



REPORT

August 2016

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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

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. Forty¹ 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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The authors thank Alex Hess, librarian at the Knapp Library at the University of North Carolina, and Christopher Tyner, a legal research associate at the University of North Carolina School of Government, for their assistance on this project.

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 in the appendix. The analysis offered here is current as of fall 2015.

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; Changhoon 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

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 counties³⁹ 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.

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	ALA. CODE § 11-3-11.2
	M	ALA. CODE §§ 11-51-200 & 11-51-205
Alaska	C	ALASKA STAT. ANN. § 29.45.650
	M	ALASKA STAT. ANN. § 29.45.700
Arizona	C	ARIZ. REV. STAT. § 42-6103
	M	ARIZ. REV. STAT. §§ 42-5029, -6001, -6103
	S	ARIZ. REV. STAT. §§ 48-1910; -4022; -4236, -5314, -5805; -6253, -6406, -6431, -6432, -6654
Arkansas	C	ARK. CODE ANN. §§ 26-75-207, 26-74-407, 26-74-307
	M	ARK. CODE ANN. § 26-75-207
California	C	CAL. REV. & TAX CODE § 7202
	C, S, M	CAL. REV. & TAX CODE § 7261
Colorado	C, M	COLO. REV. STAT. § 29-2-104
	S	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	GA. CODE ANN. §§ 48-8-85, 48-8-102, 48-8-141, 48-8-110, 48-8-202
	S	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	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
	S	70 ILL. COMP. STAT. 3615/4.03
Iowa	C	IOWA CODE ANN. § 423b.1
Kansas	C, M	KAN. STAT. ANN. §§ 12-189 & -187
	C	KAN. STAT. ANN. § 12-187
Kentucky	S	KY. REV. STAT. ANN. § 96A.320
Louisiana	C, M	LA. STAT. ANN. §§ 47:337(3) & (4)
	S	LA. STAT. ANN. § 47:338
Minnesota	C	MINN. STAT. §§ 297A.99, .992, .993
Mississippi	M	MISS. CODE ANN. § 27-65-241
Missouri	C, M	MO. REV. STAT. § 32.085
	S	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	NEV. REV. STAT. §§ 377B.100; 376A.040
	S	NEV. REV. STAT. §§ 376A.050; 377A.020 & .030; 374A.010
New Jersey	M	N.J. STAT. ANN. § 34:1B-194
New Mexico	C	N.M. STAT. ANN. § 7-20E
	M	N.M. STAT. ANN. §§ 7-19, -19D
New York	C, M	N.Y. TAX LAW § 1210(i)
	S	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.

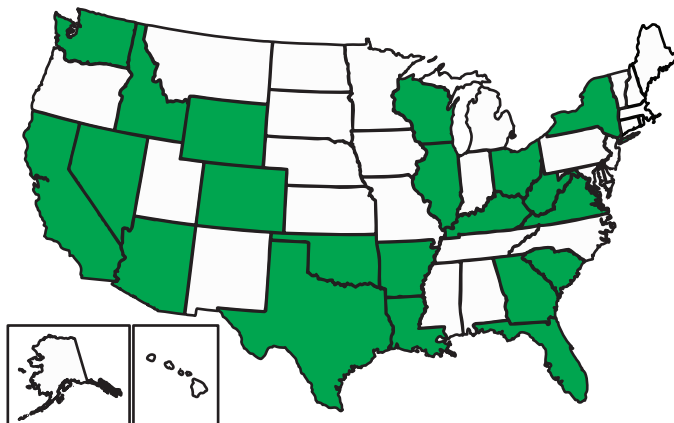
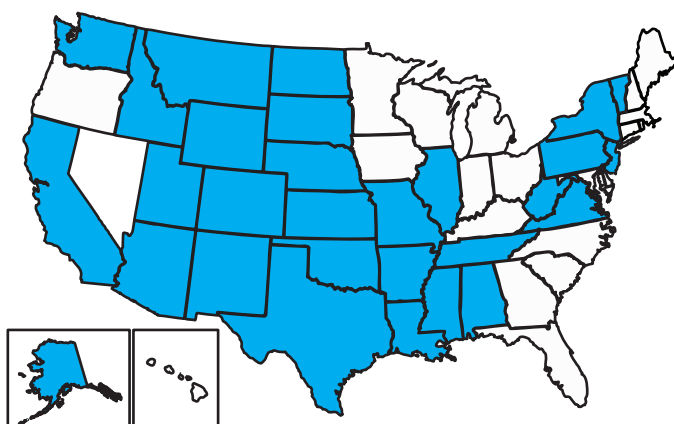
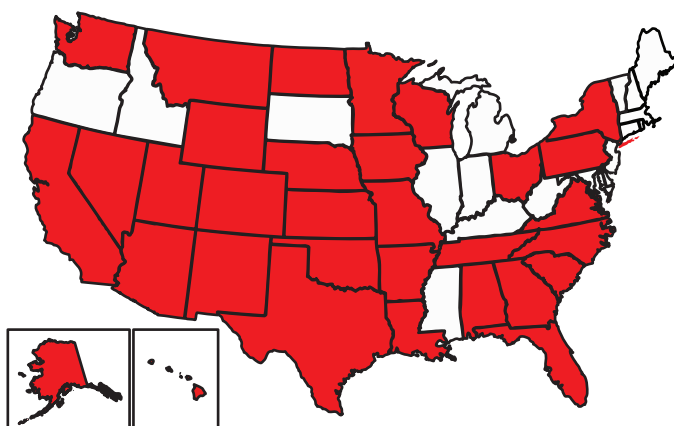


Table 4. Authorized Units and Restrictions

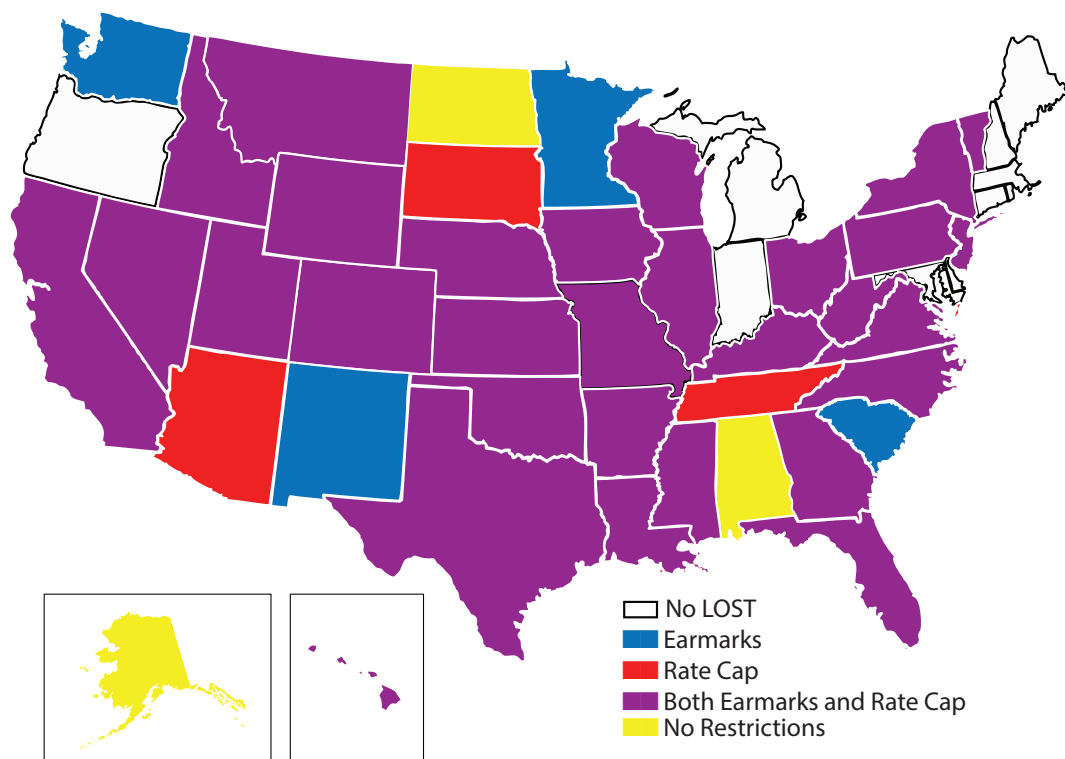
State	State Rate	Local	Combined	County	Restrict	MUNI	Restrict	Special	Restrict
Alabama	4	4.93	8.93	✓		✓			
Alaska	0	1.78	1.78	✓		✓			
Arizona	5.6	2.58	8.18	✓	✓	✓	✓	✓	✓
Arkansas	6.5	2.77	9.27	✓	✓	✓	✓		
California	7.5	0.98	8.48	✓	✓	✓		✓	✓
Colorado	2.9	4.54	7.44	✓		✓		✓	✓
Connecticut	6.35	0	6.35						
Delaware	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

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 area⁶⁸ 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.

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

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 population¹¹² 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.

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 the appendix for more on LOSTs in Washington state.

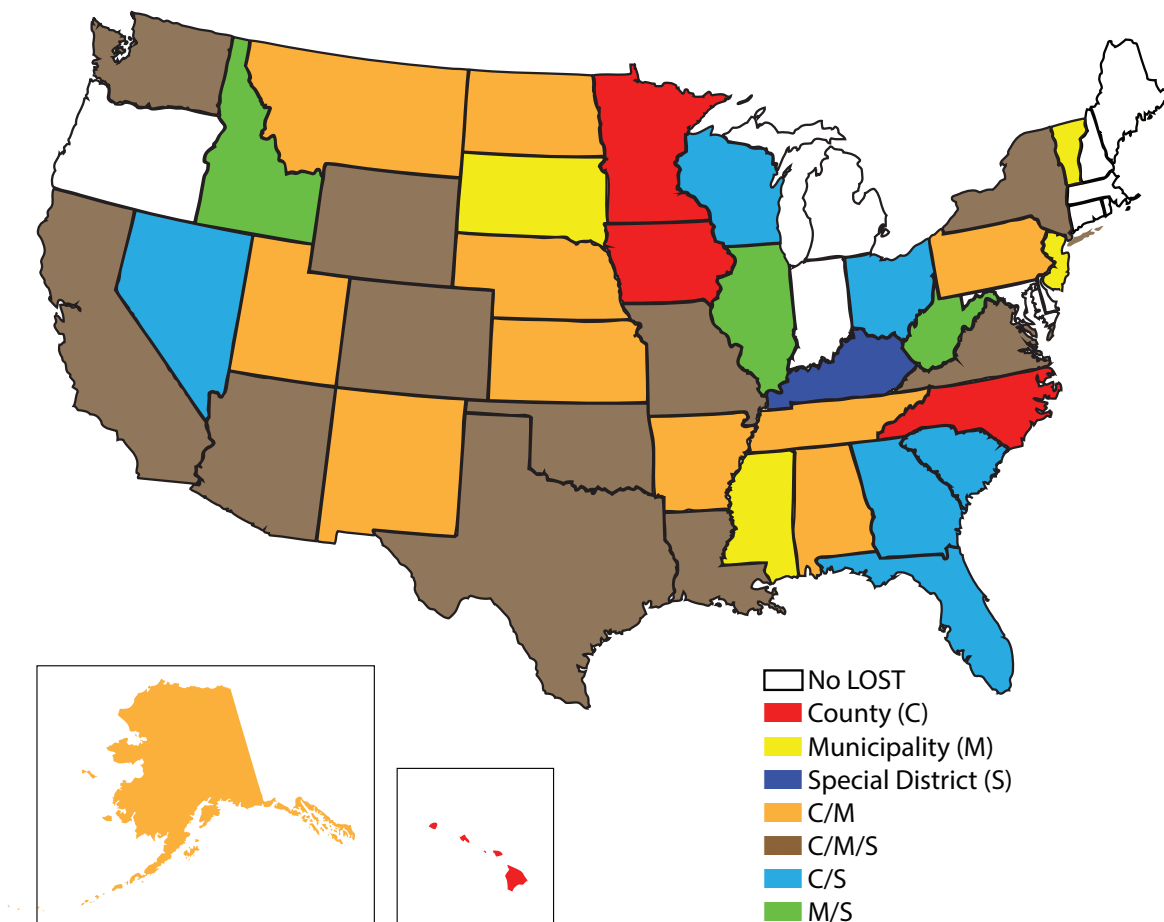
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Appendix: Survey of State Local Option Sales Taxes

State laws that govern and shape the implementation, adoption, and use of LOSTs and the revenues derived from them vary tremendously. This appendix provides brief overviews of LOSTs in every state and the ways in which each state has chosen to structure its LOST policies. As shown by Map 5, even the most basic difference, which level of government is authorized to adopt a LOST, varies across the nation. However, this difference is relatively minor when compared to restrictions on population, earmarks for revenue, sunset requirements, and other statutory requirements.

Map 5. Level of Government Authorized to Have Local Option Sales Taxes



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Alabama

The statewide sales and use tax rate in Alabama is 4 percent.¹ Cities, towns, and counties in the state may impose a local option tax.² The local sales tax rates in Alabama range from 4 percent to 11 percent.³ Counties and municipalities may have the state department of revenue collect and administer their local taxes. As of this writing, 14 counties and 40 cities and towns self-administer their local option sales tax. These locales include some of the state's largest cities, such as Montgomery, Mobile, and Birmingham. More than 40 counties and 100 cities and towns have private collection firms administer their local sales taxes.⁴

Municipalities and counties are authorized to enact local option sales and use taxes that are similar to the state sales and use taxes with some exceptions.⁵ These exceptions include taxes on alcohol, tax holidays, disclosure rules, and the tax rate. For each of these items, the locality may opt in or out of their application within its jurisdiction.⁶

Municipalities may enact the tax and set the tax rate by ordinance.⁷ Counties, through their boards of county commissioners, may enact a local sales and use tax by ordinance or resolution.⁸ Counties may administer and collect or contract for the collection of any local sales, use, or other county taxes.⁹ Counties that elect to impose the local option taxes have the same rights, remedies, authority, and powers as if the tax were being collected or administered by the state department of revenue.¹⁰

1. ALA. CODE §§ 40-23-2 & -40-23-61.

2. ALA. CODE §§ 11-3-11.2 & 11-51-200.

3. Alabama Department of Revenue, Sales Tax Rates, www.revenue.alabama.gov/salestax/staterates.cfm.

4. See Alabama Department of Revenue, City & County Taxes Not Administered by the Alabama Department of Revenue, www.revenue.alabama.gov/salestax/address.pdf.

5. ALA. CODE § 11-51-201(a) ("All taxes levied or assessed by any municipality pursuant to the provisions of Section 11-51-200 shall be subject to all definitions, exceptions, exemptions, proceedings, requirements, provisions, rules and regulations promulgated under the Alabama Administrative Procedure Act . . . except where inapplicable or where otherwise provided in this article.").

6. ALA. CODE §§ 11-51-200 & 11-51-201; ALA. ADMIN. CODE ch. 810-6-3-.65.

7. ALA. CODE §§ 11-51-200 & 11-51-205.

8. ALA. CODE § 11-3-11.2(a).

9. *Id.*

10. ALA. CODE § 11-3-11.2(b).

Alaska

Alaska does not have a general statewide sales tax but does authorize its subdivisions to impose a sales and use tax.¹¹ Alaska allows delegation of the state's taxation power to cities and boroughs to impose taxes for a public purpose.¹² The state interprets "municipality" to mean any political subdivision of the state, including both cities and boroughs. Alaska municipalities have authority to levy a tax.¹³ The Alaska Constitution provides for a "liberal construction" of the powers of local government.¹⁴ Accordingly, currently there are no rate limits on the sales or use taxes that can be imposed by a municipality, but a limit does exist for local property tax rates.¹⁵ Alaska's 18 boroughs are authorized to levy a sales tax on sales, rentals, and services provided in that jurisdiction.¹⁶ Use taxes also may be levied, and this use rate must equal the sales rate and must apply only to buyers.¹⁷ In order to be effective, the local option sales tax must be approved by a majority of voters in a referendum.¹⁸

As both boroughs and cities may levy taxes, a borough may wholly or partially exempt a sales tax that is imposed by a city. Cities impose taxes in the same manner as boroughs, and the borough assembly can, by ordinance, authorize a city to impose local sales and use taxes on certain items.¹⁹ It is not unusual for both a borough and a city to impose a sales and/or use tax.²⁰ That is, both cities and boroughs may adopt sales and use taxes, and boroughs may at times exempt individuals from double taxation at the city and borough levels.

Arizona

The Arizona Transaction Privilege Tax (TPT) is imposed²¹ on the total gross receipts of taxable businesses,²² with the exception of prime contractors, who are taxed at 65 percent of their gross receipts.²³ Although the TPT is commonly referred to as Arizona's sales tax, it differs from a sales tax as commonly understood in that it is a tax imposed on the seller rather than the purchaser.²⁴

11. ALASKA STAT. ANN. §§ 20.45.650 & 29.45.700.

12. ALASKA CONST. art. X, § 2, & art. IX, § 3.

13. ALASKA STAT. ANN. § 29.35.010(6).

14. ALASKA CONST. art. X, § 1.

15. State of Alaska, Office of the State Assessor, *Alaska Taxable 2013*, at 8, www.akleg.gov/basis/get_documents.asp?session=28&docid=23804. See also *Keane v. Local Boundary Comm'n*, 893 P.2d 1239 (Alaska 1995) (finding that state tax rate of 3 percent of property value or \$1,500 per resident in geographic area applied only to property tax).

16. ALASKA STAT. ANN. § 29.45.650(a).

17. ALASKA STAT. ANN. § 29.45.650(c).

18. ALASKA STAT. ANN. § 29.45.670.

19. ALASKA STAT. ANN. § 29.45.700.

20. State of Alaska, Office of the State Assessor, Alaska Sales Tax Information, www.commerce.alaska.gov/web/dcra/OfficeoftheStateAssessor.aspx.

21. ARIZ. REV. STAT. §§ 42-5008 & -5001.

22. ARIZ. REV. STAT. §§ 42-5061 through -5074.

23. ARIZ. REV. STAT. § 42-5075.

24. State of Arizona, Joint Legislative Budget Committee, *2015 State Tax Handbook* at 1, www.azleg.gov/jlbc/15taxbook/15taxbk.pdf; Arizona Department of Revenue, Transaction Privilege Tax (TPT)/Licensing—Overview, <https://www.azdor.gov/Business/TransactionPrivilegeTax.aspx#overview> (accessed June 19, 2016).

The basic state rate for the TPT is 5.0 percent. An additional .6 percent is added under Proposition 301 for a total of 5.6 percent. The TPT is currently imposed under 15 separate business classifications. The 5.6 percent rate applies to 12 of these classifications representing 97 percent of total collections.²⁵

Counties (other than Maricopa) can impose a general excise tax (not to exceed 10% of the state rate), and 13 of the 14 eligible counties have done so. Of those 13 counties, 12 set the rate at .5 percent, while Mohave's rate is .25 percent (Pima is the county without a general excise tax).²⁶ Counties also may levy excise taxes for transportation and roads,²⁷ jails,²⁸ capital projects,²⁹ and county judgment bonds.³⁰ The resulting overall county rates range from .25 percent (Mohave's base with no additional taxes) to 2.0 percent (La Paz), with most between .5 and 1.1 percent. The Arizona Department of Revenue provides an excellent table with combined state and county rates for all categories at www.azdor.gov/Portals/0/TPTRates/06012016RateTable.pdf.³¹

Municipalities use Arizona's Model City Tax Code³² as a guide for their TPT tax rates and exemptions. Individual municipal rates vary widely depending on the municipality and the activity being taxed. For retail sales, the rates in 2015 ranged from 1.5 to 4 percent, and other categories showed even greater variations. The Arizona Department of Revenue and the Arizona Tax Research Association provide tables for the main classifications.³³

25. ARIZ. REV. STAT. § 42-5010(A)(1)(a-l) sets the rate at 5 percent for 12 of the 15 classifications. The additional .6 percent levied for education under Proposition 301 is effective from June 2001 through June 2021; see ARIZ. REV. STAT. § 42-5010(G) for details. The 12 classifications are: transporting, utilities, telecommunications, pipeline, private car, publication, job printing, prime contracting, amusement, restaurant, personal property rental, and retail. ARIZ. REV. STAT. §§ 42-5010(A)(2)–(4) set the rates for the other three classifications (which are not subject to the additional .6 percent of Proposition 301): transient lodging (5.5%), mining (3.125%), and commercial lease (.0%). For collections data see Arizona Department of Revenue, *2015 Annual Report*, Table 7 at 39, www.azdor.gov/Portals/0/AnnualReports/FY15%20Annual%20Report_web.pdf.

26. ARIZ. REV. STAT. § 42-6103. See also *2015 Annual Report* at 35 & *2015 State Tax Handbook* at 2 & Attachment A at 15. For the counties, the “state rate” for calculating their excise taxes is effectively 5 percent for most categories. The .6 percent levied under Proposition 301 in Section 42-5010(G) of the Arizona Revised Statutes is not included in Section 42-5010(A), which Section 42-6103(B) uses as the basis for the “not to exceed 10%” calculation.

27. ARIZ. REV. STAT. §§ 42-6105 through -6107 & 48-5314.

28. ARIZ. REV. STAT. § 42-6109 (Maricopa only); see also ARIZ. REV. STAT. § 48-4022.

29. ARIZ. REV. STAT. § 42-6111.

30. ARIZ. REV. STAT. § 42-6112.

31. See Table 1 in a series of tables provided at the Arizona Department of Revenue (AZDOR) Transaction Privilege (Sales) Tax Rate Tables webpage at www.azdor.gov/Business/TransactionPrivilegeTax/TPTRates.aspx. Earlier versions are archived. Table 1 provides rates for the three unusual classifications (transient lodging, mining, and commercial lease) plus those for other related taxes. Comparing the information in Table 1 with that in the retail sales rate table in the *2015 State Tax Handbook* (Attachment A, at 15, www.azleg.gov/jlbc/15taxbook/15taxbk.pdf) allows one to see the types of additional county taxes levied plus retail sales rates for cities.

32. ARIZ. REV. STAT. §§ 42-6051 through -6056. AZDOR provides an official copy of the *Model City Tax Code* at <http://modelcitytaxcode.az.gov/default.htm>; Article IV addresses privilege taxes.

33. AZDOR, Transaction Privilege and Other Tax Rate Tables (effective June 1, 2016), www.azdor.gov/Portals/0/TPTRates/06012016RateTable.pdf; Arizona Tax Research Association, Sales Tax Rates (effective March 1 and April 1, 2016), www.arizonatax.org/publications/sales_tax_rates.

Various special taxing districts outlined in Title 48 of the Arizona Revised Statutes also have been granted the authority to levy a TPT. Some special district provisions require elections to impose the tax and/or tie the percentage tax allowed to the state rate stipulations of Arizona Section 42-5010(A). Others limit the power to regions, counties, or municipalities of a particular size, and the taxing authority of the special district may complement the authority given to counties in Title 42. Those included in Title 48 are: hospital districts,³⁴ jail districts,³⁵ stadium districts,³⁶ regional transportation authorities,³⁷ public health services districts,³⁸ theme park districts,³⁹ the Upper San Pedro Water District,⁴⁰ and regional attraction districts.⁴¹

The Arizona Department of Revenue (AZDOR) collects the county excise and municipal TPT taxes on behalf of the counties and most municipalities. AZDOR places the county general excise and the program city TPT taxes it collects into a clearing account for distribution by the state treasurer's office (weekly distributions for the municipalities and monthly for the counties).⁴²

Many of the larger cities in Arizona, however, administer their own transaction privilege taxes. These cities have been referred to as "non-program cities" to distinguish them from those operating under AZDOR's program.⁴³ Sales in the non-program cities have to be reported and remitted directly to the applicable city (state and county taxes paid in these cities still have to be reported and remitted to the state).⁴⁴ AZDOR provides a list of the 14 non-program cities with their privilege tax rates (which range from 1.5 to 2.9%).⁴⁵

A tax simplification task force recommended that the non-program cities switch to having their TPT taxes administered by AZDOR starting on January 1, 2015. Due to the complexities involved, though, that switch has been delayed twice and now is scheduled to occur only when the system is ready.⁴⁶

34. ARIZ. REV. STAT. § 48-1910.

35. ARIZ. REV. STAT. § 48-4022.

36. ARIZ. REV. STAT. §§ 48-4236 & -4237.

37. ARIZ. REV. STAT. § 48-5314; *see also* § 42-6106.

38. ARIZ. REV. STAT. § 48-5805.

39. ARIZ. REV. STAT. § 48-6253.

40. ARIZ. REV. STAT. §§ 48-6406, -6431, & -6432.

41. ARIZ. REV. STAT. § 48-6654.

42. ARIZ. REV. STAT. §§ 42-5029, -6001 & -6103; Office of the Arizona State Treasurer, Revenue Distributions, www.aztreasury.gov/local-govt/revenue-distributions (accessed June 19, 2016).

43. AZDOR, Transaction Privilege Tax (TPT)/Licensing, Collection of Taxes/Tax Rate Tables, www.azdor.gov/Business/TransactionPrivilegeTax.aspx#Collection (accessed June 19, 2016). Until January 1, 2015, when three non-program cities switched to program status, there had been 18 non-program cities and 73 program cities and towns. Sedona switched to program status on January 1, 2016, leaving 14 non-program cities. *See also*, Transaction Privilege Tax Simplification Task Force, *Final Report* at 4 (Dec. 13, 2012), www.arizonatax.org/sites/default/files/publications/position_papers/tpt_report.pdf & AZDOR, January 2016 AZ Tax Changes, TPT Simplification, www.azdor.gov/TPTSimplification/About.aspx (accessed June 19, 2016).

44. AZDOR, Transaction Privilege Tax (TPT)/Licensing, Collection of Taxes/Tax Rate Tables.

45. AZDOR, TPT Non-Program Cities, <https://www.azdor.gov/Business/TransactionPrivilegeTax/NonProgramCities.aspx> (accessed June 19, 2016).

46. "Due to the complexity in incorporating the City's requirements into the Department's information technology system, ADOR will not be the single point of licensing, filing and payment of all TPT on January 1, 2016, as originally planned," AZDOR, January 2016 AZ Tax Changes, TPT Simplification; "The Department of Revenue (DOR) has once again delayed the implementation of the single point of administration provisions of TPT Simplification until such time that the necessary system changes meet the

In general, the special district excise and TPT revenues are collected and distributed in the same way as county excise taxes. Monthly distribution is the norm, and often there is an overlap between provisions for special districts and those for municipalities and counties in Title 42.⁴⁷ A good example involves the provisions authorizing excise taxes for the support of county jails. The provision for a jail facilities excise tax for Maricopa County (Section 42-6109) is actually included in the article for county excise taxes in Chapter 6 of Title 42 while the provisions for the other 15 counties are found in Title 48 (special taxing districts) as Chapter 25, "County Jail Districts." In both instances, Section 42-5010(A) serves as the basis for calculating the limit allowed for the tax approved, just as it does for the general county excise tax. Each month, the state treasurer transmits the net revenues collected back to the county (Maricopa) or districts.⁴⁸

Provisions for the county stadium districts allow for the levy of a TPT to "retain, attract or relocate a major league baseball spring training operation"⁴⁹ or to fund multipurpose facility districts.⁵⁰ One of the allocations of the 34.49 percent remainder of distribution base revenue required by Section 42-5029(D) cited above is for a multipurpose facility district established by Tucson in 1999.⁵¹

Arkansas

The Arkansas Constitution enables the state's political subdivisions to levy taxes to provide for "their existence, maintenance, and well being, but no further."⁵² Currently the state sales and use tax rate is 6.5 percent. Local option sales and use taxes are paid on top of this rate. Arkansas collects several local option taxes, with more than 300 currently in force.⁵³ All local taxes are administered and collected by the state,⁵⁴ and the state maintains a list of local county, city, and town sales and use taxes.⁵⁵

needs and expectations of all parties," City of Phoenix, City Council Policy Session, Tuesday, December 15, 2015, www.phoenix.gov/cityclerksite/City%20Council%20Meeting%20Files/POLICY%20Agenda%2012-15-15.pdf (accessed June 20, 2016); "Beginning January 1, 2016, ADOR will become the single point of administration and collection of State, county and municipal transaction privilege tax," AZDOR, January 2016 AZ Tax Changes, TPT Simplification; letter from David Raber, director of AZDOR, to Ken Strobeck, executive director of the League of Arizona City and Towns, on the delayed implementation of single-point-of-administration provisions (Oct. 7, 2014), www.ascpa.com/writable/uploaded_files/dor_letter_to_k_strobeck_10_7_14.pdf (accessed June 20, 2016).

47. See, for example, ARIZ. REV. STAT. §§ 48-1910, -5307, -5805, & -6253.

48. ARIZ. REV. STAT. §§ 42-6109 and 48-4022.

49. ARIZ. REV. STAT. § 48-4236(A).

50. ARIZ. REV. STAT. § 48-4237.

51. ARIZ. REV. STAT. §§ 42-5029(D)(4) & -5031. Tucson established the Rio Nuevo Multipurpose Facility District by Proposition 400, which was approved by voters in November 1999. The revenue comes from a portion of the state TPT generated within the district. See *2015 State Tax Handbook* at 4–5.

52. ARK. CONST. § 23.

53. Arkansas Department of Finance and Administration (DFA), Local Sales and Use Tax Information, www.dfa.arkansas.gov/offices/exciseTax/salesanduse/Pages/LocalTaxInformation.aspx.

54. DFA, Local Sales and Use Tax Information.

55. See DFA, List of Cities and Counties with Local Sales and Use Tax (April–June 2016), www.dfa.arkansas.gov/offices/exciseTax/salesanduse/Documents/cityCountyTaxTable.pdf. This list is updated regularly.

Counties have a variety of local option taxes, each of which is applicable to the same items and sales as the statewide sales tax.⁵⁶ Counties may impose a local sales and use tax for capital improvements. A petition signed by 15 percent of local voters or an ordinance may trigger an election to approve a local tax of .125, .25, .5, .75, or 1 percent or any combination thereof.⁵⁷ This ballot must include the rate of the tax and may include an expiration date and indicated uses of the tax revenues.⁵⁸ If uses are specified, the tax proceeds may be used only for those purposes until changed by voters in a subsequent election.

Counties also are able to impose an additional countywide sales tax of .125, .25, .5, .75, or 1 percent or any combination thereof.⁵⁹ The election ballot must include the rate of the tax and may include an expiration date and indicated uses of the tax revenues.⁶⁰ If uses are specified, the tax proceeds may be used only for those purposes until changed by voters in a subsequent election. Counties that had not imposed a countywide sales and use tax of 1 percent as of March 14, 1991, may call an election for a .5 percent countywide sales and use tax for any lawful purpose.⁶¹

Municipalities also may impose a citywide sales and use tax. This tax can be in the amount of .125, .25, .5, .75, or 1 percent or any combination thereof.⁶² It is levied via ordinance or voter petition and must be approved by a majority of voters.⁶³ This city local tax is levied on the same items and sales as the state sales tax.⁶⁴

California

California's statewide sales and use tax rate is 6.5 percent.⁶⁵ Under the Bradley-Burns Uniform Local Sales and Use Tax Law, every county in California has adopted an additional 1 percent sales tax, effectively making the state rate 7.5 percent.⁶⁶

Cities, counties, and towns also may impose district taxes, creating special taxing districts to impose local option taxes from .0125 to 1 percent.⁶⁷ In some areas more than one district tax is in effect.⁶⁸ The state board of equalization administers and collects the county and district sales taxes in the same manner as the state taxes. The state maintains an online list of local tax rates and taxing districts.⁶⁹ Taxes are transmitted by the state back to the taxing districts minus a per-

56. ARK. CODE ANN. § 26-74-407.

57. ARK. CODE ANN. § 26-74-207.

58. ARK. CODE ANN. § 26-74-208.

59. ARK. CODE ANN. § 26-74-307.

60. ARK. CODE ANN. § 26-74-308.

61. ARK. CODE ANN. § 26-74-402.

62. ARK. CODE ANN. § 26-75-207.

63. ARK. CODE ANN. § 26-75-208.

64. ARK. CODE ANN. § 26-75-207(e).

65. CAL. REV. & TAX. CODE § 66051; California State Board of Equalization, Sales and Use Tax—As of June 30, 2011, https://www.boe.ca.gov/info/fact_sheets/sales_use.htm.

66. California State Board of Equalization (California BOE), Laws, Regulations & Annotations: Analysis of the Transactions and Use Tax Law, www.boe.ca.gov/lawguides/business/current/btlg/voll1/tutl/transactions-and-use-tax-law-analysis.html.

67. CAL. REV. & TAX. CODE § 7251.1.

68. California BOE, Tax Rate FAQ for Sales and Use Tax, www.boe.ca.gov/sutax/faqtaxrate.htm#2.

69. California BOE, California City & County Sales & Use Tax Rates, www.boe.ca.gov/sutax/pam71.htm.

centage to cover the state's administrative costs for collecting and administering the local taxes.⁷⁰ Two laws principally govern the local option taxes in the state, and both allow for the imposition of local taxes via ordinance.

The 1 percent rate adopted by counties under Bradley-Burns is nearly identical to the statewide taxes and incorporates the same exceptions.⁷¹ Under this law, counties may adopt the local sales and use tax by ordinance of their board of supervisors.⁷² Local agencies cannot tax the sale of stocks, bonds, or other securities.⁷³ Of the 1 percent, .25 percent is earmarked for transportation funds at the county level and .75 percent for operating funds both at the county and city level.⁷⁴

Under the Transactions and Use Tax Law, 31 counties, 131 cities, and 7 towns impose local sales and use taxes.⁷⁵ The tax base is generally the same as for the statewide tax and the local option taxes imposed under Bradley-Burns, except for provisions pertaining to taxes paid in another district, aircraft common carriers, and property furnished via contract prior to a local ordinance.⁷⁶ Under the local option tax law, a tax may be imposed at a rate of .0125 percent or any multiple thereof up to a maximum of 1.0 percent.⁷⁷ The combined tax rate under the Transactions and Use Tax Law may not exceed 2 percent in any location within a county.⁷⁸ Local governments propose the tax by ordinance, which must be passed by a supermajority of the governing body. After this, a referendum must approve the tax. If it is a general purpose tax, a majority vote is needed; if the tax has specific purposes, a supermajority is required. In some cases, transportation authorities established as special purpose districts also may impose taxes with voter approval. The Santa Clara Valley Transportation Authority levies a .05 percent and a .0125 percent tax approved via 2000 Measure A and 2008 Measure B, respectively, in Santa Clara County. Each of these taxes has a 30-year sunset clause.⁷⁹

Colorado

The current rate of the Colorado statewide sales and use tax is 2.9 percent. Local jurisdictions, including counties and cities, may impose a local option sales or use tax. Colorado also allows certain special districts to impose taxes, including those for transportation and local improvements. The state's taxing jurisdictions may either be state-administered or home rule jurisdictions. In state-administered jurisdictions, the state collects and manages the sales and/or use tax. In these jurisdictions, the tax is authorized via statute from the state legislature. In home rule jurisdictions, the state constitution enables local jurisdictions to impose, collect, and administer local option sales or use taxes. Under Article XX of the state constitution, the state legislature may affect these local jurisdictions only through acts specifically targeted to home rule jurisdictions.

70. CAL REV. & TAX. CODE § 7226.

71. See CAL. REV. & TAX. CODE § 7202; CAL. CODE REGS. tit. 18, § 1803.

72. CAL. REV. & TAX. CODE § 7201.

73. CAL. GOV'T CODE § 50026.5.

74. CAL. REV. & TAX. CODE § 7203.1.

75. California BOE, Laws, Regulations & Annotations: Analysis of the Transactions and Use Tax Law.

76. California BOE, Laws, Regulations & Annotations: Analysis of the Transactions and Use Tax Law.

77. CAL REV. & TAX CODE § 7261.

78. CAL REV. & TAX CODE § 7251.1.

79. Santa Clara Valley Transportation Authority, Financial: Local Funding, www.vta.org/bart/financial.

Special districts currently in force in Colorado include the following: regional transportation, scientific and cultural facilities, local improvement, mass transit, regional transportation, housing, public safety improvement, and local marketing. These special districts typically apply for sales tax purposes, but some impose a use tax as well.⁸⁰

Colorado's state-administered cities and counties currently impose sales taxes of between .25 and 5 percent.⁸¹ These county and municipal taxes are subject to referendum.⁸² Many, but not all, local jurisdictions allow for a service fee of 3.33 percent. Several state-administered cities and counties also impose a use tax (of varying rates), paid to the locality, for motor vehicles and building materials.⁸³

Colorado's home rule jurisdictions represent substantial diversity, as each is generally responsible for determining what is taxable, which exceptions apply, the rate of tax, and the collection of the tax. Home rule jurisdictions include some of the state's largest municipalities, including Denver, Boulder, Colorado Springs, and Aspen. The home rule jurisdictions have rates ranging from .01–5 percent.

Connecticut

The Connecticut statewide general sales and use tax rate is 6.35 percent,⁸⁴ and currently the state does not allow local jurisdictions to impose a sales or use tax at the local level.

Delaware

As of this writing, Delaware does not impose general sales or use taxes at the state or local level.⁸⁵

Florida

Florida's statewide sales tax is 6 percent.⁸⁶ Currently, Florida counties may impose a local option discretionary tax on the first \$5,000 on the sale or use of tangible property. These discretionary tax rates range from .5 to 1.5 percent paid in addition to the state rate. Most counties impose this tax. Florida's department of revenue administers, collects, and enforces the local discretionary tax. Local option sales taxes are subject to a cap of a combined 1.5 percent, making the total tax rate in the state of Florida as high as 7.5 percent.⁸⁷

80. Colorado Department of Revenue (CDOR), Sales Tax Division, Sales Tax—Quick Answers, www.colorado.gov/pacific/tax/sales-tax-quick-answers.

81. CDOR, Sales Tax—Quick Answers.

82. COLO. REV. STAT. § 29-2-104.

83. CDOR, Sales Tax—Quick Answers.

84. CONN. GEN. STAT. §§ 12-408 & -411.

85. The state's miscellaneous taxes are laid out in Title 30, Chapter 63, of the Delaware Code. A gross receipt tax is imposed on the seller of goods. Delaware Department of Revenue, Division of Revenue, Gross Receipts Taxes, www.revenue.delaware.gov/services/Business_Tax/Step4.shtml.

86. FLA. STAT. § 212.05.

87. Florida Department of Revenue, Florida's Discretionary Sales Surtax, <http://dor.myflorida.com/dor/taxes/discretionary.html>.

Florida law allows for several distinct types of discretionary sales taxes. First, the charter county and regional transportation system surtax imposes a rate of up to 1 percent. This tax allows counties with a regional transportation system to use the funds for transportation-related purposes. Second, the local government infrastructure surtax also is imposed by referendum. This surtax is a discretionary tax of .5 or 1 percent. These tax revenues are distributed as a percentage of the county population. Third, small counties may impose a special surtax of .5 to 1 percent. (Small counties are those that had a population of fifty thousand or less on April 1, 1992.) The ballot to approve this small-county tax must include a brief description of the projects to be funded by the surtax. Fourth, county governments may impose an indigent care and trauma center surtax at a rate as high as .5 percent. This tax may be approved either by extraordinary vote of the county board or by majority vote in a referendum. Fifth, counties may impose a county public hospital surtax at a rate of .5 percent. This tax is approved similar to how the trauma center and indigent care surtax is approved. Counties with fewer than eight hundred thousand residents may impose an indigent care surtax at a rate of .5 percent, unless the county hosts a publicly supported medical school, in which case the rate may be as high as 1 percent. Finally, counties that do not have two discretionary taxes may impose an emergency fire rescue services and facilities surtax of up to 1 percent for fire safety and enforcement. This tax must be approved by a majority of voters.⁸⁸

School boards may impose a capital outlay surtax of up to .5 percent through a countywide election. The levy of any additional surtax must be pursuant to an ordinance enacted by a majority of the members of the county governing authority and approved by a majority of the electors of the county voting in a referendum on the surtax. There is no rate limit as long as the procedure is followed.⁸⁹

Georgia

Georgia's statewide sales and use tax is 4.0 percent.⁹⁰ Local option sales tax options 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 percent and 8 percent.⁹¹ Counties share revenue with qualified cities and negotiate the rate at which the revenue is shared based on eight criteria provided by the state.⁹²

Georgia's constitution grants the creation of special districts by general law or municipal or county ordinance.⁹³ The geographical boundaries of these districts correspond with the geographical boundaries of each county.⁹⁴ The LOST, or the joint sales and use tax, refers to the joint

88. FLA. STAT. § 212.055.

89. FLA. STAT. § 212.055(6). State law caps the school capital outlay tax at .5 percent pursuant to subsection (6).

90. GA. CODE ANN. § 48-8-30.

91. 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.

92. GA. CODE ANN. § 48-8-89. For more information see Association of County Commissioners of Georgia, *A Guide to Local Option Sales Tax Negotiations*, www.accg.org/library/LOST_Guide_Negotiations.pdf.

93. GA. CONST. ART. IX, § II, ¶. VI.

94. GA. CODE ANN. § 48-8-81.

1 percent sales and use tax counties are authorized to levy within special districts for property tax relief.⁹⁵ LOSTs are subject to voter referendum.⁹⁶ 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.⁹⁷

Counties that do not levy a LOST can instead levy a homestead option sales and use tax (HOST). Unlike LOST, only 80 percent of HOST revenue goes toward property tax reduction while 20 percent supports capital outlay projects.⁹⁸

In addition to the state and local option, special districts (counties) can levy a special purpose local option sales tax (SPLOST) of 1 percent for a specific capital outlay or countywide project.⁹⁹ Subject to referendum, the governing authority of any county in Georgia may impose a special county tax.¹⁰⁰ Georgia state statutes include a special provision authorizing water capital outlay projects. The water and sewage projects and cost tax is levied and collected by the board of commissioners for the use and benefit of the municipality imposing the tax. This tax must first be approved by a voter referendum.¹⁰¹

The sales tax for educational purposes (ESPLOST) authorizes school boards to levy a 1 percent sales tax for capital projects for educational purposes.¹⁰² MARTA refers to the authorization 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.¹⁰³

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.¹⁰⁴

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.¹⁰⁵

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.¹⁰⁶ The state department of revenue distributes sales tax proceeds to the local taxing authorities.¹⁰⁷

95. GA. COMP. R. & REGS 560-12-5.

96. GA. CODE ANN. § 48-8-85.

97. GA. CODE ANN. § 48-8-91.

98. GA. CODE ANN. § 48-8-102.

99. GA. CODE ANN. § 48-8-110.

100. GA. CODE ANN. § 48-8-201.

101. GA. CODE ANN. § 48-8-202.

102. GA. CODE ANN. § 48-8-141.

103. GA. COMP. R. & REGS. 560-12-4.

104. GA. CODE ANN. §§ 48-8-240 & -241.

105. 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.

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

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

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 other local option taxes.¹⁰⁸

Hawaii

Hawaii does not have a sales tax but, rather, a 4 percent gross receipts tax known as the General Excise Tax (GET), which is assessed on all business activities.¹⁰⁹ The current rate of the GET is 4.0 percent. While the power to tax is held within the state government, the state legislature may delegate taxing authority to political subdivisions of the state.¹¹⁰

In 2005, legislation passed that granted counties the authority to levy a county surcharge at the rate of .5 percent in addition to the state's GET.¹¹¹ The City and County of Honolulu is the only jurisdiction that has adopted the county surcharge. The county surcharge funds a mass transit system on the island of Oahu.¹¹² The act authorizing counties to levy these taxes is effective until December 31, 2022, at which point the state has preemptively set a date at which the authority will be repealed.¹¹³ However, the City and County of Honolulu may extend the surcharge until 2027 via ordinance.¹¹⁴

Counties enact the county surcharge via ordinance. The maximum rate of such a tax is .5 percent.¹¹⁵ The county must hold a public hearing prior to enacting the ordinance, and the tax is collected and administered by the state. Counties with a population of more than five hundred thousand, such as Honolulu, must use the funds either to (a) operate or create a mass transit project or (b) use the funds to comply with the Americans with Disabilities Act (ADA). Funds are explicitly barred from use for public roads, bike paths, or transport systems that existed before the effective date of the act.¹¹⁶ For counties of populations of five hundred thousand or less, the funds can be used either for (a) ADA purposes or (b) to operate or construct public transportation systems, including public roads, bike paths, transit systems, or trains.¹¹⁷

In 2015, legislation passed that extended the 2022 deadline until 2027.¹¹⁸

108. GA. CODE ANN. § 48-8-241.

109. Hawaii Department of Taxation, General Excise Tax (GET) Information, www.tax.hawaii.gov/geninfo/get.

110. HAW. CONST. art. VIII, § 3.

111. HAW. REV. STAT. ANN. § 46-16.8.

112. See Hawaii Department of Taxation, County Surcharge, www.tax.hawaii.gov/geninfo/a2_b2_7csurchg.

113. HAW. REV. STAT. ANN. § 46-16.8(b).

114. HAW. REV. STAT. ANN. § 46-16.8.

115. HAW. REV. STAT. ANN. § 238-2.6.

116. HAW. REV. STAT. ANN. § 46-16.8(e).

117. HAW. REV. STAT. ANN. § 46-16.8(f).

118. 2015 Hawaii H.B. 0134.

Idaho

Idaho's statewide sales tax is 6.0 percent. Currently, 13 Idaho resort cities and 3 auditorium districts levy a local sales and/or use tax.¹¹⁹ Resort cities are defined as municipalities with a population under ten thousand that derive the majority of their economic activity as a destination city. Resort cities are authorized to adopt, implement, and collect one or more local option non-property taxes, subject to voter referendum.¹²⁰ They may contract with the state for these services.¹²¹ The non-property tax options include an occupancy tax, a liquor tax, and a sales tax on all or part of transactions taxed under the state.¹²²

When a resort city receives more revenues from any local option tax than it had budgeted, Idaho law mandates that it establish a city property tax relief fund for the purpose of replacing city property taxes in the ensuing fiscal year by the amount of all excess revenues.¹²³

Whereas resort cities may choose what is taxable under the local option tax, auditorium district sales taxes are authorized only on lodging.¹²⁴ The auditorium sales tax cannot exceed 5 percent. Auditorium district taxes can be administered by the Idaho State Tax Commission or by the district.¹²⁵

Illinois

The statewide sales and use taxes rate is 6.25 percent.¹²⁶ Counties, municipalities, and special districts may impose local option taxes. Illinois is home to the most units of government of any state—more than eighty-four hundred as of 2015.¹²⁷ While the state collects and administers most local option sales taxes, the Illinois Constitution makes cities and counties eligible for home rule status if their populations are greater than twenty-five thousand.¹²⁸ Home rule cities are granted broad powers to enact regulations on matters where the state has not expressed exclusive authority.¹²⁹ Home rule municipalities can impose sales and use taxes by ordinance or resolution, in one-fourth increments with no maximum rate limit.¹³⁰ Home rule counties and cities can impose sales and use taxes by ordinance or referendum levied at the local level and administered by the state in one-fourth increments with no maximum rate limit for the home rule tax.¹³¹

119. Idaho State Tax Commission, Local Sales Tax, www.tax.idaho.gov/i-1117.cfm.

120. IDAHO CODE § 50-1044.

121. IDAHO CODE § 50-1049.

122. IDAHO CODE § 50-1046.

123. IDAHO CODE § 50-1045.

124. IDAHO CODE § 67-4917C.

125. IDAHO CODE § 67-4917B. County tax had expired and the statute authorizing the tax had been repealed, so it is not applicable anymore.

126. Sales taxes in Illinois are referred to as occupation taxes. 35 ILL. COMP. STAT. 105/3–10.

127. See www.illinoiscomptroller.gov/services/local-government-division/types-of-local-governments-in-illinois.

128. ILL. CONST. art. VII, § 6.

129. See *Vill. of Sugar Grove v. Rich*, 347 Ill. App. 3d 68 (2004).

130. 55 ILL. COMP. STAT. 5/5-1006; 65 ILL. COMP. STAT. 5/8-11-1.

131. 55 ILL. COMP. STAT. 5/5-1006 through -1008; 65 ILL. COMP. STAT. 5/8-11-1; 65 ILL. COMP. STAT. 5/8-11-5 & -6.

Under Dillon's rule, non-home rule county municipalities have authority only specifically granted by state constitution or statutes.¹³² Non-home rule municipalities may impose sales and use taxes with referendum approval. The rate of this tax is in one-fourth increments up to a maximum rate of 1 percent. These taxes are state administered and collected, and the proceeds are remitted back to the locality less erroneous payments.¹³³

Under the County School Facility Occupation Tax Law, any county may impose a general sales tax in one-fourth increments up to 1 percent on gross receipts from sales within the county. These revenues must be used exclusively for school facility purposes and must be approved by voters in a referendum. This tax is remitted back to the taxing jurisdiction less fees for collection and other miscellaneous deductions.¹³⁴

Under the regional transportation authority, Cook, DuPage, Kane, Lake, McHenry, and Will counties are authorized to levy a sales tax for public transportation. This state-administered special district tax is 1 percent for general sales in Cook County and .75 percent in DuPage, Kane, Lake, McHenry, and Will counties.¹³⁵ This tax may be adopted by ordinance.

Indiana

The statewide sales tax rate is 7.0 percent.¹³⁶ Indiana's localities are not authorized to impose a general local option sales or use tax. Excise taxes are allowed in certain counties for event admissions, food, beverages, and accommodations.¹³⁷

Iowa

Iowa has a statewide sales tax of 6 percent.¹³⁸ Iowa counties can impose local option sales and service taxes.¹³⁹ In order to be imposed, local option sales taxes must be approved by a majority of voters in a referendum.¹⁴⁰ There are two paths to the ballot. First, a petition of eligible signatures equal to 5 percent of voters in the last state election may be submitted to the county board of supervisors. Alternatively, the governing bodies representing at least half the population of a county may pass a resolution authorizing the ballot proposal. While the election is countywide, the tax will apply only to areas—incorporated or unincorporated—that voted in the majority to pass the local option tax. The ballot must have the following information: type and rate of the

132. *Commonwealth Edison Co. v. City of Warrenville*, 288 Ill. App. 3d 373, 380 (1997).

133. 65 ILL. COMP. STAT. 5/8-11-1.1, -1.3, -1.4, &-1.5.

134. 55 ILL. COMP. STAT. 5/5-1006.7.

135. 70 ILL. COMP. STAT. 3615/4.03.

136. IND. CODE ANN. § 6-2.5-2-2.

137. IND. CODE ANN. § 6-9.

138. IOWA CODE ANN. § 423.2.

139. IOWA CODE ANN. § 423b.1. According to Section 423.b.1(2), a city in two counties may impose a local sales and service tax if 85 percent of city residents live within one county, that county had held an election approving the tax, and the city enters into a contract to collect the tax with the relevant counties. Cities can no longer enter into these arrangements, however, though those that were able to do so prior to July 1, 2000, may continue to do so.

140. IOWA CODE ANN. § 423.b.1.

tax, date of imposition, approximate amount of tax revenues to be used for property tax relief (if applicable), or its specific purpose if the tax is not for property tax relief. A sunset clause for the tax is optional. The tax rate cannot exceed 1 percent. If the referendum passes and the county has not passed a local ordinance, state law compels the county to pass the ordinance.¹⁴¹ The sales tax lasts until it is repealed either by the voters or by county ordinance in an unincorporated area or until its stated sunset date.¹⁴² Iowa does not impose a local option use tax.¹⁴³

Kansas

Effective July 1, 2015, Kansas imposes a statewide sales tax of 6.5 percent.¹⁴⁴ Kansas authorizes its counties and cities to adopt local option sales taxes after a referendum.¹⁴⁵ The ballot must articulate the purpose for which the tax revenue will be used.¹⁴⁶ For counties, the rate of the tax may be of .25 percent increments up to a maximum of 1 percent.¹⁴⁷ Counties may also impose an additional sales tax up to 1 percent to fund the provision of health care in the county.¹⁴⁸ Thus, the maximum sales tax rate for most counties would be 2 percent. For cities, the rate is a maximum of 2 percent for funding for general purposes and 1 percent for special-purpose funding.¹⁴⁹

Individual counties and cities are also authorized to levy a variety of local option sales taxes in addition to the general authorization elsewhere in the Kansas code.¹⁵⁰ These include whether a tax for the purpose of funding a correctional facility may be imposed by referendum in the counties of Anderson, Atchison, Barton, Brown, Butler, Chase, Cowley, Cherokee, Crawford, Ford, Franklin, Jefferson, Linn, Lyon, Marion, Miami, Montgomery, Neosho, Osage, Ottawa, Reno, Riley, Saline, Seward, Sumner, Wabaunsee, Wilson and Wyandotte.¹⁵¹ Additional taxes include a five-year, 1 percent sales tax in Jackson County for a reservoir project;¹⁵² a 1 percent sales tax to fund the law enforcement center in Ottawa County;¹⁵³ a 1 percent sales tax in Sedgwick County lasting 30 months for construction and maintenance of a regional events center;¹⁵⁴ a five-year, 1 percent sales tax in Lyon County for ad valorem tax reduction and capital outlays;¹⁵⁵ a sales tax in Allen County at .5 percent to fund a solid waste disposal system;¹⁵⁶ and a .25 percent sales tax in Finney and Ford counties to finance highway projects.¹⁵⁷

141. Iowa Department of Revenue, Iowa Local Option Sales Tax (LOST) Questions and Answers, <https://tax.iowa.gov/iowa-local-option-sales-tax-lost-questions-and-answers>.

142. Iowa Department of Revenue, Iowa Local Option Sales Tax (LOST) Questions and Answers.

143. Iowa Department of Revenue, Iowa Consumer's Use Tax, <https://tax.iowa.gov/consumers-use#LOST>.

144. Kansas Department of Revenue, Business Tax Types—Sales (Retailers), www.ksrevenue.org/bustaxtypeessales.html.

145. KAN. STAT. ANN. § 12-187.

146. KAN. STAT. ANN. § 12-187(g).

147. KAN. STAT. ANN. § 12-189.

148. KAN. STAT. ANN. § 12-187(b)(5).

149. KAN. STAT. ANN. § 12-189.

150. See KAN. STAT. ANN. § 12-187(b).

151. KAN. STAT. ANN. § 12-187(b)(2).

152. KAN. STAT. ANN. § 12-187(3)(A).

153. KAN. STAT. ANN. § 12-187(3)(B).

154. KAN. STAT. ANN. § 12-187(3)(C).

155. KAN. STAT. ANN. § 12-187(3)(D).

156. KAN. STAT. ANN. § 12-187(6).

157. KAN. STAT. ANN. § 12-187(4).

In addition to the general rate, any county may impose a tax at increments of .25 percent up to 1 percent to provide health care services in the county.¹⁵⁸ “Health care services” at the county level is broadly defined, its definition including but not limited to “local health departments, city or county hospitals, city or county nursing homes, preventive health care services including immunizations, prenatal care and the postponement of entry into nursing homes by home care services, mental health services, indigent health care, physician or health care worker recruitment, health education, emergency medical services, rural health clinics, integration of health care services, home health services and rural health networks.”¹⁵⁹

Sales taxes are administered, enforced, and collected by the state department of revenue.¹⁶⁰ Generally, the local option tax follows the same tax base as the statewide sales tax.¹⁶¹ Certain sales of gas, telephone services, and electricity are taxable at the local level but not under the statewide sales tax.¹⁶² All local sales tax revenue is remitted back to the taxing jurisdiction at least quarterly.¹⁶³

Kentucky

The statewide sales tax rate in Kentucky is 6 percent.¹⁶⁴ The Kentucky state constitution allows counties, cities, towns, or any municipal corporation to impose taxes for public purposes.¹⁶⁵ State law allows for the levying of taxes for “purposes as may be provided by the legislative body of the city.”¹⁶⁶ Local option sales taxes have become a matter of considerable political controversy in Kentucky, with a 2014 bill amending Kentucky’s constitution to expressly allow localities to levy sales tax dying on the floor after seven amendments were filed.¹⁶⁷ As of this writing, local option sales taxes are not expressly allowed within Kentucky cities or towns.

Under state law, individuals living in mass transit authority areas can also be taxed at a rate not to exceed .5 percent of retail sales. This tax is imposed on the retailer and can be used to finance the mass transportation program. These mass transit area taxes must be approved in a referendum of either the area served by the public transportation authority or the public bodies that have been party to that authority’s creation. This sales tax is in addition to other taxes and is administered by the state department of revenue.¹⁶⁸

158. KAN. STAT. ANN. § 12-187(5).

159. *Id.*

160. KAN. STAT. ANN. § 12-189.

161. *Id.*

162. *See* KAN. STAT. ANN. § 12-189a.

163. KAN. STAT. ANN. § 12-189.

164. KY. REV. STAT. ANN. § 139.200.

165. KY. CONST. § 181 (“The General Assembly shall not impose taxes for the purposes of any county, city, town or other municipal corporation, but may, by general laws, confer on the proper authorities thereof, respectively, the power to assess and collect such taxes”).

166. KY. REV. STAT. ANN. § 92.281.

167. Kentucky H.B. 399 (2014).

168. KY. REV. STAT. ANN. § 96A.320.

Louisiana

The statewide sales and use tax in Louisiana is 4.0 percent.¹⁶⁹ According to the state constitution, Louisiana political subdivisions have the authority to levy and collect their own sales and use taxes.¹⁷⁰ The constitution caps at the combined rate at 3 percent; however, the legislature can authorize additional sales taxes if approved by a majority of electors.¹⁷¹ Deviations exist between the state and local taxable base because state statute allows local taxing jurisdictions the option to apply state sales tax exemptions. Deviations by political subdivisions from the state tax base must be approved by ordinance or resolution. Exemptions from sales and use taxes include agricultural commodities, fuel, and prescription pharmaceuticals purchased for personal use.¹⁷²

As of 2015, the average local option sales tax is 5.01 percent, making it one of the highest in the nation.¹⁷³ Consequently, Louisiana has the third highest combined state and local option sales tax—8.85 percent—in the country.¹⁷⁴ Local subdivisions may levy, administer, and collect the sales taxes, or they may contract with the state department of revenue, a tax collector, or a tax commission.¹⁷⁵ Current local tax rates and designations are available from the Louisiana Association of Tax Administrators.¹⁷⁶ Political subdivisions must specify the rate of the tax, effective date, duration, purpose, compensation for the tax vendor, penalties, and exemptions. Taxes must be approved by a majority of voters in a jurisdiction.¹⁷⁷

Jefferson Parish, which borders New Orleans, serves as a prime example of how political subdivisions shape the tax structure of localities. Jefferson Parish voters approved local option taxes, many of which have defined purposes by statute.¹⁷⁸ For instance, the parish council imposes a levy of 2.5 percent, the parish school board imposes a levy of 2 percent, and the law enforcement district imposes a levy of .25 percent. In addition to these taxes, an additional levy is imposed on sales originating within the New Orleans airport. The New Orleans International Airport Tax District levies a 2 percent tax in addition to the general levy on all sales and rentals occurring within the airport facility.¹⁷⁹

All LOSTs must be authorized by ordinance and are collected by the local jurisdiction. Interestingly, local ordinances govern the rate of compensation for remitting local sales or use taxes.

169. Louisiana Department of Revenue, General Sales & Use Tax, www.revenue.louisiana.gov/SalesTax/GeneralSalesAndUseTax.

170. LA. CONST. art. VI, § 30.

171. LA. CONST. art. VI, § 29.

172. LA. STAT. ANN. § 47:337.10.

173. Liz Malm, Scott Drenkard, Jared Walczak, and Joseph Henchman, *Louisiana Fiscal Reform: A Framework for the Future* (Washington, D.C.: Tax Foundation, Nov. 10, 2015), <http://taxfoundation.org/article/louisiana-fiscal-reform>.

174. Louisiana Department of Revenue and Louisiana Economic Development, *Primer on State Tax Structure in Louisiana* (Oct. 8, 2012), www.house.louisiana.gov/rc/pdf/Primer_on_State_Tax_Structure_in_Louisiana_10.4.12.pdf.

175. LA. REV. STAT. ANN. §§ 47:337.16 & .13.

176. Louisiana Association of Tax Administrators, Parish Map, www.laota.com/index.php?option=com_content&view=article&id=93&Itemid=101.

177. LA. REV. STAT. ANN. §§ 47:337.3 & 4.

178. See e.g., LA. REV. STAT. ANN. § 2740.7(d) (2014) (Proceeds of the Livingston Parish law enforcement district tax “must be used for operating and maintaining the parish prison and providing for the payment of other costs of law enforcement in the parish”).

179. See Louisiana Association of Tax Administrators, Jefferson Parish, www.laota.com/index.php?option=com_content&view=article&id=36&Itemid=46.

The duration of the LOST is set by voters and approved in the local ordinance. For dealers, any excess amount is to be reported on the return as a credit, accounted for independently by the state department of revenue and taxation. A refund will be issued to the dealer for each credit returned.¹⁸⁰ Individuals receive excess returns directly from the localities where their sales and use taxes were collected, which is location-specific. For example, in Jefferson Parish, the sheriff also serves as ex-officio tax collector and head of the parish bureau of revenue, which redistributes all local sales and use tax returns originating in Jefferson Parish.¹⁸¹

Maine

As of January 1, 2016, Maine's state sales tax rate is 5.5 percent for general items, 8 percent for meals and liquor, 9 percent for lodging, and 10 percent for automobile rentals.¹⁸² Maine's state constitution does not allow for localities to impose local option taxes. The state constitution declares that, "The legislature shall never, in any manner, suspend or surrender the power of taxation."¹⁸³

Maryland

Maryland's state sales tax rate is 6 percent.¹⁸⁴ Maryland state law expressly bars any county, municipal corporation, special taxing district, or any other political subdivision of the state from imposing a sales or use tax, except under limited circumstances.¹⁸⁵ Currently, no general local option taxes are levied in the state.¹⁸⁶

Massachusetts

Massachusetts has a state sales tax rate of 6.25 percent. The political subdivisions of Massachusetts are not generally allowed to impose a local option tax. The state does have a local excise tax option for restaurant meals. These meals may be taxed at a rate of .75 percent imposed on the vendor. The tax is paid at the same time and in the same manner as the state sales tax.¹⁸⁷ Cities and towns impose this local option meal excise tax by vote of the local legislative body.¹⁸⁸ Cities and towns also may impose an excise tax for lodging up to 6.5 percent of the total amount of rent.¹⁸⁹

180. LA. ADMIN. CODE tit. 61, § I.4351.

181. Jefferson Parish Sheriff's Office, Tax Collector Activity, www.jpso.com/256/Tax-Collector-Activity.

182. ME. REV. STAT. ANN. tit. 36, § 1811.

183. ME. CONST. ART. IX, § 9.

184. MD. CODE ANN., TAX-GEN. § 11-104.

185. MD. CODE ANN., TAX-GEN. § 11-102(c)(1).

186. Comptroller of Maryland, Sales and Use Tax Information, http://taxes.marylandtaxes.com/Individual_Taxes/Individual_Tax_Types/Sales_and_Use_Tax/Tax_Information.

187. MASS. GEN. LAWS ch. 64L, § 2.

188. MASS. GEN. LAWS ch. 4, § 4.

189. MASS. GEN. LAWS ch. 64G, § 3A.

Michigan

The Michigan Constitution includes language that would seem to support the ability of charter counties, cities, and villages to impose a local option sales tax.¹⁹⁰ However, the state attorney general has interpreted the constitution to limit the legislature's ability to grant authority for local subdivisions of the state to levy a sales tax.¹⁹¹ As such, the state constitution has been understood to deny the ability of localities to impose local option taxes. Current state law allows for certain counties to impose excise taxes on lodging,¹⁹² food and beverages,¹⁹³ and vehicle rentals.¹⁹⁴ Michigan's statewide sales tax is 6 percent.¹⁹⁵

Minnesota

Minnesota has a statewide sales tax of 6.875 percent.¹⁹⁶ Minnesota's cities, towns, and counties may impose a local option sales and use tax via one of four mechanisms. The state legislature has authorized political subdivisions of the state to impose local taxes under "(1) section 297A.992, (2) under section 297A.993, (3) if permitted by special law, or (4) if the political subdivision enacted and imposed the tax before January 1, 1982, and its predecessor provision."¹⁹⁷ When a local sales tax is imposed, a corresponding local use tax at the same rate also is levied.¹⁹⁸ The state maintains a list of all local sales and use taxes.¹⁹⁹ The state administers and collects the local option taxes, and the department of revenue distributes the tax revenues back to the originating jurisdictions less the direct and indirect costs of administering the taxes.²⁰⁰ The local tax base generally is the same as that for the statewide tax.²⁰¹ The state's local option sales taxes are the subject of a comprehensive research brief produced by the state legislature in 2014.²⁰²

190. *See* MICH. CONST. art. 7, § 2 & art. 7, § 21. *See also* Citizens Research Council of Michigan, Issues Relative to the Constitutionality of Local Sales Taxes in Michigan, Report 305 (June 1992), www.crcmich.org/PUBLICAT/1990s/1992/constitutionality_local_sales_tax_michigan-1992.pdf (providing further discussion on the interpretation of the constitutional provisions and their support for expanded local government power to tax).

191. Mich. Op. Atty. Gen. 1969–70, No. 4694.

192. MICH. COMP. LAWS § 141.862 (Counties with populations under 600,000 containing a city of at least 40,000 residents can impose such a tax of no more than 5 percent.).

193. MICH. COMP. LAWS § 207.752(2)(a) (Certain counties can impose a tax of up to 1 percent on gross food and beverage receipts, including alcoholic drinks.).

194. MICH. COMP. LAWS § 207.752(2)(b) (Certain counties can impose a tax of up to 2 percent on automobile rental companies' gross receipts.).

195. Michigan Department of Treasury, Who Needs a Sales Tax License? www.michigan.gov/taxes/0,1607,7-238-43529-155505--,00.html.

196. MINN. STAT. § 297A.62.

197. MINN. STAT. § 297A.99(1)(a).

198. MINN. STAT. § 279A.99(6).

199. Minnesota Revenue, "Local Sales and Use Taxes," Sales Tax Fact Sheet No. 164 (revised January 2016), www.revenue.state.mn.us/businesses/sut/factsheets/FS164.pdf.

200. MINN. STAT. § 279A.99(11).

201. Some exemptions apply. *See* MINN. STAT. § 279A.99 for details.

202. Pat Dalton, "Local Sales Taxes in Minnesota," Minnesota House of Representatives Research Department information brief (July 2014; updated December 2015), www.house.leg.state.mn.us/hrd/pubs/localsal.pdf.

Under the first two mechanisms—Sections 297A.992 and .993 of the Minnesota Statutes—a local sales tax may be levied for the purposes of transportation funding. Under Section 297A.992, an eligible county may impose a sales and use tax of .25 percent and an excise tax of \$20 per motor vehicle sold at retail for the purpose of funding transportation improvements, including debt services to finance those improvements.²⁰³ This tax is imposed by resolution.²⁰⁴

Under Section 297A.933, the board of a county or boards of more than one county may impose, by resolution, a sales and use tax of .5 percent on retail sales and an excise tax of \$20 on the sale of motor vehicles.²⁰⁵ Proceeds of Section 297A.993 taxes must be used only for “(1) payment of the capital cost of a specific transportation project or improvement; (2) payment of the costs, which may include both capital and operating costs, of a specific transit project or improvement; (3) payment of the capital costs of a safe routes to school program”; or “(4) payment of transit operating costs.”²⁰⁶ Except for taxes raising revenue for operating costs, these taxes cease when sufficient revenue is raised to fund the designated project.²⁰⁷

If a political subdivision of the state requires a special authorizing law from the state legislature, the governing body of that jurisdiction must follow certain steps in order to impose a local option tax. First, the governing body must pass a resolution with the intended tax rate, anticipated expiration date of the tax, intended uses of the revenue, and the amount of revenue expected to be raised.²⁰⁸ Next, at the next general election voters must approve the proposed tax by a majority vote. Political subdivisions may not advertise or promote this referendum.²⁰⁹ Third, the political subdivision must request—and the state legislature must enact—a special law authorizing the tax.²¹⁰ Fourth, the subdivision must file this local approval with the secretary of state. Finally, the political subdivision must pass an ordinance imposing the tax and notify the state commission of revenue.²¹¹ The rate of the tax is governed either by (a) statute or (b) special authorization approved by voters.²¹²

According to the state department of revenue's compilation of the state's local sales and use taxes, very few localities impose a sales and use tax under the fourth mechanism. That is, few currently impose a tax that had a date of origin in 1982 or earlier; those that do include Duluth, which has a rate of 1 percent on all purchases in the city. That tax has been imposed since 1970 and has been collected by the state since 2006. Other local taxes that originated before 1982 include a lodging tax in Rochester and an entertainment tax in Minneapolis.²¹³

203. MINN. STAT. § 297A.992(2)(a). Eligible counties are those participating in a joint powers agreement and must include one of the following counties: Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, or Washington.

204. *Id.*

205. MINN. STAT. § 279A.993(1).

206. MINN. STAT. § 297A.993(2).

207. *Id.*

208. MINN. STAT. § 297A.99(2).

209. MINN. STAT. § 297A.99(1)(d).

210. Dalton, “Local Sales Tax in Minnesota,” at 3.

211. *Id.*

212. *See* MINN. STAT. § 297A.99(4)(a).

213. Minnesota Revenue, “Local Sales and Use Taxes.”

Mississippi

The statewide sales tax rate in Mississippi is 7 percent.²¹⁴ The authority of Mississippi municipalities to impose a local option sales tax was extended as of April 2014. Municipalities may charge an additional tax of up to 1 percent on the gross proceeds of sales or the gross income of the taxed business.²¹⁵ Several exemptions apply to this local rate, including for restaurants and the retail sale of food.²¹⁶ The tax must be adopted via at least a 60 percent majority vote in a citywide election. The local option tax is collected and administered by the state. The local option tax may be used for the “cost of road and street repair, reconstruction and resurfacing projects based on traffic patterns, need and usage, and to pay the costs of water, sewer and drainage projects.”²¹⁷ Under current law, the authority to tax will expire on July 1, 2035.²¹⁸

Currently, Mississippi municipalities do not impose the local option tax, except for the city of Tupelo, which levies an additional .25 percent tax on regular retail sales.²¹⁹ Excise taxes are more widely used for economic development and tourism and are charged on hotels, restaurants, and other local businesses.²²⁰

Missouri

Missouri's statewide sales and use tax is 4.225 percent.²²¹ Counties, cities, and special districts in the state can impose a sales and use tax. Generally, the state department of revenue collects and distributes local option taxes.²²² Numerous local sales tax laws are included in the state's tax code.²²³ Locals sales and use taxes range widely across the state, with some communities levying rates at 8 percent or more, and the state department of revenue maintains a list of local option taxes.²²⁴ Local option taxes are adopted via election and generally parallel state sales and use taxes.²²⁵

214. Mississippi Department of Revenue, Sales Tax Frequently Asked Questions, www.dor.ms.gov/Pages/SalesTax-FAQs.aspx.

215. MISS. CODE ANN. § 27-65-241(2)(a).

216. MISS. CODE ANN. § 27-65-241(2)(b).

217. MISS. CODE ANN. § 27-65-241(4).

218. MISS. CODE ANN. § 27-65-241.

219. Mississippi Department of Revenue, Sales Tax Frequently Asked Questions.

220. The state department of revenue maintains a list of tourism and economic development taxes at www.dor.ms.gov/Business/Pages/Tourism-Economic-Dev-Taxes.aspx.

221. Missouri Department of Revenue, Sales/Use Tax, www.dor.mo.gov/business/sales.

222. MO. REV. STAT. § 32.087.

223. MO. REV. STAT. § 32.085(4) defines a “local sales tax law” as referring to “sections 66.600 to 66.630, 67.391 to 67.395, 67.500 to 67.545, 67.547, 67.548, 67.550 to 67.570, 67.581, 67.582, 67.583, 67.590 to 67.594, 67.700 to 67.727, 67.729, 67.730 to 67.739, 67.782, 67.1712 to 67.1715, 92.400 to 92.421, 94.500 to 94.550, 94.577, 94.600 to 94.655, and 94.700 to 94.755, and any provision of law hereafter enacted authorizing the imposition of a sales tax by a political subdivision of this state; provided that such sales tax applies to all transactions which are subject to the taxes imposed under the provisions of sections 144.010 to 144.525”; see www.moga.mo.gov/mostatutes/stathtml/03200000851.HTML.

224. Missouri Department of Revenue, Sales/Use Tax Rate Table (updated May 20, 2014), www.dor.mo.gov/pdf/rates/2014/jul2014.pdf.

225. For exemptions, see MO. REV. STAT. § 32.087; 2014 legislation (H.B. 2029) created a new exemption; see www.house.mo.gov/billsummary.aspx?bill=HB2029&year=2014&code=R.

Special districts, such as transportation development districts, also may impose local option taxes. Transportation districts may impose a tax after a majority of voters approve the tax levy at a rate not to exceed 1 percent of receipts from sale.²²⁶ The ballot question must include a sunset clause.²²⁷ The current special district sales and use taxes are cataloged on the state department of revenue's updated lists.

Montana

As of this writing, Montana does not have a statewide sales tax. Electors in certain Montana communities have the authority to authorize a resort tax within the boundaries of unincorporated areas under twenty-five hundred individuals or municipalities of under fifty-five hundred residents.²²⁸ This resort tax is a local option sales tax in certain areas that have small populations and derive their economic well-being from meeting the "recreational and personal needs" of tourists.²²⁹ As of this writing, approximately seven Montana entities are imposing these resort taxes.²³⁰ The electorate in these areas must approve the tax by majority vote.²³¹ The voters must be aware of the tax rate, the duration and effective date of the tax, and the purpose that the tax may fund.²³² This locally set rate may not exceed 3 percent on the retail value of goods and services sold within the designated boundary in facilities, such as lodging, bars, food service, luxury establishments, and destination recreational facilities.²³³ Local governing bodies administer the resort taxes, not the central state government.²³⁴

Nebraska

Nebraska's statewide sales and use tax rate is set at 5.5 percent. Nebraska's cities and counties may impose local sales and use taxes of up to 2 percent.²³⁵ Currently, only Dakota County imposes a local option sales and use tax of .5 percent.²³⁶ The remaining sales and use taxes are imposed by cities. In order to impose the tax, a city must pass an ordinance and hold an election. A majority

226. This tax does not apply to the sale or use of motor vehicles, trailers, boats, or outboard motors or to public utilities. MO. REV. STAT. § 238.235(7).

227. MO. REV. STAT. § 238.235(2).

228. MONT. CODE ANN. § 7-6-1501.

229. *See id.*

230. Montana Department of Transportation, "Development Exactions and Incentives—Resort and Local Option Taxes," www.mdt.mt.gov/research/toolkit/m1/ftools/fd/rlot.shtml.

231. MONT. CODE ANN. § 7-6-1504.

232. *Id.*

233. MONT. CODE ANN. § 7-6-1503.

234. MONT. CODE ANN. § 7-6-1505.

235. Localities may set rates at .5 percent, 1 percent, 1.5 percent, 1.75 percent, or 2 percent. Effective October 1, 2015, 11 localities impose the maximum 2.0 percent local rate in addition to the 5.5 percent state rate. In these jurisdictions, the total sales tax rate is 7.5 percent. *See* Nebraska Department of Revenue, Frequently Asked Questions about Nebraska Sales and Use Tax, www.revenue.nebraska.gov/question/slstax_faq.html#s01.

236. *Id.*

of voters must approve the tax.²³⁷ The state administers the local option sales tax, which parallels the statewide sales and use tax and is subject to the same exemptions. Tax is distributed back to the municipalities monthly, less any refunds plus 3 percent of the tax revenue, which goes into the Municipal Equalization Fund.²³⁸

The contours of the local tax change depending on the jurisdiction enacting the tax and the rate of the local tax. Tax rates above 1.5 percent are subject to additional rules. In order to impose a local tax greater than 1.5 percent, the governing board of the jurisdiction must approve the tax with a supermajority of at least 70 percent in addition to the majority of the public vote. For rates above 1.5 percent, cities may impose the tax if they enter into an interlocal agreement or a cooperative agreement with a public agency.²³⁹ However, if a city with a population between one and three hundred thousand (Section 15-101 of the Montana Code) enacts a local option tax of 1.75 percent or 2 percent, 15 percent of the revenue generated at .25 or .5 percent, respectively, in excess of the 1.5 percent rate may be used for non-public infrastructure projects or voter-approved infrastructure projects for economic development purposes.²⁴⁰ For other municipalities, tax revenue above 1.5 percent cannot be used for non-public infrastructure projects.

Nevada

The statewide sales tax rate in Nevada is 6.85 percent. Included in the 6.85 percent rate is 2 percent for the state's general fund, 2.6 percent for school districts, .5 percent for basic city-county tax relief, and 1.75 percent for supplementary city-county tax relief.²⁴¹

The Nevada Department of Revenue administers the local sales and use taxes.²⁴² Sales tax is measured by the gross receipts from retail sales, while use tax is measured by the sales price of the property.²⁴³ The local sales and use taxes are imposed on the sale and use of tangible personal property, including certain services that relate to the sale of tangible personal property.²⁴⁴

In Nevada, local option sales taxes are levied at the county level for a range of purposes prescribed by statute. The board of county commissioners of any county can pass an ordinance to impose a local option infrastructure tax not to exceed .25 percent.²⁴⁵ The tax must be approved by a two-thirds majority of the members of the board of county commissioners²⁴⁶ and can only be passed after a public hearing.²⁴⁷ State law describes the various elements that must be included in the county ordinance and the maximum time period of the tax.²⁴⁸ If the county's population is less

237. NEB. REV. STAT. ANN. § 77-27,142(1).

238. NEB. REV. STAT. ANN. § 77-27,144(1).

239. NEB. REV. STAT. ANN. § 77-27,142(2).

240. NEB. REV. STAT. § 77-27,142(2)(b).

241. Nevada Department of Taxation, Components of Sales and Use Tax Rates, http://tax.nv.gov/Publications/Sales_and_Use_Tax_Publications.

242. NEV. REV. STAT. § 360B.120(1)(e).

243. Nevada Department of Taxation, Sales & Use Tax General Information, http://tax.nv.gov/Publications/Sales_and_Use_Tax_Publications.

244. *Id.*

245. NEV. REV. STAT. § 377B.100(1).

246. NEV. REV. STAT. § 377B.100(2).

247. NEV. REV. STAT. § 377B.100(6).

248. NEV. REV. STAT. §§ 377B.100(3)–(5).

than seven hundred thousand, or if the county does not have a water authority, then the board of county commissioners must develop a plan for the expenditure of the proceeds of the tax imposed before the ordinance is enacted. The statute details what must be included in the plans.²⁴⁹

If the board of trustees of a school district applies for a grant from the Fund to Assist School Districts in Financing Capital Improvements (see Section 387.3335 of the Nevada Revised Statutes (hereinafter N.R.S.)), and the state board of examiners approves the application, then a county tax will be imposed on all retailers. This applies as long as the board of county commissioners has not imposed the maximum authorized tax rate of .25 percent under the local option sales tax infrastructure.²⁵⁰ The tax rate will be the difference between the maximum authorized tax and the infrastructure tax imposed pursuant to N.R.S. 377B.100.²⁵¹ The tax rate may not be greater than .125 percent (one-eighth of one percent) of the gross receipts of any retailer in the county.²⁵²

Upon a majority vote of registered voters, a county with a population of less than seven hundred thousand may impose a tax on the sale of all tangible personal property for the purpose of open-space development.²⁵³ The tax rate may not be greater than .25 percent of gross receipts.²⁵⁴ If a county imposes a sales tax pursuant to both N.R.S. 377B.100 and 376A.040, as well as the following section, N.R.S. 376A.050, which authorizes sales tax for other open-space development functions, the combined rate cannot be greater than .25 percent.²⁵⁵ Before the election, the board of county commissioners must adopt an open-space plan that is endorsed by resolution by the city council of each incorporated city within the county.²⁵⁶ All revenue is paid to the department of taxation, and the department remits the payments to the counties on a monthly basis.²⁵⁷ The money can be used only to pay the cost of (1) acquiring land for development and use as open-space land; (2) acquiring the development rights of open-space land; (3) creating a trust fund for acquiring land or development rights; (4) the principal and interest on notes, bonds, or other obligations issued for the acquisition of land or development rights; or (5) any combination of the above uses.²⁵⁸ The money may not be used for a neighborhood or community park or facility.²⁵⁹

Under N.R.S. 376A.040, a majority vote of registered voters in a county with a population below seven hundred thousand may impose a tax on the sale of all tangible personal property at a rate not exceeding .25 percent.²⁶⁰ Revenue from this tax can be used for (1) planning the acquisition and other administrative acts relating to the acquisition of open-space land and (2) the operation and maintenance of open-space land.²⁶¹

249. NEV. REV. STAT. § 377B.100(7).

250. NEV. REV. STAT. § 374A.010(1).

251. NEV. REV. STAT. § 374A.010(2).

252. *Id.*

253. NEV. REV. STAT. § 376A.040(1).

254. *Id.*

255. NEV. REV. STAT. § 376A.040(2).

256. NEV. REV. STAT. § 376A.040(3).

257. NEV. REV. STAT. §§ 376A.040(4)–(5).

258. NEV. REV. STAT. § 376A.040(6).

259. NEV. REV. STAT. § 376A.040(7). For more details on the LOSTs in Nevada see Nevada Department of Taxation, SUT Rate History 2016, <http://tax.nv.gov/uploadedFiles/taxnvgov/Content/TaxLibrary/SUT%20Rate%20History2016%20etail.pdf>.

260. NEV. REV. STAT. § 376A.050(1).

261. NEV. REV. STAT. § 376A.050(2).

Certain localities in Nevada may impose a tax on the following special purposes: (1) .25 percent tax to promote tourism for counties with a population under seven hundred thousand; (2) .5 percent tax available to all counties to establish and maintain a public transit system; for construction, maintenance and repair of public roads; and/or for the improvement of air quality; (3) .25 percent tax to support the operation and maintenance of a county swimming pool and recreational facility for counties with a population under fifteen thousand; or (4) a .25 percent tax to acquire, develop, construct, equip, operate, maintain, improve, and manage libraries, parks, recreational programs and facilities, facilities and services for senior citizens, and/or to preserve and protect agriculture if the county's population is under one hundred thousand.²⁶²

New Hampshire

As of this writing, New Hampshire does not have a sales tax at the state or local level.²⁶³

New Jersey

The New Jersey statewide sales and use tax rate is 7.0 percent.²⁶⁴ Generally, localities are authorized to levy local sales tax in addition to the state rate in special circumstances described in the statutes.

Some localities are authorized by statute to levy a sales tax lower than the statewide rate.²⁶⁵ Economically depressed areas of the state may apply for an Urban Enterprise Zone (UEZ) designation. Within these UEZ's, the state sales tax is only charged at 3.5 percent for qualifying businesses. In 1983, New Jersey initiated the UEZ program, which incentivized participating businesses to revitalize designated urban communities and stimulate local economies. Businesses must be registered with the state as well as its department of community affairs. There are 32 active UEZs in 37 municipalities throughout the state. Certain sales made in Salem County are subject to a sales tax at half the state rate.²⁶⁶

Atlantic City charges a luxury sales tax of 9 percent on certain rentals, sales, and services. The combined Atlantic City and state sales tax rate may not exceed 13.0 percent. Cape May County charges a 2.0 percent tourism sales tax in addition to the 7.0 percent statewide sales tax. The tourism sales tax is levied on hotel stays, restaurant meals, and admission charges. According to the most recent state tax bulletin on the subject, businesses in the communities of Wildwood, Wildwood Crest, and North Wildwood are required to collect this tax.²⁶⁷

262. NEV. REV. STAT. §§ 377A.020 & .030.

263. N.H. CONST. pt. second, art. 6.

264. N.J. STAT. ANN. § 54:32B-3.

265. New Jersey Division of Taxation, "New Jersey Sales Tax Guide," *Bulletin S&U-4*. (May 2008), www.state.nj.us/treasury/taxation/pdf/pubs/sales/su4.pdf.

266. State of New Jersey Department of Community Affairs, About UEZ, www.nj.gov/dca/affiliates/uez/about.

267. N.J. ADMIN. CODE § 18:25-1.5.

A New Jersey municipality may, by ordinance, impose a sales tax for the purpose of financing the project costs of a sports and entertainment facility for the life of the project (up to 30 years).²⁶⁸ This tax is in addition to any other local tax or fee that the municipality imposes on the same transaction.²⁶⁹ The municipality may impose any or all of the following four taxes: (1) a 2 percent tax on the receipts from every sale of tangible personal property within the district, (2) a 2 percent tax on the receipts from every sale of food and drink within the district, (3) a 2 percent tax on charges of rent for every occupancy of a hotel room located within the district, or (4) a 2 percent tax on the admission charge to a place of amusement within the district.²⁷⁰ This tax must be paid by the purchaser and may not be assumed or absorbed by the vendor.²⁷¹

New Mexico

In New Mexico, both counties and municipalities may adopt local option taxes. These are local gross receipts taxes that are imposed in addition to the statewide gross receipts tax of 5.125 percent. Each is compounded, with the state as one layer, the county as the second, and the city as the third layer of gross receipts taxation.²⁷² The New Mexico legislature has found that “a simplified sales tax and use tax system that treats transactions in a competitively neutral manner will strengthen and preserve sales taxes and use taxes as vital revenue sources for this state and its local governments and will help preserve the fiscal sovereignty of this state.”²⁷³

The state collects these local option taxes and returns the revenue to the taxing jurisdiction. The administrative fee for the state collection and administration of the tax is 3.25 percent of gross receipts. The state distributes net receipts of the tax back to the taxing jurisdiction.

“Gross receipts” means the total amount of money or other consideration received from selling property in the state, leasing or licensing property, granting a right to use a franchise in the state, performing services, or selling research and development services performed outside of the state but with the product used initially in New Mexico.²⁷⁴

A governmental gross receipts tax of 5 percent is imposed on the receipts of New Mexico state and local governments (except public school districts and hospitals) from the following: (1) the sale of tangible personal property (other than water) from facilities open to the general public; (2) the performance of or admission to recreational, athletic, or entertainment services or events in facilities open to the general public; (3) refuse collection and/or disposal; (4) sewage services; (5) the sale of water by a utility owned or operated by a governmental entity; and (6) the rental of parking, docking, or tie-down spaces or the granting of permission to park vehicles, aircrafts, or

268. N.J. STAT. ANN. § 34:1B-194; *see* Section 34:1B-195 for details on what must be included in the ordinance.

269. N.J. STAT. ANN. § 34:1B-194(c).

270. N.J. STAT. ANN. § 34:1B-194(a).

271. N.J. STAT. ANN. §§ 34:1B-195(a)–(b).

272. New Mexico Taxation and Revenue Department (N.M. Taxation & Revenue), Local Option Taxes, www.tax.newmexico.gov/Government/local-option-taxes.aspx.

273. N.M. STAT. ANN. § 7-5A-2.

274. N.M. Taxation & Revenue, Gross Receipts Overview, www.tax.newmexico.gov/Businesses/gross-receipts.aspx.

boats.²⁷⁵ This gross receipts tax is technically an excise tax.²⁷⁶ Receipts that are subject to certain taxes are exempt from the governmental gross receipts tax.²⁷⁷

The state has prepared guidebooks on both the county and municipal local options available to these taxing jurisdictions. Counties have at least 19 options for either gross receipts or excise taxes;²⁷⁸ municipalities have at least 9 options.²⁷⁹ Some of these options call for a referendum; others are simply enacted by ordinance.

Counties have numerous options for gross receipts and excise taxes.²⁸⁰ Under Sections 7-20E-9 to -11 of the New Mexico Statutes, a county may impose a maximum gross receipts tax of .4375 percent. The imposition of this tax is in stages. The first .125 percent may be imposed by ordinance. The revenues generated by this portion of the tax may be used for the county's general fund, county road fund, both of these funds, or the payment of gross receipts tax bonds. One-quarter of the revenue generated by this portion of the tax must be placed each month in a reserve fund and is released at the end of each fiscal year. The second .125 percent also may be imposed by ordinance, unless otherwise directed in a county charter. This second portion may be used only to support indigent patients who are residents of the county. For the remaining portions of the tax,²⁸¹ voters may petition for a referendum on the imposition of the other .1875 percent. Generally, the county may use the revenues for governmental purposes or to pay gross receipts tax bonds.

Other county options also are authorized, and each is in addition to the state, municipality, and other county taxes. The County Infrastructure Gross Receipts tax must be approved by referendum and has a maximum rate of .125 percent. This infrastructure tax is imposed outside the boundaries of any incorporated municipality. The County Capital Outlay Gross Receipts Tax has a maximum rate of .25 percent, is adopted by ordinance, and may be used to fund any infrastructure purpose. The County Environmental Services Gross Receipts Tax is levied at the rate of .125 percent and is adopted via ordinance, unless otherwise dictated by county charter. This environmental service tax is imposed outside the boundaries of any incorporated municipality. The County Fire Protection Excise Tax is adopted via election and has a rate of .125 or .25 percent. This fire protection tax is imposed outside the boundaries of any incorporated municipality. The County Health Care Gross Receipts Tax is imposed at a rate of .0625 percent and is adopted via ordinance. This health care tax is used to fund the county-supported Medicaid fund. Quay and Luna counties may adopt the Special Hospital Gross Receipts Tax at a rate of .125 percent. "Quay County must use the proceeds to finance current operations and maintenance of a hospital owned

275. N.M. Taxation & Revenue, Gross Receipts Overview.

276. N.M. STAT. ANN. § 7-9-4.

277. These include an event center surcharge (N.M. STAT. ANN. § 7-9-13.5), a stadium surcharge (N.M. STAT. ANN. § 7-9-13.3), an athletic or boat excise tax (N.M. STAT. ANN. §§ 7-9-41.1 & 7-9-13.2), and receipts from the sale of livestock or unprocessed agricultural products (N.M. STAT. ANN. § 7-9-18). See also N.M. Taxation & Revenue, Gross Receipts Overview.

278. N.M. Taxation & Revenue, *County Gross Receipts Tax Local Options*, FYI-C-120 (revised June 2013), <http://realfile.tax.newmexico.gov/FYI-C120%20County%20Gross%20Receipts%20Tax%20Programs.pdf>.

279. N.M. Taxation & Revenue, *Municipal Gross Receipts Tax Local Options*, FYI-M121 (revised June 2013), <http://realfile.tax.newmexico.gov/FYI-M121%20Municipal%20Gross%20Receipts%20Tax%20Programs.pdf>.

280. The descriptions below draw heavily from N.M. Taxation & Revenue, *County Gross Receipts Tax Local Options*.

281. These are broken up into a .125 and a .0625 percent tax.

and operated by the county or operated and maintained by another party pursuant to a lease with the county in caring for sick and indigent persons. Luna County must dedicate the proceeds from this tax for county ambulance transport costs or for the operation of a rural health clinic.”²⁸² The Local Hospital Gross Receipts Tax may be imposed only by Colfax, Hidalgo, Lincoln, Los Alamos, Luna, Sierra, Torrance Valencia, Cibola, Quay, Roosevelt, San Juan, Taos, and Union counties and is adopted via election. There is considerable variation among the rates and requirements.²⁸³ Other county local gross receipts taxes include the County Hospital Emergency Gross Receipts Tax,²⁸⁴ the County Correctional Facility Gross Receipts Tax,²⁸⁵ the County Education Gross Receipts Tax,²⁸⁶ the County Regional Transit Gross Receipts Tax,²⁸⁷ the County or Countywide Emergency Communications and Emergency Medical and Behavioral Health Services Tax,²⁸⁸ the County Quality of Life Gross Receipts Tax (to fund cultural programs),²⁸⁹ the County Regional Spaceport Gross Receipts Tax,²⁹⁰ the County Water and Sanitation Gross Receipts Tax,²⁹¹ the County Business Retention Gross Receipts Tax,²⁹² and the County Hold Harmless Gross Receipts Tax.²⁹³

Municipalities also may impose local option gross receipt taxes. Some of these municipal gross receipts taxes require an election, and others do not. Each is collected by the state. For the municipal gross receipts tax, municipalities may impose a tax of up to 1.50 percent in .25 percent increments via ordinance. While no election is required, the municipality may provide that an election is necessary. Alternatively, voters may petition for an election. Municipalities with a population greater than forty-five thousand may choose to provide ordinances in .125 percent increments. For the Municipal Infrastructure Gross Receipts Tax, municipalities may adopt a gross receipts tax of .25 percent. While increments of this tax may be adopted via ordinance, the second .125 percent of the tax requires an election. Other municipal local gross receipts taxes include the Municipal Capital Outlay Gross Receipts Tax,²⁹⁴ the Municipal Quality of Life Gross Receipts Tax,²⁹⁵ the Municipal Regional Spaceport Gross Receipts Tax,²⁹⁶ the Municipal Higher Education Facilities Gross Receipts Tax,²⁹⁷ the Federal Water Project Gross Receipts Tax (for water delivery system debt),²⁹⁸ and the Municipal Hold Harmless Gross Receipts Tax.²⁹⁹

282. N.M. Taxation & Revenue, *County Gross Receipts Tax Local Options* at 4.

283. See N.M. STAT. ANN. §§ 7-20C-1 to -17.

284. N.M. STAT. ANN. § 7-20E-12.1.

285. N.M. STAT. ANN. §§ 7-20F-1 to -12.

286. N.M. STAT. ANN. § 7-20E-20.

287. N.M. STAT. ANN. § 7-20E-23.

288. N.M. STAT. ANN. § 7-20E-22.

289. N.M. STAT. ANN. § 7-20E-24.

290. N.M. STAT. ANN. § 7-20E-25.

291. N.M. STAT. ANN. § 7-20E-26.

292. N.M. STAT. ANN. § 7-20E-27.

293. N.M. Taxation & Revenue, *County Gross Receipts Tax Local Options* at 8.

294. N.M. STAT. ANN. § 7-19D-12.

295. N.M. STAT. ANN. § 7-19D-14.

296. N.M. STAT. ANN. § 7-19D-15.

297. N.M. STAT. ANN. § 7-19D-16.

298. N.M. STAT. ANN. § 7-19D-17.

299. N.M. Taxation & Revenue, *Municipal Gross Receipts Tax Local Options* at 8.

New York

New York's statewide sales and use tax is 4.5 percent.³⁰⁰ For many state residents, including New Yorkers, the effective combined sales tax is 8.0 percent or more. Cities or counties may impose local option sales or use taxes at varying rates, based in part on population. For New York City or other cities of one million or more, the maximum rate is 4.5 percent.³⁰¹ For other cities and counties, the local taxes may be at rates of .5, 1, 1.5, 2, 2.5, or 3 percent in addition to the statewide rate.³⁰² Within the New York tax code, individual counties and municipalities have been authorized to go beyond these set rates, often for a set amount of time.³⁰³ The rates of cities and counties are not cumulative.³⁰⁴ The state tax commission collects the tax.

Local option taxes may be imposed via local law, ordinance, or resolution. These ordinances, laws, or resolutions should be identical except for the rate and as otherwise provided.³⁰⁵

An additional tax is levied for counties within the Metropolitan Commuter Transportation District.³⁰⁶ This .375 percent tax is collected from the same tax base as the statewide tax but is collected only where the transportation authority exists.

North Carolina

The statewide sales tax rate in North Carolina is 4.75 percent.³⁰⁷ In North Carolina, only counties may adopt LOSTs, and they are subject to public referendum.³⁰⁸ The state department of revenue collects and administers these local option taxes for North Carolina counties.³⁰⁹ Each county can impose local taxes up to 2.25 percent,³¹⁰ and those counties with public transportation systems can impose an additional .5 percent for funding such a system.³¹¹ Counties can choose to adopt the initial 1 percent sales and use local option tax, and the additional 1.75 percent tax is graduated in three stages, .5, .5, and .25 percent. The department of revenue maintains a listing of effective local tax rates across the state as well as the levy dates of the county taxes. All of North Carolina's

300. New York State Department of Taxation and Finance, Sales Tax Rates, www.tax.ny.gov/bus/st/sales_tax_rates.htm.

301. N.Y. TAX LAW § 1210(i)(1).

302. N.Y. TAX LAW § 1210(i).

303. *See* N.Y. TAX LAW §§ 1210(i)(2)–(41). For example, the city of Yonkers is authorized to charge an additional 1 percent on top of the maximum 3 percent local rate. Other jurisdictions also are given such authority, and often it is limited to a set time period.

304. For example, Saratoga County has a combined sales tax rate (county and state) of 7 percent, and the city rate of Saratoga Springs also is 7 percent. The county rate is not in addition to the city rate. *See* New York State Department of Taxation and Finance, "New York State Sales and Use Tax Rates by Jurisdiction" (effective Feb., 1 2014; updated November 2015), Publication No. 718, www.tax.ny.gov/pdf/publications/sales/pub718.pdf.

305. *See* N.Y. TAX LAW § 1210(iv)(a)(1).

306. N.Y. TAX LAW § 1109.

307. North Carolina Department of Revenue, General Sales and Use Tax, www.dornc.com/taxes/sales/salesanduse.html.

308. N.C. GEN. STAT. § 105-465.

309. N.C. GEN. STAT. § 105-469.

310. N.C. GEN. STAT. §§ 105-463 through -539.

311. N.C. GEN. STAT. §§ 105-506 through -510.

100 counties have a combined sales tax rate of between 6.75 and 7.5 percent.³¹² The statute also explicitly states that LOST revenue is to be “an added source of revenue with which to meet their growing financial needs.”³¹³

For the first 1 percent of this 2.25 percent maximum local sales and use tax (laid out in Article 39 of Chapter 105 of the North Carolina General Statutes), the tax may be imposed on the sales price of tangible personal property, the gross receipts from the lease or sale of personal property, some food sales, laundry services, accommodations rentals, satellite radio, and/or prepaid calling services.³¹⁴ If these items are not sold but instead used, consumed, or stored for use in the taxing county, North Carolina counties can impose a use tax rather than a sales tax on them.³¹⁵ North Carolina counties are required to share this revenue with the municipalities in their counties. Under Article 39, the net proceeds of the tax are distributed back to the county minus any refunded taxes, administrative costs to the state for collecting the tax, and other deductions³¹⁶ and are then split between the county and its municipalities. Counties may choose to distribute the money via either a per capita or an ad valorem method.³¹⁷ These methods differ in that per capita distribution is based on the population of a county and its cities while ad valorem distribution is based on the amount of specific taxes derived from property values that localities have levied and collected.³¹⁸ The revenue generated by Article 39 taxes may be used for any purpose authorized for counties.

For the next .5 percent of the 2.25 percent maximum tax (laid out in Article 40), the local option tax may apply to the sales and use classifications described in the above paragraph. One of the major differences with this portion of the local option tax is that 40 percent of the revenue collected by a county within the first five fiscal years of the tax and 30 percent of the revenue collected thereafter may be used only for public school capital outlays or to retire indebtedness for such purposes.³¹⁹ North Carolina returns the net proceeds generated by Article 40 to the counties on a weighted per capita basis, with the population of the county and certain adjustment factors determining the distribution.³²⁰ Distribution of the tax monies within the county follows the same schedule as for the 1 percent tax discussed above.

For the proceeding .5 percent of the 2.25 percent maximum local option tax (laid out in Article 42), counties must use 60 percent of that revenue to provide for public school capital outlays or to retire indebtedness for that effect.³²¹ The classifications and restrictions on which items are subject to the tax are the same as for the original 1 percent.³²² The N.C. Local Government Commission may decide to authorize an exception for this .5 percent, as well as for the preceding

312. North Carolina Department of Revenue, Sales and Use Tax Rates & Other Information, www.dornc.com/taxes/sales/taxrates.html.

313. N.C. GEN. STAT. § 105-464.

314. N.C. GEN. STAT. § 105-467.

315. N.C. GEN. STAT. § 105-468.

316. N.C. GEN. STAT. § 105-472(a).

317. N.C. GEN. STAT. § 105-472(b).

318. *Id.*

319. N.C. GEN. STAT. § 105-487(a).

320. North Carolina Department of Revenue, “Articles of Sales Tax Distribution” (July 25, 2014; revised June 2, 2015), www.dornc.com/publications/salesdistribution_articles.pdf.

321. N.C. GEN. STAT. § 105-502.

322. Except for building materials, which are not taxed under Article 39 but are subject to the .5 percent tax authorized by Article 42. N.C. GEN. STAT. § 105-498.

.5 percent, of the tax so that counties may use a portion of funds designated for public school outlays instead for any lawful purpose.³²³ The Article 42 percentage is distributed to the counties in the same manner as those in Article 39.³²⁴

The final .25 percent of the 2.25 percent maximum local option tax rate is governed by Article 46. Voters must approve this tax by referendum, and counties may levy this tax only if they also levy the Article 39, Article 40, and Article 42 taxes.³²⁵ This tax is subject to the same adoption, levy, and administration provisions of Article 39. This Article 46 tax is allocated to counties and is not divided between the county and its municipalities.³²⁶

For counties with a public transportation system, a majority of voters in a referendum can approve the levy of a .25 percent local sales and use tax in addition to any other state and local taxes. This process is governed under Article 43. Currently, only Mecklenburg, Orange, and Durham counties have adopted this Article 43 transit county sales and use tax.³²⁷ The adoption, levy, collection, administration, and repeal of these special purpose transportation taxes are largely the same as for the other local sales and use taxes described above.³²⁸ There are distinct differences between these special purpose local option taxes and others in the state, however. First, several parts of Article 43 focus on specific counties or regions of the state. Part 2 focuses only on Mecklenburg County; Part 4, on the Triangle; Part 5, on the Triad.³²⁹ Second, transportation authorities may create special districts that follow county lines. For the Triangle and the Triad, Parts 3, 4, and 5 govern the process for the creation and administration of taxes within these special districts. For the counties of Orange, Durham, Guilford, and Forsyth, the county does not levy the tax but, rather, the regional transportation authority may create a regional transportation tax in the defined special district.³³⁰ For other counties in the state not otherwise mentioned in the article (Part 6), counties may levy the tax with voter approval and if the county operates a public transportation system.³³¹ Article 43 proceeds are distributed based on which part of the article is used. Under Part 2 governing Mecklenburg County, the net proceeds of the tax are distributed on a per capita basis to the county and eligible municipalities. Under Parts 3, 4, and 5, the proceeds are distributed to the regional transit authority operating the special district. Part 6 net proceeds would be distributed to the eligible county as a proportion of taxes collected in that county that month.³³²

323. N.C. GEN. STAT. §§ 105-487(c) & -502(b).

324. N.C. GEN. STAT. § 105-501. Section 105-502 states: "The Secretary must divide and distribute the funds allocated to a taxing county each month under this section between the county and the municipalities located in the county in accordance with the method by which the one percent (1 percent) sales and use taxes levied in that county pursuant to Article 39 of this Chapter or Chapter 1096 of the 1967 Session Laws are distributed."

325. N.C. GEN. STAT. § 105-536.

326. N.C. GEN. STAT. § 105-538.

327. North Carolina Department of Revenue, Sales and Use Tax Rates Effective April 1, 2014 through September 30, 2014, www.dornc.com/taxes/sales/salesrates_4-14.html. In addition to these counties, the city of Charlotte and the town of Huntersville also receive proceeds from this tax. N.C. Department of Revenue, "Articles of Sales Tax Distribution."

328. N.C. GEN. STAT. § 105-511.3.

329. N.C. GEN. STAT. §§ 105-507, -509, -510.

330. N.C. GEN. STAT. § 105-508.

331. N.C. GEN. STAT. § 105-511.1.

332. N.C. Department of Revenue, "Articles of Sales Tax Distribution."

North Dakota

North Dakota has a statewide sales tax rate of 5 percent for most retail sales.³³³ Counties and cities are authorized to impose local sales and use taxes.³³⁴ The North Dakota legislature intended “to grant and confirm to the people of all cities . . . the full right of self-government in both local and city matters.”³³⁵ In order to impose a local option tax, it must be included in the jurisdiction’s charter and implemented through an ordinance.³³⁶ The sales and use tax must be administered and collected by the state tax commissioner.³³⁷ Political subdivisions may choose to levy just a local sales tax or both a local sales and use tax. Nearly all jurisdictions that impose a local option tax do so with both a local sales and use tax.³³⁸ All taxable property must be taxed at the same rate by the city or county; there is no limitation on the rate of tax.³³⁹ The sales and use taxes must conform to the taxable or tax-exempt status of items under the state tax system and may not be imposed at multiple rates, except with limited exceptions.³⁴⁰ The tax may not be limited to apply to less than the full value of the transaction or item as determined for state sales and use taxes (except for farm machinery).³⁴¹

Ohio

The statewide sales and use tax rate in Ohio is 5.75 percent. Both counties and regional transit authorities are authorized to impose local option taxes. The combined tax rate between the state, county, and transit authority cannot exceed 8.75 percent.³⁴²

Counties in Ohio are authorized to levy two sales taxes. The maximum a county may tax as a result of both of these taxes is 1.5 percent. Transit authorities may tax at a rate not to exceed 1.5 percent.

The first of these sales taxes is authorized for the purpose of providing additional general revenues for the county and/or supporting criminal and administrative justice services in the county.³⁴³ The tax rate may not be greater than 1 percent and must be imposed in increments of .25 percent.³⁴⁴ This tax applies to every retail sale made in the county, except for the sale of watercraft, outboard motors, and motor vehicles.³⁴⁵ If a county imposes a sales tax, it must also impose a use tax at an equivalent rate on the storage, use, or other consumption of tangible

333. North Dakota Office of State Tax Commissioner, FAQ Articles, www.nd.gov/tax/faqs/articles/192-.

334. N.D. CENT. CODE §§ 11-09.1-05(2) & 40-05.1-06(2).

335. N.D. CENT. CODE § 40-05.1-06.

336. N.D. CENT. CODE §§ 11-09.1-05 & 40-05.1-06.

337. N.D. CENT. CODE §§ 11-09.1-05(2)(a) & 40-05.1-06(16)(d).

338. North Dakota Office of the State Tax Commissioner, Sales and Special Taxes Guidelines & Publications: Local Option Taxes, www.nd.gov/tax/salesanduse/pubs.

339. N.D. CENT. CODE §§ 11-09.1-05(2) & 40-05.1-06(2).

340. N.D. CENT. CODE §§ 11-09.1-05(2)(a) & 40-05.1-06(16)(a).

341. N.D. CENT. CODE §§ 11-09.1-05(2)(c) & 40-05.1-06(16)(c).

342. Ohio Department of Taxation, FAQs—Sales & Use Tax: General Information, www.tax.ohio.gov/sales_and_use/faqs/sales_basics.aspx.

343. OHIO REV. CODE ANN. § 5739.021(A).

344. *Id.*

345. *Id.*

personal property or services within the county.³⁴⁶ The tax must be levied pursuant to a resolution by the board of county commissioners, and the resolution must state the purpose and time period of the tax.³⁴⁷ If the resolution is adopted as an emergency measure necessary for immediate preservation of the public peace, health, or safety, it must receive an affirmative vote of all members of the board of county commissioners.³⁴⁸ Before any resolution can be adopted, the board of county commissioners must conduct two public hearings on the resolution.³⁴⁹

A board of county commissioners may impose a second sales tax of .25 or .5 percent on every retail sale made in the county, except on the sale of watercraft, outboard motors, and motor vehicles.³⁵⁰ The purpose of this tax is to raise additional revenues for certain specified purposes as prescribed by state statute.³⁵¹

In addition, a transit authority may levy a tax on every retail sale made in the territory of the transit authority at a rate of up to 1.5 percent.³⁵² The purpose of this tax is to provide additional general revenue for a transit authority and to pay the expenses of administering the tax.³⁵³

Oklahoma

Oklahoma's statewide sales and use tax rate is 4.5 percent.³⁵⁴ Oklahoma's counties, cities, towns, and special districts may impose a local option sales and use tax. The state administers, collects, and enforces the local taxes by contract.³⁵⁵ The state retains a small portion of the collected taxes and then remits the rest to the taxing jurisdictions.³⁵⁶

Counties may impose a sales and use tax of up to 2 percent on the gross receipts or gross sales within the county.³⁵⁷ Voters must approve the local option tax in a special election called for either by the county commissioner or a petition of 5 percent of registered voters.³⁵⁸ These county local option taxes are subject to the same exemptions as for the state sales tax³⁵⁹ and can be designated for any purpose that would "be necessary to promote safety, security, and general well-being of the people."³⁶⁰ The tax may be of limited or unlimited duration, depending on the question put to voters.³⁶¹

346. OHIO REV. CODE ANN. § 5739.021(B).

347. OHIO REV. CODE ANN. § 5739.021(A).

348. *Id.*

349. *Id.*

350. OHIO REV. CODE ANN. § 5739.026(A).

351. *Id.*

352. OHIO REV. CODE ANN. § 5739.023(A)(1).

353. *Id.*

354. Oklahoma Tax Commission, Sales/Use/Lodging Tax Rate Charts (as of May 31, 2016), www.ok.gov/tax/Businesses/Tax_Types/Business_Sales_Tax/Sales_Use_Lodging_Tax_Rate_Charts.

355. *See* OKLA. STAT. ANN. tit. 68, §§ 1371 & 2702.

356. For counties, this amount is .5 percent of the collected tax revenue; *see* OKLA. STAT. ANN. tit. 68, § 1371. For cities and towns, this fee amount cannot be more than 1.25 percent; *see* OKLA. STAT. ANN. tit. 68, § 2702.

357. OKLA. STAT. ANN. tit. 68, § 1370(a).

358. *Id.*

359. OKLA. STAT. ANN. tit. 68, § 1370(d).

360. OKLA. STAT. ANN. tit. 68, § 1370(e).

361. OKLA. STAT. ANN. tit. 68, § 1370(h).

While most counties in the state are limited to a maximum of 2.0 percent local option tax, counties with a population greater than three hundred thousand may levy several additional sales taxes. Currently, two Oklahoma counties fit this description, including those in which Tulsa and Oklahoma City are located.³⁶² These large-county sales taxes may be levied for a period not to exceed three years. First, these large counties may impose a .5 percent sales tax for constructing, improving, or equipping jail facilities.³⁶³ These taxes may be imposed only after a majority vote. Second, counties with a population greater than three hundred thousand also may impose a sales tax of up to 1 percent on a tax base similar to that of the state sales and use tax, and use the proceeds only for county airports.³⁶⁴ Low-income individuals—those with a household income below \$12,000 per year—may qualify for some sales tax relief from this airport LOST.³⁶⁵ Third, large-population counties may impose a 1 percent local option sales tax on the same tax base as the state sales tax for the purpose of the acquisition and development of a qualified manufacturing facility.³⁶⁶ Fourth, large counties by population may impose a 1 percent tax on a similar tax base as the statewide sales tax for the development of infrastructure to lease or convey space to the federal government.³⁶⁷ Fifth, the same tax base is available for a 1.0 percent tax to fund economic development projects.³⁶⁸ Sixth, a similar tax base is taxable also for public improvements at a rate of 1.0 percent.³⁶⁹

Incorporated cities and towns may levy taxes for municipal government purposes. These local taxes have the same tax base as for statewide taxes. Any revenues not specifically designated for a particular purpose are distributed into the municipal general fund. Towns and cities may not charge these local taxes and also levy earnings, payroll, or income taxes on nonresidents.³⁷⁰ The rate of these city and local taxes is not capped by the state, but the rate must be approved by the voters of the local jurisdiction.³⁷¹

Oklahoma's counties, cities, or towns may create regional economic development authorities or transportation authorities. These authorities' taxing jurisdictions are coterminous with the member municipalities or counties. A majority vote of the registered voters in these jurisdictions may impose an additional sales tax at a maximum of 2.0 percent additional sales tax.³⁷² These tax revenues must be used for either regional economic development projects or for the operation of public transportation, depending on the authority imposing the tax.³⁷³ The maximum duration of these taxes is 30 years or, if the tax revenues will not be used to pay down indebtedness, 20 years.³⁷⁴

362. Census 2010 population data on cities in Oklahoma available through CensusViewer, <http://censusviewer.com/cities/OK>.

363. OKLA. STAT. ANN. tit. 68, § 1370.1.

364. OKLA. STAT. ANN. tit. 68, § 1370.2.

365. OKLA. STAT. ANN. tit. 68, § 1370.3.

366. OKLA. STAT. ANN. tit. 68, § 1370.2A.

367. OKLA. STAT. ANN. tit. 68, § 1370.4.

368. OKLA. STAT. ANN. tit. 68, § 1370.5.

369. OKLA. STAT. ANN. tit. 68, § 1370.6.

370. OKLA. STAT. ANN. tit. 68 § 2701(A).

371. OKLA. STAT. ANN. tit. 68 § 2705.

372. OKLA. STAT. ANN. § 1370.7.

373. OKLA. STAT. ANN. § 1370.7(e).

374. OKLA. STAT. ANN. § 1370.7(f).

In addition, the state's counties, cities, or towns may create a hospital authority. This hospital authority may impose a maximum of 2.0 percent sales tax coterminous with the member counties, towns, and cities. The tax must be approved by a majority of voters, and the revenues from the tax may be used only for "planning, financing and constructing hospitals or related medical facilities within the boundaries of the authority."³⁷⁵

Oregon

As of this writing, Oregon does not impose a general sales or use tax at the state or local level.³⁷⁶

Pennsylvania

The Pennsylvania statewide sale and use tax rate is 6.0 percent. Currently, at least two local option sales and use taxes are in force. Retail transactions in Philadelphia are charged at 2.0 percent on top of the state rate. Allegheny County charges an additional 1 percent.³⁷⁷ Local government units in Pennsylvania are divided among categories, called classes. State law enables cities of the first class and counties of the second class to charge sales and use taxes.³⁷⁸ Of the nine classifications of counties, only one is in the second class: Allegheny County, which has a population of between 800,000 and 1.5 million residents. Similarly, there are four classes of cities; Philadelphia is the only city in the first class, as it has more than one million residents. The tax base of these local option taxes follows the same tax base as for the statewide tax.³⁷⁹ The state collects and administers the local sales and use taxes.³⁸⁰ The state distributes the tax revenue back to the taxing jurisdiction less the state's costs of collection.³⁸¹

For the Philadelphia tax, it may be imposed via an ordinance that outlines the tax rate.³⁸² The Allegheny County tax is imposed via an ordinance.³⁸³ The governing body of the county must provide public notice and hold at least one public hearing on the subject of the tax.³⁸⁴

Jurisdictions also may impose, assess, and collect a tax based in part on transactions within the jurisdiction.³⁸⁵ This transactions and privilege tax may be imposed by any city, town, or school district³⁸⁶ by ordinance or regulation.

375. OKLA. STAT. ANN. § 1370.8.

376. Oregon Department of Revenue, Sales Tax: FAQ, www.oregon.gov/DOR/Pages/sales-tax.aspx.

377. Pennsylvania Department of Revenue, Sales, Use and Hotel Occupancy Tax, www.revenue.pa.gov/GeneralTaxInformation/Tax%20Types%20and%20Information/Pages/Sales-Use-and-Hotel-Occupancy-Tax.aspx#V3GX97grLIU.

378. 53 PA. CONS. STAT. §§ 12720.503 & .508 (cities); 16 PA. CONS. STAT. § 6152-B (counties).

379. *See* 16 PA. CONS. STAT. § 6152-B.

380. 53 PA. STAT. §§ 12720.501 & .506.

381. 16 PA. CONS. STAT. § 6155-B; 53 PA. CONS. STAT. § 12720.506.

382. 53 PA. CONS. STAT. § 12720.503.

383. 16 PA. CONS. STAT. § 6156-B(a).

384. *Id.*

385. 16 PA. CONS. STAT. § 6924.301.1.

386. *See* 2014 Pennsylvania H.B. 1513.

Rhode Island

The state of Rhode Island levies a state sales tax at the rate of 7 percent.³⁸⁷ Rhode Island has not authorized its state subdivisions to impose a local sales or use tax but has authorized excise taxes levied by municipalities on hotel occupancy as well as the sale of food and beverages.³⁸⁸ For the food and beverage sales tax, the rate is 1 percent on any sales of meals or beverages.³⁸⁹ For hotels, the tax rate is 1 percent.³⁹⁰ The state department of revenue administers these excise taxes.³⁹¹

South Carolina

The statewide sales and use tax rate is 6.0 percent.³⁹² 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 for the state sales and use tax.³⁹³ A county must notify DOR and the state treasurer of a resolution to impose a local tax.³⁹⁴ All local tax 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.³⁹⁵ The Local Sales and Use Tax Fund consists of two separate funds: the Property Tax Credit Fund and the County/Municipal Revenue Fund.³⁹⁶

The revenue allocated to the Property Tax Credit Fund must be distributed to the county and its municipalities as follows: 67 percent to the county and 33 percent to the municipalities in the county area so that each municipality receives an amount equal to its proportional percentage of the population in all municipalities in the county area.³⁹⁷ 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.³⁹⁸

The revenue allocated to the County/Municipal Revenue Fund must be distributed to the county and the municipalities as follows: 50 percent based on the location of the sale and 50 percent based on population.³⁹⁹ The revenue distributed from the County/Municipal Revenue Fund may be used to provide an additional property tax credit, as with the Property Tax Credit Fund revenues described above.⁴⁰⁰

387. 44 R.I. GEN. LAWS § 18-18.

388. See 44 R.I. GEN. LAWS §§ 18-18.1 & -36.1.

389. These beverages do not include alcoholic drinks or unprepared foods. 44 R.I. GEN. LAWS § 18-18.1.

390. 44 R.I. GEN. LAWS § 18-36.1(b).

391. The city of Newport administers its own local hotel tax under a unique statutory clause. 44 R.I. GEN. LAWS § 18.36(d).

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

393. S.C. CODE ANN. § 4-10-90(A).

394. *Id.*

395. S.C. CODE ANN. § 4-10-90(B).

396. *Id.* See Section 4-10-90 for details on how the revenue is to be allocated between the two funds.

397. S.C. CODE ANN. § 4-10-40(A).

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

399. S.C. CODE ANN. § 4-10-50(A).

400. S.C. CODE ANN. § 4-10-50(C).

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 South Carolina Code, a county may levy a sales and use tax of 1 percent upon referendum approval.⁴⁰¹ This county tax applies to the gross proceeds of sales within the county area⁴⁰² that are taxable under the state sales and use tax.⁴⁰³ The purpose of this tax is to reduce the property tax burden on persons in that county, and the tax is collected by DOR on behalf of these counties.⁴⁰⁴ The sale of items with a maximum tax is exempt from the local sales and use tax.⁴⁰⁵

Under Section 4-10-300 and 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) for a limited amount of time.⁴⁰⁶ The tax must be imposed by ordinance and subject to a referendum.⁴⁰⁷ The revenues collected may be used to defray debt service on bonds issued to pay for authorized projects.⁴⁰⁸ This tax also is used to fund specific capital projects, such as roads, bridges, public facilities, recreation facilities, and water and sewer projects.⁴⁰⁹ The tax must be administered and collected by DOR in the same manner as other sales and use taxes.⁴¹⁰ Unprepared food items that are eligible for purchase with U.S. Department of Agriculture food coupons are exempt from this tax.⁴¹¹ These same items are similarly exempt from the state tax.⁴¹² 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.⁴¹³

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.⁴¹⁴ The governing body of a county may impose a sales and use tax to replace the lost revenue from the property tax.⁴¹⁵ This tax can range from .1 to 2 percent and is subject to referendum.⁴¹⁶

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 .1 percent, not to exceed 1 percent, subject to referendum approval.⁴¹⁷

401. S.C. Code Ann. § 4-10-20.

402. *Id.*

403. 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>.

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

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

406. S.C. CODE ANN. § 4-10-310.

407. *Id.*

408. *Id.*

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

410. S.C. CODE ANN. § 4-10-350(A).

411. S.C. CODE ANN. § 4-10-350(B).

412. S.C. CODE ANN. §§ 12-36-1110 & -2120.

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

414. S.C. CODE ANN. § 4-10-520.

415. S.C. CODE ANN. § 4-10-730(A)(1).

416. S.C. CODE ANN. §§ 4-10-540 & -550.

417. S.C. CODE ANN. § 4-10-730(A)(1).

In addition to other local sales and use taxes,⁴¹⁸ certain school districts in South Carolina also may impose a 1 percent Education Capital Improvement Sales and Use Tax within the county.⁴¹⁹ This tax may be imposed in a county upon the 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.⁴²⁰ This tax may not be imposed for more than 15 years.⁴²¹ These funds are to be used for specific education capital improvements for the school district(s) listed in the referendum question.⁴²² The Education Capital Improvement Sales and Use Tax is to be administered and collected by DOR in the same manner as other sales and use taxes.⁴²³

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.⁴²⁴

South Dakota

In South Dakota, the statewide sales and use tax rate is 4 percent.⁴²⁵ Cities in South Dakota may impose a municipal sales and use tax of up to 2 percent by ordinance of the local governing board, as long as the tax conforms in all respects (except for rate) to the state tax.⁴²⁶ This local tax applies to all products and services subject to the state sales or use tax, with three exceptions, as follows: (1) transportation of passengers is subject to a municipal tax only if the trip begins and ends in the same city, (2) farm machinery and irrigation equipment used exclusively for agriculture are subject to the state tax but not to the municipal tax, (3) receipts from “amusement devices” are subject to the state tax but not to the municipal tax.⁴²⁷ In addition to the municipal sales tax, a city may impose a 1 percent municipal gross receipts tax on eating establishments, alcoholic beverages, lodging, and ticket sales or admissions.⁴²⁸

Tennessee

In Tennessee, the statewide sales and use tax rate is 7 percent.⁴²⁹ Local option taxes in addition to this rate are collected by the state department of revenue.⁴³⁰ The local option tax imposed by cities and/or counties must be imposed in multiples of .25 with the combined or single rate not

418. S.C. CODE ANN. § 4-10-435(B).

419. S.C. CODE ANN. § 4-10-420(A); see Section 4-10-470 for a list of the counties in which this tax may be imposed.

420. S.C. CODE ANN. § 4-10-425(A).

421. *Id.*

422. S.C. CODE ANN. § 4-10-420(A).

423. S.C. CODE ANN. § 4-10-435(A).

424. S.C. CODE ANN. §§ 4-10-910 through -970.

425. S.D. CODIFIED LAWS § 10-45-2.

426. S.D. CODIFIED LAWS § 10-52-2.

427. South Dakota Department of Revenue, *Sales and Use Tax Guide*, at 5, https://dor.sd.gov/Taxes/Business_Taxes/Tax_Types/Sales_and_Use_Tax/PDFs/STGuide2012.pdf.

428. *Id.*

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

430. TENN. CODE ANN. § 67-6-710.

to exceed 2.75 percent.⁴³¹ 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.⁴³²

The amount of local tax is calculated by multiplying the sales price of a single article (up to the local tax base, which usually is \$1,600) by the local rate of tax. If the sales price of the single article exceeds the local base amount, the local sales tax will not apply to any portion of the sales price that exceeds the local base amount.⁴³³ The local tax will apply only to the first \$1,600 on the sale or use of any single article of personal property;⁴³⁴ therefore, the total maximum local tax on a single article is \$44 (the \$1,600 local base amount multiplied by the maximum local tax of 2.75 percent).⁴³⁵ In addition, a state single-article tax rate of 2.75 percent is imposed on the purchase of any single article from \$1,600.01 up to and including \$3,200.⁴³⁶

Texas

Texas imposes a statewide sales and use tax of 6.25 percent.⁴³⁷ In addition, Texas cities, counties, transit authorities, and special purpose districts have the option of imposing an additional local sales tax of up to 2 percent, for a combined maximum state and local tax rate of 8.25 percent.⁴³⁸

Municipalities in Texas may adopt or repeal a sales and use tax by a majority vote of the qualified voters.⁴³⁹ This is a 1 percent tax on receipts from the retail sale of taxable items within the municipality, including gas and electricity for residential use.⁴⁴⁰ Qualified municipalities also may adopt an additional sales and use tax.⁴⁴¹ Beyond the 1 percent general purpose LOST, municipalities are able to adopt additional LOSTs earmarked for one of the following purposes: property tax relief, economic and industrial development, sports and community venues, municipal development, and street maintenance and repair. This tax is imposed at the rate approved by the voters and must be equal to one-eighth, one-fourth, three-eighths, or one-half of one percent.⁴⁴² The

431. TENN. CODE ANN. § 67-6-702; TENN. COMP. R. & REGS. R.1320-5-2-.02; a list of the local option sales tax rates for cities in Tennessee as of July 1, 2016, can be found at www.tn.gov/assets/entities/rev-enue/attachments/taxlist.pdf.

432. TENN. CODE ANN. § 67-6-702(a)(1).

433. Tennessee Department of Revenue, Local Option Sales and Use Tax on Single Articles (Sept. 24, 2012), www.tn.gov/assets/entities/revenue/attachments/singlearticle.pdf.

434. TENN. CODE ANN. § 67-6-702(a)(1); see Section 67-6-702 for details on the tax imposed for the sale of specific products, such as water, telecommunication services, and digital products.

435. Tennessee Department of Revenue, Local Option Sales and Use Tax on Single Articles.

436. Tennessee Department of Revenue, *Tennessee Sales and Use Tax Guide*, at 13

437. Texas Comptroller of Public Accounts, Local Sales and Use Tax, www.window.state.tx.us/taxinfo/local.

438. Texas Comptroller of Public Accounts, "Local Sales and Use Tax Collection—A Guide for Sellers," *Tax Topics* (June 2016), at 2–3, http://comptroller.texas.gov/taxinfo/taxpubs/tx94_105.pdf.

439. TEX. TAX CODE ANN. § 321.101(a).

440. TEX. TAX CODE ANN. § 321.103(a).

441. TEX. TAX CODE ANN. § 321.101(b); see the statute for when a municipality is disqualified from imposing an additional sales and use tax.

442. TEX. TAX CODE ANN. § 321.103(b).

combined rate of all sales and use taxes imposed by municipalities and other political subdivisions may not be greater than 2 percent at any location within a municipality.⁴⁴³

Counties in Texas also may adopt or repeal a sales and use tax by majority vote of the qualified voters.⁴⁴⁴ This is a .5 percent tax on receipts from the retail sale of taxable items within a county.⁴⁴⁵ If a county does not include any territory within the limits of a municipality, this tax rate is 1 percent.⁴⁴⁶ The proceeds of this tax are earmarked for property tax relief.

Special purpose districts are taxing entities created to generate revenue for a specific reason, such as crime control, libraries, or emergency services, and may impose a sales and use tax from .125 to 2 percent.⁴⁴⁷ Transit authorities may impose a sales and use tax at rates ranging from .25 to 1 percent.⁴⁴⁸ If more than two hundred and fifty people are residents of both a transit authority and a county, the transit authority may not impose a tax if the county is imposing a county sales and use tax.⁴⁴⁹ The combined rate of all sales and use taxes imposed by the county and other political subdivisions of the state may not exceed 2 percent at any location within the county.⁴⁵⁰

Utah

The statewide sales and use tax rate is 4.70 percent.⁴⁵¹ In Utah, any county, city, or town may impose a sales and use tax by entering into an agreement under the Interlocal Cooperation Act.⁴⁵² The locality may use any or all of the revenues derived from imposing such a sales and use tax for the mutual benefit of the local governments that elect to contract under the Interlocal Cooperation Act.⁴⁵³ The Utah legislature intended that the added revenue be used, to the greatest extent possible, by counties, cities, and towns to finance their capital outlay requirements and to service their bonded indebtedness.⁴⁵⁴ This 1 percent tax applies to those transactions enumerated in Section 59-12-103(1) of the Utah Code that mirror transactions made at the state level.⁴⁵⁵ The commission is required to calculate and retain a portion of the sales and use tax and deposit it into the Qualified Emergency Food Agencies Fund.⁴⁵⁶ If the county elects not to impose a county option

443. TEX. TAX CODE ANN. § 321.101(f).

444. TEX. TAX CODE ANN. § 323-101(a).

445. TEX. TAX CODE ANN. § 323-103.

446. *Id.* For the rate of excise tax see Section 323-104.

447. Texas Comptroller of Public Accounts, "Local Sales and Use Tax Collection—A Guide for Sellers."

448. *Id.*

449. Tex. Tax Code Ann. § 323-101(c). This does not include a tax imposed to fund a crime control and prevention district under Section 323-105(a). Counties that have established a crime control and prevention district in accordance with the Crime Control and Prevention District Act may adopt, within such a district, a sales and use tax for the sole purpose of financing its operation. The total tax imposed for this purpose cannot exceed .5 percent. Tex. Tax Code Ann. § 323-105(a).

450. TEX. TAX CODE ANN. § 323-101(d).

451. Utah State Tax Commission, Utah Sales & Use Tax Information, www.tax.utah.gov/sales.

452. The Interlocal Cooperation Act comprises Chapter 13 of Title 11 of the Utah Code.

453. UTAH CODE ANN. § 59-12-203.

454. UTAH CODE ANN. § 59-12-202.

455. UTAH CODE ANN. § 59-12-204(2)(a).

456. UTAH CODE ANN. § 59-12-204(7); see the statute for how to calculate the required percentage to be deposited into the Qualified Emergency Food Agencies Fund.

sales and use tax, the state will impose a tax within the county at the rate of .25 percent, and the revenues will be deposited into the general fund.⁴⁵⁷

In addition, a county may impose, by ordinance, a county option sales and use tax of .25 percent. The county must hold two public hearings before imposing such a tax.⁴⁵⁸ Under the Town Option Sales and Use Tax Act, towns can impose a sales tax of up to 1 percent.⁴⁵⁹ Currently, only the town of Snowville levies the town option sales tax.⁴⁶⁰ Under the city or town option, cities or towns that received a tax revenue distribution of less than .75 percent of the taxable sales within their boundaries in fiscal year 2005–2006 were authorized to levy a sales and use tax of up to .20 percent until June 30, 2016.⁴⁶¹

Utah state statutes also describe a range of local sales tax options available to select localities. For instance, resort communities, as defined in Section 59-12-401 of the Utah Code, can impose a sales tax of up to 1.6 percent. A county of the third, fourth, fifth, or sixth class may impose a sales and use tax up to 1 percent to fund rural health care facilities.⁴⁶² Certain counties, cities, or towns are authorized to levy a sales and use tax of .25 percent for the purpose of public transit, an airport facility, a water conservation project, or to be deposited into the County of the First Class Highway Projects Fund or a sales and use tax of .30 percent to fund public transit systems, highways, or mass transit fixed guideways. This range of sales tax options falls under the Local Option Sales and Use Taxes for Transportation Act.⁴⁶³ The state may charge a supplemental sales tax of .5 percent in cities, towns, and unincorporated areas of first- and second-class counties with no additional transportation sales tax.⁴⁶⁴ Counties of the first class and cities and town of the remaining classes can impose a .10 percent sales tax for the purpose of funding botanical, cultural, recreational, zoological, or zoological organizations and facilities.⁴⁶⁵ A city or town legislative body may impose a .5 percent sales tax for the construction of a new correctional facility.⁴⁶⁶

Vermont

Vermont's municipalities may impose a local option sales tax of 1.0 percent in addition to the state rate of 6 percent.⁴⁶⁷ Localities do not have the option to impose a use tax, which makes the local option a sales tax only.⁴⁶⁸ The state department of taxes administers and collects the local option sales taxes.⁴⁶⁹ Currently, 13 municipalities have a 1 percent local option sales tax, as

457. UTAH CODE ANN. § 59-12-1802(1).

458. UTAH CODE ANN. § 59-12-1102.

459. UTAH CODE ANN. § 59-12-1302.

460. See the Utah State Tax Commission's Combined Sales and Use Tax Rates chart at <http://tax.utah.gov/salestax/rate/15q1combined.pdf>.

461. UTAH CODE ANN. § 59-12-2103.

462. UTAH CODE ANN. § 59-12-802.

463. UTAH CODE ANN. § 59-12-2202.

464. UTAH CODE ANN. § 59-12-2003.

465. UTAH CODE ANN. §§ 59-12-1401 & 59-12-701.

466. UTAH CODE ANN. § 59-12-402.1.

467. VT. STAT. ANN. tit. 24, § 138.

468. *Id.*

469. Vermont Department of Taxes, For Businesses and Corporations, Local Option Tax, <http://tax.vermont.gov/business-and-corp/sales-and-use-tax/local-option-tax>.

there are statutory limits on which municipalities may adopt it.⁴⁷⁰ According to Title 24, Section 138(a)(3) of the Vermont Statutes, only municipalities meeting the following criteria may impose a local option tax: “(A) the education property tax rate in 1997 was less than \$1.10 per \$ 100.00 of equalized education property value; or (B) the equalized grand list value of personal property, business machinery, inventory, and equipment is at least ten percent of the equalized education grand list as reported in the 1998 Annual Report of the Division of Property Valuation and Review; or (C) the combined education tax rate of the municipality will increase by 20 percent or more in fiscal year 1999 or in fiscal year 2000 over the rate of the combined education property tax in the previous fiscal year.”⁴⁷¹

The state distributes the tax revenues from Vermont's local option taxes under a set formula. Paid on a quarterly basis, 70 percent of the taxes are returned to the municipality while 30 percent goes into a special state fund named Payment in Lieu of Taxes or PILOT.⁴⁷² PILOT programs in the state are meant to reimburse localities for state-owned properties that are otherwise exempt from local property taxes.⁴⁷³ Taxes are collected and remitted based on a destination basis of taxation.⁴⁷⁴ In addition, the state charges a \$5.96 administrative fee per return to compensate for its costs in administering and collecting the local taxes. For this fee, 70 percent of the cost is borne by the municipality while the PILOT fund picks up the remaining 30 percent of the tab.⁴⁷⁵

Vermont's municipalities are also authorized to levy a 1 percent meals and alcoholic beverages tax and/or a 1 percent rooms tax in addition to the 1 percent local option sales tax.⁴⁷⁶ All of these local taxes are subject to a majority vote.

Virginia

Virginia authorizes its cities and counties to levy local sales taxes to a maximum of 1 percent.⁴⁷⁷ Incorporated towns also may levy a general retail sales tax if their county has not yet instituted such a tax.⁴⁷⁸ Local use taxes are adopted in each of these jurisdictions via similar means.⁴⁷⁹ These taxes are levied in addition to the state tax rate of 4.3 percent.⁴⁸⁰ Currently, all Virginia cities and counties impose the 1 percent local option tax. Councils of the state's cities and counties may adopt these taxes by ordinance, which must include the purpose of the tax.⁴⁸¹ The taxes are collected and remitted to the state tax commissioner. All local sales tax monies are then credited

470. *Id.*

471. VT. STAT. ANN. tit. 24, § 138.

472. VT. STAT. ANN. tit. 24, § 138(e).

473. Sara Teachout and Nathan Lavery, “Vermont PILOT (Payment in Lieu of Taxes) Programs,” Vermont Legislative Joint Fiscal Office Issue Brief (July 2007), www.leg.state.vt.us/jfo/reports/2007_PILOT_Issue_Brief_-_Teachout.pdf.

474. VT. STAT. ANN. tit. 24, § 138(c).

475. *Id.*

476. VT. STAT. ANN. tit. 24, § 138(b).

477. VA. CODE ANN. § 58.1-605(c).

478. VA. CODE ANN. § 58.1-605(k).

479. VA. CODE ANN. § 58.1-606.

480. VA. CODE ANN. § 58.1-603.

481. VA. CODE ANN. § 58.1-605.

back to the locality via a special fund for this purpose.⁴⁸² Qualifications on these payments to counties include school districts, especially those which cross jurisdictions.⁴⁸³

In certain planning districts in the Northern Virginia and Hampton Roads areas, retail sales are taxed at an additional .7 percent.⁴⁸⁴ Proceeds from these taxes are collected by the state and redistributed with 70 percent to be used for regional transport projects and 30 percent for the member localities within the district.⁴⁸⁵ The combined retail sales and use tax rate on most items in these planning districts is 6 percent.

Washington

The statewide sales and use tax rate is 6.5 percent. The governing body of any county or city may, by resolution or ordinance, impose a sales and use tax.⁴⁸⁶ The combined sales and use tax rate in most localities is between 7 and 9 percent.⁴⁸⁷ Each of these local option taxes is collected by the state department of revenue.

The state authorizes a variety of local option taxes. These include the following:

1. Cities and counties may impose a local option sales and use tax at the rate of .5 percent of the selling price or, in the case of a use tax, the value of the article.⁴⁸⁸ Any local sales and use tax is intended to be identical to the state sales and use tax.⁴⁸⁹ The purpose of this tax is to allow counties and cities of the state that lack adequate sources of revenue to carry out essential county and municipal purposes.⁴⁹⁰ This sales and use tax does not apply to natural or manufactured gas.⁴⁹¹ If both the county and the cities within that county impose a sales and use tax, the city tax may not be greater than .425 percent.⁴⁹²
2. The city or county may also impose an additional sales and use tax in excess of the tax described above.⁴⁹³ The rate of this additional sales tax is .5.⁴⁹⁴ However, in the event that both a county and a city within that county impose this additional tax, the county instead receives 15 percent of the revenue from the city's additional sales tax.⁴⁹⁵
3. Certain local governments and unincorporated transportation benefit areas may, by resolution or ordinance subject to voter approval, impose a sales and use tax.⁴⁹⁶ The sole purpose of this tax is to provide funds for the operation, maintenance, or capital needs

482. VA. CODE ANN. § 58.1-605(f).

483. VA. CODE ANN. §§ 58.1-605(h)–(j).

484. 2013 Virginia House Bill 2313.

485. VA. CODE ANN. §§ 33.2-2509 & -2600.

486. WASH. REV. CODE ANN. § 82.14.030(1).

487. Washington State Department of Revenue, Local Sales, Use Tax Rates and Changes (July 1–Sept. 30, 2016), www.dor.wa.gov/docs/forms/ExcsTx/LocSalUseTx/LocalSlsUseFlyer_Quarterly.pdf.

488. *Id.*

489. WASH. REV. CODE ANN. § 82.14.070.

490. WASH. REV. CODE ANN. § 82.14.010.

491. WASH. REV. CODE ANN. § 82.14.030(1).

492. *Id.*

493. WASH. REV. CODE ANN. § 82.14.030(2).

494. *Id.*

495. *Id.*

496. WASH. REV. CODE ANN. § 82.14.045(1).

of public transportation systems or public transportation limited to persons with special needs.⁴⁹⁷ This tax rate must be in .1 percent increments not to exceed .9 percent of the selling price or the value of the article used.⁴⁹⁸

4. A transportation benefit district may impose a sales and use tax no greater than .2 percent for a period not exceeding 10 years.⁴⁹⁹ This tax must be imposed with voter approval,⁵⁰⁰ and the revenue received from it must be spent to carry out the purposes of a transportation benefit district under Title 36, Chapter 73, of the state code.⁵⁰¹
5. An “anchor jurisdiction” is a city that has entered into an agreement to form a public facilities district.⁵⁰² The legislative authority of an anchor jurisdiction may, by a majority vote, impose a sales and use tax within the geographical boundaries of the jurisdiction.⁵⁰³ This tax is in addition to any other authorized taxes.⁵⁰⁴ The tax rate may not be greater than .2 percent of the selling price or the value of the article used.⁵⁰⁵ The monies received by this tax must be used to provide funds for the costs associated with financing, refinancing, design, acquisition, construction, equipping, operating, maintaining, remodeling, repairing, and re-equipping of the public facilities of the distressed public facilities district and for all litigation, investigation, and related costs and expenses incurred by the anchor jurisdiction toward resolving matters related to the defaults of the distressed public facilities district.⁵⁰⁶
6. A county with a population of one million or more may impose a sales and use tax of no greater than .017 percent of the selling price or the value of the article used.⁵⁰⁷ This money must be used to pay the principal and interest payments on bonds issued by a county to construct a baseball stadium.⁵⁰⁸ The tax will expire when the bonds issued for the construction of the baseball stadium are retired but not for more than 20 years.⁵⁰⁹ The baseball stadium must have natural turf and a retractable roof or canopy as well as associated parking facilities. The stadium must be constructed in the largest city in a county of a qualifying size.⁵¹⁰
7. The legislative authority of a county with a population of one million or more may impose a special stadium sales and use tax of no more than .5 percent on the retail sale or use of taxable food and beverages within the county by restaurants, taverns, and bars.⁵¹¹ Such a county also may impose a special stadium sales and use tax on retail car rentals within the county; the tax rate must not be greater than 2 percent of the selling price or rental

497. *Id.*

498. *Id.*

499. WASH. REV. CODE ANN. § 82.14.0455(1).

500. WASH. REV. CODE ANN. § 82.14.0455(2).

501. WASH. REV. CODE ANN. § 82.14.0455(3).

502. WASH. REV. CODE ANN. § 82.14.048(1)(b).

503. WASH. REV. CODE ANN. § 82.14.048(2).

504. WASH. REV. CODE ANN. § 82.14.048(3).

505. *Id.*

506. WASH. REV. CODE ANN. § 82.14.048(4)(b).

507. WASH. REV. CODE ANN. § 82.14.0485(1).

508. WASH. REV. CODE ANN. § 82.14.0485(3).

509. WASH. REV. CODE ANN. § 82.14.0485(4).

510. WASH. REV. CODE ANN. § 82.14.0485(5).

511. WASH. REV. CODE ANN. § 82.14.360(1).

- value.⁵¹² Revenue from these taxes must be used for the purpose of principal and interest payments on bonds, issued by the county, to acquire, construct, own, remodel, maintain, equip, re-equip, repair, and operate a baseball stadium.⁵¹³
8. A county may impose a 1 percent sales and use tax on retail car rentals within the county.⁵¹⁴ Proceeds from this tax may not be used to subsidize any professional sports teams and may be used only for the following purposes: (a) acquiring, constructing, maintaining, or operating public sports stadium facilities, (b) engineering, planning, financial, legal, or professional services incidental to public sports stadium facilities, (c) youth or amateur sport activities or facilities, or (d) debt or refinancing debt issued for this purpose.⁵¹⁵ If the county has a population of one million or more, at least 75 percent of this tax must be used to retire the debt on the stadium until the debt is fully retired.⁵¹⁶
 9. A county that has created a public stadium authority to develop a stadium and exhibition center may impose a sales and use tax at a rate of .016 percent.⁵¹⁷ Before bonds have been issued, the revenue is transferred to the public stadium authority; after bonds are issued, the revenue is deposited into the stadium and exhibition center account.⁵¹⁸
 10. The governing body of any city may, by resolution or ordinance, impose on every person a use tax for the privilege of using natural or manufactured gas in the city as a consumer.⁵¹⁹
 11. The legislative authority of any county may impose a .1 percent sales and use tax to be expended for criminal justice purposes.⁵²⁰ Criminal justice purposes are activities that substantially assist the criminal justice system, including some that result in ancillary benefit to the civil justice system, such as domestic violence services provided by domestic violence programs, community advocates, and legal advocates.⁵²¹ Of the money collected from this tax, 10 percent must be distributed to the county in which it was collected; the remainder of the money must be distributed to the county and the cities within that county based on population.⁵²²
 12. The legislative authority of a county with a population of less than one million may impose a .1 percent sales and use tax for the sole purpose of providing funds for costs associated with financing, design, acquisition, construction, equipping, operating, maintaining, remodeling, repairing, re-equipping, and improvement of juvenile detention facilities and jails.⁵²³
 13. The legislative authority of a rural county may impose a sales and use tax at a rate not greater than .09 percent.⁵²⁴ However, in rural counties with population densities between

512. WASH. REV. CODE ANN. § 82.14.360(2).

513. WASH. REV. CODE ANN. § 82.14.360(3).

514. WASH. REV. CODE ANN. § 82.14.049(1).

515. *Id.*

516. WASH. REV. CODE ANN. § 82.14.049(2).

517. WASH. REV. CODE ANN. § 82.14.0494(1).

518. WASH. REV. CODE ANN. § 82.14.0494(3).

519. WASH. REV. CODE ANN. § 82.14.230(1).

520. WASH. REV. CODE ANN. §§ 82.14.340(1) & (4).

521. WASH. REV. CODE ANN. § 82.14.340(4).

522. WASH. REV. CODE ANN. § 82.14.340(3).

523. WASH. REV. CODE ANN. § 82.14.350.

524. WASH. REV. CODE ANN. § 82.14.370(1).

- 60 and 100 persons per square mile, the rate shall not exceed .04 percent.⁵²⁵ This tax revenue may be used only to finance public facilities serving economic development purposes.⁵²⁶
14. The governing body of a public facilities district that commences construction of a new regional center in a qualified county may impose a sales and use tax of no more than .033 percent.⁵²⁷ The governing body may increase the rate up to .037 percent upon certain events.⁵²⁸ The combined total tax levied under this section may not be greater than .037 percent.⁵²⁹ The revenue may be used only for the purposes of acquiring, constructing, and maintaining a convention, conference, or special events center, or any combination of facilities, and related parking facilities.⁵³⁰ The tax expires when the bonds issued for the construction of the regional center and related parking facilities are retired but not more than 25 years after it is first collected.⁵³¹
 15. Upon the joint request of a metropolitan park district, a city with a population of more than 150,000 and a county with a national park and a population of more than 500,000 and less than 1.5 million may impose a sales and use tax upon majority voter approval.⁵³² The tax rate may not be greater than .1 percent.⁵³³ Revenue collected from this tax may be used for two purposes only, (1) costs associated with financing, design, acquisition, construction, equipping, operating, maintaining, remodeling, repairing, re-equipping, or improving zoo, aquarium, and wildlife preservation and display facilities currently accredited by the American zoo and aquarium association or (2) their associated costs.⁵³⁴
 16. The legislative authority of any city located in a county with a population greater than six hundred thousand that annexes an area may impose a sales and use tax only if certain requirements are met.⁵³⁵ The tax rate is based on the population of the area and when the annexation occurred.⁵³⁶ All revenue collected under this section must be used solely to provide, maintain, and operate municipal services for the annexation area.⁵³⁷
 17. A county legislative authority may, upon voter approval, impose a 1 percent sales and use tax for the sole purpose of providing funds for costs associated with financing, design, acquisition, construction, equipping, operating, maintaining, remodeling, repairing, re-equipping, and improving emergency communication systems and facilities.⁵³⁸
 18. A regional transportation investment district may, upon voter approval, impose a sales and use tax of up to .1 percent.⁵³⁹ Motor vehicles are exempt from this tax.⁵⁴⁰ A regional

525. *Id.*

526. WASH. REV. CODE ANN. § 82.14.370(3)(a).

527. WASH. REV. CODE ANN. § 82.14.390(1).

528. WASH. REV. CODE ANN. § 82.14.390(2)(a).

529. WASH. REV. CODE ANN. § 82.14.390(6).

530. WASH. REV. CODE ANN. § 82.14.390(5).

531. WASH. REV. CODE ANN. § 82.14.390(4).

532. WASH. REV. CODE ANN. § 82.14.400(1).

533. WASH. REV. CODE ANN. § 82.14.400(3).

534. WASH. REV. CODE ANN. § 82.14.400(4).

535. WASH. REV. CODE ANN. § 82.14.415(1).

536. WASH. REV. CODE ANN. § 82.14.415(3).

537. WASH. REV. CODE ANN. § 82.14.415(6).

538. WASH. REV. CODE ANN. § 82.14.420.

539. WASH. REV. CODE ANN. § 82.14.430(1).

540. *Id.*

- transportation investment district may impose a tax on the use of a motor vehicle, and the rate of tax may not exceed .1 percent of the value of the vehicle.⁵⁴¹
19. Public transportation benefit areas providing passenger-only ferry services on the Puget Sound may impose a sales and use tax of no more than .4 percent solely for the purpose of providing passenger-only ferry services.⁵⁴²
 20. A county legislative authority may, upon voter approval, impose a sales and use tax of no more than .3 percent.⁵⁴³ A city legislative authority may, upon voter approval, impose a sales and use tax of no more than .1 percent.⁵⁴⁴ The total county and city tax rate under this section must not be greater than .3 percent.⁵⁴⁵ One-third of all revenue received from this tax must be used solely for criminal justice purposes, fire protection purposes, or both.⁵⁴⁶ If the tax is received by a county, 60 percent must be retained by the county and 40 percent must be distributed to the cities on a per capita basis.⁵⁴⁷ If the tax is received by a city, 15 percent must be distributed to the county and 85 percent is retained by the city.⁵⁴⁸
 21. A qualified county or city may impose a .1 percent sales tax to be used solely for the purpose of providing for the operation or delivery of chemical dependency or mental health treatment programs and services.⁵⁴⁹
 22. A city, town, or county that creates a benefit zone and finances public improvements pursuant to Chapter 39.100 of the state code may impose a sales and use tax.⁵⁵⁰ The money can be used only for the following purposes: (1) principal and interest payments on bonds issued to finance or refinance public improvements in a benefit zone, (2) principal and interest payments on other bonds issued by the local government to finance public improvements, or (3) payments for public improvement costs.⁵⁵¹
 23. A sponsoring local government, and any cosponsoring local government, that has been approved by the board to use local infrastructure financing may impose a sales and use tax.⁵⁵² The tax rate is calculated by following a formula prescribed by the statute.⁵⁵³ The cumulative amount of tax received by the sponsoring local government, and any cosponsoring local government, may not exceed the amount of the state contribution.⁵⁵⁴
 24. The legislative authority of a local jurisdiction that has created a health sciences and services authority may impose a sales and use tax of no more than .02 percent.⁵⁵⁵ Revenue

541. WASH. REV. CODE ANN. § 82.14.430(2).

542. WASH. REV. CODE ANN. § 82.14.440.

543. WASH. REV. CODE ANN. § 82.14.450(1).

544. WASH. REV. CODE ANN. § 82.14.450(2)(a).

545. WASH. REV. CODE ANN. § 82.14.450(2)(b).

546. WASH. REV. CODE ANN. § 82.14.450(5).

547. WASH. REV. CODE ANN. § 82.14.450(6).

548. WASH. REV. CODE ANN. § 82.14.450(7).

549. WASH. REV. CODE ANN. §§ 82.14.460(1)–(3).

550. WASH. REV. CODE ANN. § 82.14.465(1).

551. WASH. REV. CODE ANN. § 82.14.470(1)(a)(i).

552. WASH. REV. CODE ANN. § 82.14.475(1).

553. WASH. REV. CODE ANN. § 82.14.475(3).

554. WASH. REV. CODE ANN. § 82.14.475(7)(b).

555. WASH. REV. CODE ANN. § 82.14.480(1).

received from this tax may be used only to finance and retire indebtedness incurred pursuant to a health sciences and services authority.⁵⁵⁶

25. A county of a qualified size may impose a sales and use tax if it commences improvement or rehabilitation of an existing regional center to be used for community events as well as artistic, musical, theatrical, or other cultural exhibitions, presentations, or performances and having two thousand or fewer permanent seats.⁵⁵⁷ The rate of tax may not exceed .025 percent for certain areas and .02 percent for other areas.⁵⁵⁸
26. Any city or county that has been approved for a project awarded by the state for local revitalization financing may impose a sales and use tax.⁵⁵⁹ The tax rate is calculated by following a formula prescribed by the statute.⁵⁶⁰ The revenue may be used only for the purpose of paying debt service on bonds issued for local revitalization.⁵⁶¹

West Virginia

The statewide sales and use tax rate in West Virginia is 6.0 percent.⁵⁶² The state has two sets of local option sales taxes: municipal sales and use taxes and special district excise taxes. Both categories are collected by the state, and each local tax is levied on general sales and services within the jurisdiction.

The state constitution gives local jurisdictions the power to levy and collect taxes, if the state legislature allows them to do so.⁵⁶³ 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.⁵⁶⁴ West Virginia's tax commissioner collects, enforces, and administers municipal taxes in the same manner as with state taxes. These taxes are imposed on municipal residents via ordinances, not referenda. These local option taxes apply to tangible personal property, custom software, and certain services that are sourced to the municipality.⁵⁶⁵ These local option taxes are imposed in addition to the state tax and have the same tax base as the state tax. Currently, 28 West Virginia municipalities, including the capital, Charleston, impose a local option sales and use tax.⁵⁶⁶

556. WASH. REV. CODE ANN. § 82.14.480(3).

557. WASH. REV. CODE ANN. § 82.14.485(1).

558. *Id.*

559. WASH. REV. CODE ANN. § 82.14.510(1).

560. WASH. REV. CODE ANN. § 82.14.510(3).

561. WASH. REV. CODE ANN. § 82.14.515.

562. W. VA. CODE § 11-15-3.

563. W. VA. CONST. art X, § 10-9 ("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.").

564. 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.

565. *Id.* The sale and lease of motor vehicles are excluded for local sales and use taxes currently in place.

566. West Virginia State Tax Department, Local Sales and Use Tax (2014), <http://tax.wv.gov/Business/SalesAndUseTax/LocalSalesAndUseTax/Pages/LocalSalesAndUseTax.aspx>.

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.⁵⁶⁷ These special district excise taxes are administered by the state.⁵⁶⁸ 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.⁵⁶⁹ 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 up to the state sales tax rate of 6 percent, making the effective rate as high as 12 percent (state 6 percent, special district 6 percent).⁵⁷⁰ Municipalities and counties must be given express authorization to levy an excise tax within an economic opportunity district.⁵⁷¹ Currently, only Ohio, Harrison, and Monongalia counties may levy special district excise taxes within a portion of their jurisdictions.⁵⁷² Money collected is generally to be used only for development expenditures, with some exceptions.⁵⁷³

567. W. VA. CODE §§ 8-38-12 & 7-22-12.

568. W. VA. CODE §§ 8-38-12(d) & 7-22-12(d).

569. W. VA. CODE § 8-38-12(b).

570. *See* W. VA. CODE § 8-38-12(c) (“The rate or rates of a special district excise tax levied pursuant to this section shall be stated in an ordinance enacted by the municipality and identical to the rate or rates of the consumers sales and service tax imposed pursuant to article fifteen, chapter eleven of this code on sales rendered within the boundaries of the district authorized by this section.”).

571. W. VA. CODE §§ 8-38-9(a) & 7-22-9(a) (Municipalities and county commissioners “have no inherent authority to levy taxes and have only that authority expressly granted to them by the Legislature. The Legislature is specifically extended, and intends by this article to exercise certain relevant powers expressed in section six-a, article X of the constitution of this state as follows: (1) The Legislature may appropriate state funds for use in matching or maximizing grants-in-aid for public purposes from the United States or any department, bureau, commission or agency thereof, or any other source, to any county, municipality or other political subdivision of the state, under such circumstances and subject to such terms, conditions and restrictions as the Legislature may prescribe by law; and (2) the Legislature may impose a state tax or taxes or dedicate a state tax or taxes or any portion thereof for the benefit of and use by counties, municipalities or other political subdivisions of the state for public purposes, the proceeds of any such imposed or dedicated tax or taxes or portion thereof to be distributed to such counties, municipalities or other political subdivisions of the state under such circumstances and subject to such terms, conditions and restrictions as the Legislature may prescribe. Because a special district excise tax would have the effect of diverting, for a specified period of years, tax dollars which to the extent, if any, are not essentially incremental to tax dollars currently paid into the general revenue fund of the state, the Legislature finds that in order to substantially ensure that such special district excise taxes will not adversely impact the current level of the general revenue fund of the state, it is necessary for the Legislature to separately consider and act upon each and every economic development district which is proposed, including the unique characteristics of location, current condition and activity of and within the area included in such proposed economic opportunity development district and that for such reasons a statute more general in ultimate application is not feasible for accomplishment of the intention and purpose of the Legislature in enacting this article. Therefore, no economic opportunity development district excise tax may be levied by a municipality until after the Legislature expressly authorizes the municipality to levy a special district excise tax on sales of tangible personal property and services made within district boundaries approved by the Legislature.”).

572. W. VA. CODE § 8-38-9(b).

573. W. VA. CODE § 8-38-12(e).

Wisconsin

Wisconsin's statewide sales tax rate is 5 percent.⁵⁷⁴ Wisconsin's department of revenue is responsible for the administration, collection, and enforcement of local option sales taxes under the same procedures as for their collection of state sales and use taxes.⁵⁷⁵ Local option taxes may be imposed either in county jurisdictions or in certain special districts. Counties may adopt sales and use taxes at the rate of .5 percent on the sale or purchase price of certain transactions.⁵⁷⁶ These taxes may be adopted only for the purpose of directly decreasing the property tax levied in a county.⁵⁷⁷ County boards do not have control of how municipalities use the proceeds of this tax revenue.⁵⁷⁸

Special districts also have the ability to impose local sales and use taxes. Wisconsin currently has two varieties of special districts, both involving professional sports stadia. These sport-related special districts comprise a county with a large population and all contiguous counties.⁵⁷⁹ For professional football stadium districts, a tax of .5 percent may be imposed to retire the district's debt. This football stadium special district option tax must be approved by a majority of voters in a referendum.⁵⁸⁰ For professional baseball stadium districts, a local sales or use tax of .1 percent may be imposed and used exclusively to retire the district's debt.⁵⁸¹ This baseball stadium local option tax requires an affirmative vote of a supermajority of the special district's governing board, not a local referendum.⁵⁸²

Regardless of the jurisdiction imposing the local option tax, taxed items and activities include (1) selling, licensing, or renting personal property, (2) storing, using, or otherwise consuming tangible personal property, (3) a contractor engaging in construction activities in the county or district, (4) the purchase price of storing, using, or otherwise consuming a motor vehicle, boat, recreational vehicle, or aircraft.⁵⁸³ In addition, the state retains a certain percentage of the tax receipts from both county and special districts to cover the costs of administering, enforcing, and collecting the tax.⁵⁸⁴ The state general fund also keeps all penalties and interest under these taxes.

574. Wisconsin Department of Revenue, Sales Tax Rate Chart, www.revenue.wi.gov/faqs/pcs/taxrates.html#txrate11.

575. WIS. STAT. § 77.76.

576. WIS. STAT. § 77.70.

577. Funds received under county sales and use taxes may be budgeted to reduce countywide property taxes levied or to defray the cost of an item that can be funded by a countywide property tax. Op. Att'y Gen. of Wisc. 1-98 (1998).

578. 58 Atty. Gen. of Wisc. 212.

579. *Compare* WIS. STAT. § 229.64 (baseball stadium districts require six hundred thousand residents) with WIS. STAT. § 229.823 (football stadium districts require one hundred and fifty thousand residents).

580. WIS. STAT. § 229.824(15).

581. WIS. STAT. § 77.705.

582. WIS. STAT. § 229.68(15).

583. WIS. STAT. § 77.71. Several exclusions apply, such as tax on the purchase price of a motor vehicle that had been paid in another state.

584. WIS. STAT. § 77.76(4). For special districts, the amount retained by the state is 1.5 percent of tax receipts. For counties, the state retains 1.75 percent of the taxes collected.

Wyoming

Wyoming has a state sales tax rate of 4 percent.⁵⁸⁵ Its state department of revenue administers the local option sales taxes, which are paid in addition to the state sales tax.⁵⁸⁶ The state authorizes three categories of entities that may impose local sales taxes: (1) resort districts, (2) municipalities, and (3) counties. To levy a local option tax, the tax must be approved by a majority of the electorate.⁵⁸⁷ Wyoming resort districts can impose an excise tax of up to 3 percent on the retail sale of personal property, admissions, and services for the purpose of raising general revenue in that district.⁵⁸⁸ Cities and counties are authorized to levy an excise tax of up to 4 percent on lodging services for the promotion of local travel or tourism. These lodging excise taxes cannot be imposed by both municipalities and counties.⁵⁸⁹

County sales taxes in Wyoming may be levied for raising general revenue, local travel and tourism promotion, economic development, or other purposes specified by statute.⁵⁹⁰ Total county excise taxes may not exceed 3 percent, excluding the municipality and resort district taxes described above.

County local option taxes also may be levied for raising general revenue, local travel and tourism promotion, economic development, or other purposes specified by statute.⁵⁹¹ If the county tax is imposed for general revenue, counties may tax the retail sales of tangible personal property, admissions, and services made within the county at a rate of up to 2 percent.⁵⁹² If the county excise tax is imposed for local travel or tourism promotion, lodging services may be taxed up to 4 percent. If the county excise tax is for the purpose of economic development, the excise tax rate cannot exceed 1 percent on the retail sales of tangible personal property, admissions, and services.⁵⁹³ If the county imposes an excise tax for a specific amount for statutorily authorized purposes,⁵⁹⁴ the county may impose an excise tax of up to 2 percent on retail tangible personal property sales, admissions, and services. Revenue generated by these taxes cannot be used for the ordinary operations of local government.⁵⁹⁵

585. WYO. STAT. ANN. § 39-15-104.

586. WYO. STAT. ANN. § 39-15-202.

587. WYO. STAT. § 39-15-203(a)(v).

588. For more details on the resort taxes see Wyoming Department of Revenue, Resort Districts (May 20, 2004; revised July 1, 2003), https://0ebaeb71-a-84cef9ff-s-sites.googlegroups.com/a/wyo.gov/wy-dor/08-ResortDistricts.pdf?attachauth=ANoY7coD83ZKG9dnza1T55ZgoCjh9Vc2uETMnNZHIQ9Q4GhvM41by0SXVHB5xstXi5mwyNs4yqYgxCfmZlt6pevjnKL2QhNhRd_oc8Xk_UAL23mTDMq65aXO_vLZMbtLBVzRLYxkTs1LkW2C51BOQLq941ITbN5rAjnPxx3TrprGXYa5XT9lp6XsanTa-7dq4mirPqn8LyRHI0fVT_eqgexoAJ5zInNJA%3D%3D&attredirects=1.

589. WYO. STAT. ANN. §§ 39-15-203(a) & 39-15-204.

590. WYO. STAT. ANN. § 39-15-204.

591. *Id.*

592. WYO. STAT. ANN. § 39-15-204(a)(ii).

593. WYO. STAT. ANN. § 39-15-204(a)(vi).

594. Among the specified purposes are major maintenance, renovation, or reconstruction of a public roadway. WYO. STAT. ANN. § 39-15-203(a)(iii).

595. WYO. STAT. ANN. § 39-15-204 (a)(iii).