tax rate on sales and use is between 7 and 8 percent.[42] While Georgia's local option taxes generally have the same tax base as the state sales and use tax, certain fuels are exempted from the special district transportation sales and use tax but not from the other local option taxes.[43]

Georgia's constitution grants the creation of special districts by general law or municipal or county ordinance.[44] The geographical boundaries of these districts correspond with the geographical boundaries of each county.[45] The LOST, or the joint sales and use tax, refers to the joint 1 percent sales and use tax counties are authorized to levy within special districts for property tax relief.[46] LOSTs are subject to voter referendum.[47] Counties that levy the LOST must annually reduce millage rates to reflect the dollar amount received through it during the previous year. Counties must demonstrate this dollar amount prominently on each property tax bill.[48] Counties that do not levy a LOST can instead levy a homestead option sales and use tax (HOST). Unlike the LOST, only 80 percent of HOST revenue goes toward property tax reduction while 20 percent supports capital outlay projects.[49]

In addition to the state and local option, counties can levy a special purpose local option sales tax (SPLOST) of 1 percent for a specific capital outlay or countywide project.[50] Subject to referendum, the governing authority of any county in Georgia may impose a special county tax.[51] Georgia state statutes include a special provision authorizing water capital outlay projects. This tax also must first be approved by a voter referendum.[52]

The sales tax for educational purposes (ESPLOST) authorizes school boards to levy a 1 percent sales tax for capital projects for educational purposes.[53] MARTA refers to the authorization

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41. Ga. Code Ann. § 48-8-30.
42. Georgia Department of Revenue, Georgia Sales and Use Tax Rate Chart (effective Oct. 1, 2015), https://dor.georgia.gov/sites/dor.georgia.gov/files/related_files/document/LGS/Distributions/LGS_2015_Oct_Rate_Chart.pdf.
43. Ga. Code Ann. § 48-8-241.
44. Ga. Const. art. IX, § II, ¶ VI.
45. Ga. Code Ann. § 48-8-81.
46. Ga. Comp. R. & Regs. 560-12-5.
47. Ga. Code Ann. § 48-8-85.
48. Ga. Code Ann. § 48-8-91.
49. Ga. Code Ann. § 48-8-102.
50. Ga. Code Ann. § 48-8-110.
51. Ga. Code Ann. § 48-8-201.
52. Ga. Code Ann. § 48-8-202.
53. Ga. Code Ann. § 48-8-141.

of Fulton and DeKalb counties to levy a 1 percent rapid transit sales tax. Georgia regulations state that in the future, additional counties may adopt a rapid transit sales tax under Georgia law provisions.[54]

The special district transportation sales and use tax (TSPLOST) applies to transportation projects that cross multiple jurisdictional boundaries and requires the creation of special districts that correspond with existing regional commissions, as determined by the state General Assembly. Currently there are 12 special jurisdictions. The General Assembly holds a referendum to authorize the imposition of this tax. State statute authorizes the creation of a 10-year, 1 percent sales and use tax.[55]

The Georgia Tourism Development Act allows companies building approved tourist attractions, as determined by the Department of Community Affairs, to maintain a portion of their sales tax revenues for 10 years.[56] The department of revenue maintains an updated list of tax rates across the state as well as what type of tax option each county has chosen.[57] The state department of revenue distributes sales tax proceeds to the local taxing authorities.[58]

South Carolina

South Carolina's statewide sales and use tax rate is 6.0 percent.[59] Counties may impose local option sales taxes. The South Carolina Department of Revenue (DOR) administers and collects the local sales and use taxes in the same manner as the state sales and use tax.[60] All revenue collected by DOR is to be sent to the state treasurer to be credited to the Local Sales and Use Tax Fund, which is separate and distinct from the state general fund.[61]

The Local Sales and Use Tax Fund consists of two separate funds: the Property Tax Credit Fund and the County/Municipal Revenue Fund.[62] Of the revenue allocated to the Property Tax Credit Fund, 67 percent is distributed to the county and 33 percent to municipalities within the county so that each municipality receives an amount equal to its proportional percentage of the population in all of the municipalities in the county area.[63] All revenue received from the Property Tax Credit Fund must be used to provide a credit against the property tax liability of taxpayers in the area.[64] Of the revenue allocated to the County/Municipal Revenue Fund, 50 percent is distributed based on the location of the sale, and 50 percent is distributed based on population.[65] As with

54. Ga. Comp. R. & Regs. 560-12-4.

55. Ga. Code Ann. §§ 48-8-240 & -241.

56. Ga. Code Ann. § 48-8-274; Georgia Department of Community Affairs, Georgia Tourism Development Act (2013), www.dca.state.ga.us/economic/TaxCredits/programs/tourismDevAct.asp.

57. Georgia Department of Revenue, Sales Tax Rate Chart (Dec. 22, 2014), https://dor.georgia.gov/documents/sales-tax-rate-chart.

58. See the Distributions Section page of the Georgia Department of Revenue website, https://dor.georgia.gov/distributions-section.

59. South Carolina Department of Revenue, What Is Sales Tax? FAQ, https://dor.sc.gov/tax/sales.

60. S.C. Code Ann. § 4-10-90(A).

61. S.C. Code Ann. § 4-10-90(B).

62. *Id*.

63. S.C. Code Ann. § 4-10-40(A).

64. S.C. Code Ann. § 4-10-40(B); see the statute for details on how to calculate the amount of the tax credit.

65. S.C. Code Ann. § 4-10-50(A).

Property Tax Credited Fund revenues, revenues from the County/Municipal Revenue Fund may be used to provide an additional property tax credit.[66]

Counties may impose several varieties of local option sales taxes, each of which is a separate and distinct tax. Under Section 40-10-10 and related provisions of the Code of Laws of South Carolina, a county may, upon approval by referendum, levy a sales and use tax of 1 percent, the purpose of which is to reduce the property tax burden on persons in that county.[67] This county tax applies to the gross proceeds of sales within the county area[68] that are taxable under the state sales and use tax.[69] The tax is collected by the DOR on behalf of these counties.[70] The sale of items with a maximum tax is exempt from the local sales and use tax.[71]

Under Section 4-10-300 and its related provisions, a county governing body may impose a 1 percent capital projects sales and use tax within the county area for a specific purpose or purposes and for a limited amount of time.[72] The tax must be imposed by ordinance and is subject to a referendum.[73] Revenues collected may be used to defray debt service on bonds issued to pay for authorized projects.[74] As its name suggests, the tax is used to fund specific capital projects, such as roads, bridges, public facilities, recreation facilities, and water and sewer projects.[75] The tax must be administered and collected by the DOR in the same manner as other sales and use taxes.[76] At no time may any portion of the county area be subject to both the capital project sales tax and the local sales and use tax for transportation facilities.[77]

Under Section 4-10-510 and its related provisions, counties in South Carolina may exempt private passenger motor vehicles, motorcycles, general aviation aircraft, boats, and boat motors from property taxes levied in the county.[78] The governing body of a county may impose a sales and use tax to replace the lost property tax revenue.[79] This tax can range from 0.1 to 2.0 percent and is subject to referendum.[80] Under Section 4-10-720 and its related provisions, South Carolina counties may impose a sales and use tax as a credit against property taxes imposed by a city or a school district. The tax may be imposed in increments of 0.1 percent, not to exceed 1 percent, and is subject to approval by referendum.[81]

66. S.C. Code Ann. § 4-10-50(C).

67. S.C. Code Ann. § 4-10-20.

68. *Id*.

69. South Carolina Department of Revenue, *South Carolina Sales and Use Tax Manual* (January 2015), https://dor.sc.gov/resources-site/publications/Publications/Sales%20and%20Use%20Tax%20Manual%202015%20Edition-Web.pdf.

70. S.C. Department of Revenue, *S.C. Sales and Use Tax Manual*.

71. S.C. Code Ann. § 4-10-20; see Section 12-36-2110 for a list of items subject to the maximum tax.

72. S.C. Code Ann. § 4-10-310.

73. S.C. Code Ann. §§ 4-10-310 & -340.

74. S.C. Code Ann. § 4-10-310.

75. S.C. Code Ann. § 4-10-330.

76. S.C. Code Ann. § 4-10-350(A).

77. S.C. Department of Revenue, *S.C. Sales and Use Tax Manual*.

78. S.C. Code Ann. § 4-10-520.

79. S.C. Code Ann. § 4-10-540.

80. S.C. Code Ann. §§ 4-10-540 & -550.

81. S.C. Code Ann. § 4-10-730(A)(1).

In addition to other local sales and use taxes,[82] certain school districts in South Carolina also may impose a 1 percent education capital improvement sales and use tax within the county.[83] This tax may be imposed upon adoption of an approving resolution by the board of trustees of a school district and subsequent approval by a referendum open to all qualified electors in the county.[84] This tax may not be imposed for more than 15 years.[85] These funds are to be used for specific capital improvements for the school district(s) listed in the referendum question.[86] Currently, the City of Myrtle Beach is the only South Carolina municipality to impose a sales tax aimed at tourism advertisement and promotion, as described in Section 4-10-910 and its related provisions.[87]

Virginia

Virginia authorizes its cities and counties to levy local option sales taxes of up to 1 percent.[88] Incorporated towns also may levy a general retail sales tax if the county they are in has not yet instituted such a tax.[89] Local use taxes are adopted in each of these jurisdictions via similar means.[90] These taxes are levied in addition to the state tax rate of 4.3 percent.[91] Currently, all Virginia cities and counties impose 1 percent local option taxes. Councils of the state's cities and counties may adopt these taxes by ordinance, which must include the purpose of the tax.[92] The taxes are collected and remitted to the state tax commissioner. All local sales tax monies are then credited back to the locality via a special fund established for this purpose.[93] In addition to counties, potential recipients for these payments include school districts, especially those which cross-jurisdictions.[94]

In certain planning districts in the Northern Virginia and Hampton Roads areas, sales are taxed at an additional 0.7 percent.[95] Proceeds from these funds are collected by the state and placed in transportation funds.[96] For most items, the combined retail sales and use tax rate in these planning districts is 6 percent.

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82. S.C. Code Ann. § 4-10-435(B).

83. S.C. Code Ann. § 4-10-420(A); see Section 4-10-470 for counties in which this tax may be imposed.

84. S.C. Code Ann. § 4-10-425(A).

85. *Id*.

86. S.C. Code Ann. § 4-10-420(A).

87. S.C. Code Ann. §§ 4-10-910 through -970.

88. Va. Code Ann. § 58.1-605(b).

89. Va. Code Ann. § 58.1-605(k).

90. Va. Code Ann. § 58.1-606.

91. The state rate is listed as 5.4 percent because all localities have adopted the local option sales tax. By statute, the state rate is 4.3 percent, and the local option rate is 1 percent. Va. Code Ann. § 58.1-603.

92. Va. Code Ann. § 58.1-605.

93. Va. Code Ann. § 58.1-605(f).

94. Va. Code Ann. §§ 58.1-605(h)–(j).

95. Va. Code Ann. § 58.1-603.1; see the Sales and Use Tax page of the Virginia Department of Taxation website (www.tax.virginia.gov/content/sales-and-use-tax) for a complete list of localities with additional regional rates.

96. Va. Code Ann. §§ 33.2-2509 & -2600.

Tennessee

In Tennessee, the statewide sales and use tax rate is 7 percent.[97] Local option taxes in addition to this rate are collected by the state department of revenue.[98] The local option tax imposed by cities and/or counties must be imposed in multiples of 0.25 percent, and the combined or single rate cannot exceed 2.75 percent.[99] Any county, by resolution of its county legislative body, or any incorporated city or town, by ordinance of its governing body, may levy a sales tax that does not exceed 2.75 percent.[100]

West Virginia

The statewide sales and use tax rate is 6.0 percent in West Virginia.[101] The state has two sets of local option sales taxes: municipal sales and use taxes and special district excise taxes. Both of these categories of local option taxes are state collected, and each taxes general sales and services within the jurisdiction.

The state constitution gives local jurisdictions the power to levy and collect taxes, if allowed to do so by the state legislature.[102] The state has authorized municipalities to levy taxes of up to 1 percent for a pension municipal relief sales and service tax as well as an alternative municipal sales tax up to a rate of 1 percent.[103] West Virginia's tax commissioner collects, enforces, and administers municipal taxes just as with state taxes. These taxes are imposed on the municipalities' residents via ordinances, not referenda. Currently, 28 West Virginia municipalities, including the capital, Charleston, impose a local option sales and use tax.[104]

The councils of West Virginia counties and municipalities may levy a special district excise tax for the purpose of benefiting an economic opportunity development district.[105] These special district excise taxes are administered by the state.[106] The tax base is generally the same as for the state tax, except that gas and special fuels are not taxed under the special district tax but are taxable by the state sales tax.[107] These taxes apply to the sales of tangible personal property and services within the district. The excise tax rate within these economic opportunity development districts may be as high as the state sales tax rate of 6 percent, making the effective tax rate as high as 12 percent (state 6%, special district 6%).[108] Municipalities and counties must be given express

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97. Tennessee Department of Revenue, *Tennessee Sales and Use Tax Guide*, at 10 (November 2015), www.tn.gov/assets/entities/revenue/attachments/salesanduse.pdf.

98. Tenn. Code Ann. § 67-6-710.

99. Tenn. Code Ann. § 67-6-702; Tenn. Comp. R. & Regs. R.1320-5-2-.02; see www.tn.gov/revenue/article/local-option-sales-tax for a list of the local sales tax rates for cities in Tennessee.

100. Tenn. Code. Ann. § 67-6-702(a)(1).

101. W. Va. Code § 11-15-3.

102. W. Va. Const. art X, § 9 ("The Legislature may, by law, authorize the corporate authorities of cities, towns and villages, for corporate purposes, to assess and collect taxes; but such taxes shall be uniform, with respect to persons and property within the jurisdiction of the authority imposing the same.").

103. W. Va. Code § 8-13C-4. Municipalities imposing the alternative sales tax of up to 1 percent cannot also impose a business and occupation tax or a privilege tax.

104. See the Local Sales and Use Tax page of the West Virginia State Tax Department website, http://tax.wv.gov/Business/SalesAndUseTax/LocalSalesAndUseTax/Pages/LocalSalesAndUseTax.aspx.

105. W. Va. Code §§ 8-38-12 & 7-22-12.

106. W. Va. Code §§ 8-38-12(d) & 7-22-12(d).

107. W. Va. Code §§ 8-38-12(b) & 7-22-12(b).

108. *See* W. Va. Code §§ 8-38-12(c) & 7-22-12(c).

authorization to levy an excise tax within an economic opportunity district.[109] Currently, only Ohio, Harrison, and Monongalia counties may levy special district excise taxes within a portion of their jurisdictions.[110] Money collected is generally to be used only for development expenditures, with some exceptions.[111]

Conclusion

The state laws that govern LOSTs vary tremendously and constitute a complex system that establishes jurisdictional authority to adopt a LOST and restricts the use of that revenue and the tax rate. While no two states have the same LOST laws, there are two key ways in which North Carolina's structure is relatively unique. First, in only four states is any LOST revenue distributed based on population[112] rather than on point-of-sale. Those states are North Carolina (earmarked in part for education capital), South Carolina (earmarked for property tax relief), Washington (earmarked for criminal justice and/or fire protection),[113] and Florida (earmarked for infrastructure). Second, North Carolina differs from other states in that LOST revenue is shared between the counties and their associated municipalities. The only other states that have this structure are Georgia (the county is the taxing jurisdiction and shares revenue with an associated municipality), South Carolina (the county is the taxing jurisdiction and shares revenue with an associated municipality), and Washington (the county or a municipality can be the taxing jurisdiction and must share revenue with the other local unit).[114] That only counties can adopt LOSTs in North Carolina also is somewhat atypical. Only 4 states allow only counties to adopt LOSTs, but 8 states permit only one type of taxing jurisdiction (county, municipality, and special district) to do so.

In contrast, there are many ways in which North Carolina is representative of states that permit local jurisdictions to adopt LOSTs. For example, the majority of states allow local governments to adopt multiple LOSTs, and while some of those instruments may not have restrictions on their use, typically some LOSTs are required to earmark the revenue generated for particular purposes. In fact, 33 of the 40 states that allow local governments to adopt LOSTs have an earmarked revenue requirement. North Carolina has a mix of earmarked and general purpose LOSTs. Earmarked revenue in North Carolina is for expenditures on education capital and transportation; in other states, earmarked purposes include, but are not limited to, cultural and sports venues, education, economic development, and property tax relief. North Carolina also restricts the overall rate that counties can adopt, as outlined by statute. Of the 40 states that permit LOSTs, 30 place some restriction on the rate that can be adopted.

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109. W. Va. Code §§ 8-38-9(a) & 7-22-9(a).

110. W. Va. Code § 7-22-9(b).

111. W. Va. Code § 8-38-12(e).

112. This is with regard to the taxing jurisdiction.

113. Washington distributes a portion of the LOST revenue within the county where the sale was made to both the county and its associated municipality based on population.

114. In Washington state, both counties and municipalities have the ability to adopt a LOST for the purpose of criminal justice and/or fire protection services, and whichever unit imposes the tax must share a portion of that revenue with the other. See here for more on LOSTs in Washington state.

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