TAXATION AS A STRATEGY TO ENCOURAGE REINVESTMENT

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About the Author

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Arthur's primary professional interest is in problems of municipal finance, and especially in exploring alternatives to the property tax. He recently completed a study of real estate assessment practices for the City of Evanston, Illinois, and he is currently analyzing the fiscal impacts of large scale, mixed use suburban developments across municipal boundaries.

He has spoken and written on numerous occasions about problems of urban disinvestment and their impact on the local tax base. His most recent article, which will appear in a forthcoming issue of Focus Midwest magazine is entitled, "Responsible Credit and Redlining: The Burden of Proof."

He is a participant in the Regional Housing Study and Action Group in Chicago which is a forum for individuals and institutions which have fair housing and/or low- and moderate-income housing production as a primary programmatic focus. He also serves on a Chicago HUD Area Office advisory group known as the Fair Housing Outreach Review Committee.

SUMMARY

Introduction to Tax Strategies

The discussion of taxation as a strategy to encourage reinvestment requires an analysis of many strategies, since there are numerous state and local taxes and many possible modifications of each. The three particular strategies analyzed in this paper are: (1) a temporary exemption or "abatement" from the property tax for persons who improve existing structures; (2) various modifications in the state income tax on business; and (3) creation of a public agency to administer certain property forfeited for nonpayment of property taxes.

The key provision of the first strategy is quite simple: Owners of real property are guaranteed that, even though improvements to their property may increase its market value, the increase will not be taxed for some specified number of years after the improvement is completed. State laws in Illinois, Washington, and New Jersey are surveyed as illustrations of the strategy. Comparisons are made with respect to the maximum allowable amount and the duration of the exemption; whether, given that an exemption is obtained for an improvement made in one year, improvements in subsequent years are also exempt from taxation; the types of structures for which an exemption may be claimed; the steps a property owner must take to file for an exemption; and any restrictions as to the communities in which exempted properties must be located.

PART II discusses four strategies intended to provide incentives for businesses to make investments in furtherance of stated public policy goals. Three apply only to financial institutions: (1) classification of income by source, with differential tax rates on each source; (2) classification of income by source, with a graduated tax rate on total net income determined by the share of income from each source; and (3) a point system whereby points are awarded to each institution based on the total composition of its loan portfolio, with the tax rate on net income from all sources dependent on the number of points. The fourth is a tax credit program available to all businesses, provided they make certain specified types of investments. Variants of the first three of these have been proposed in several places in the recent past. The fourth has been in effect in Pennsylvania since 1967, and an analysis of the Pennsylvania law is included. A law identical to this one in all important respects has been approved by the 79th General Assembly of Missouri (1977), to take effect January 1, 1978.

Finally, the last part of the paper deals with the disposition of real property whose owners are delinquent in their property taxes. Most states, including Missouri, permit public authorities to sell the title to property on which taxes have not been paid after a specified period of time. The laws governing such sales, however, are often cumbersome and ineffective in combatting blight, since they typically include a long waiting period before actual ownership of the title passes to a new buyer -- and even then, the title may be encumbered by other, non-tax liens placed on it by the tax-delinquent owner. Missouri has had, since 1971, a law that attempts to overcome these drawbacks by providing for public acquisition of free and clear title to tax-delinquent property under certain carefully delineated circumstances. The law, however, applies only to St. Louis; other localities are still required to follow the older procedures. This paper compares the Missouri law with a more recent (1976) Ohio statute whose provisions may be adopted by any municipality in that state.

The first two strategies suffer from a limitation common to all proposals for using state and local tax policy to modify the behavior of private individuals and businesses. Since state and local taxes are usually quite low, especially by comparison with their federal counterparts, relatively large exemptions and/or credits may have to be offered before taxpayers find it worthwhile to make investments they would not otherwise have made. But benefits large enough to induce the desired behavior on a widespread basis may cut significantly into revenue. Similarly, strategies that involve state-mandated exemptions from the property tax may receive the support of local communities only if they are coupled with the provision of alternative sources of revenue for those communities.

The strategy described in the third part is somewhat different in that it does not involve any change in the relative liabilities of taxpayers. It represents, instead, an effort to bring delinquent property back onto the tax rolls, although results should probably not be expected for at least several years after public acquisition of a property.

Finally, the strategies in all three parts are such that any of them can be adopted alone, any two can be adopted in combination, or all three can be adopted simultaneously. The examples cited do not exhaust all possible variations in the strategies, nor do they include all the states where the strategies may currently be in force. They are, however, illustrative of some of the more important opportunities which may be open for using tax policy to influence private behavior, and they are among those strategies which may be expected to have the broadest bases of support throughout the State.

PART I

Property Tax Exemption for New Improvements
To Encourage Reinvestment

This strategy involves granting a temporary exemption from the property tax for the value of new improvements to real property. It might be instituted either by the State, mandating it for all local taxing jurisdictions, or, in the absence of State action, and subject to any relevant provisions of State law, by local jurisdictions for properties within their borders only.

Various forms of exemption are possible. For example, only improvements to existing structures which meet certain criteria might be exempted; a maximum limit, either in dollar terms or expressed as percentage of the value of the improvement or value of the structure before improvement, might be set for the exemption; and the exempted improvement might be added all at once to the tax rolls at the end of the period of exemption or it might be phased onto the rolls gradually.

Those most directly affected by enactment of the strategy are taxing jurisdictions which stand to lose property tax revenue (at least in the short run), all persons in neighborhoods where improvements are made which would not have been made without the exemption, individual property owners who receive the exemption, and persons in rehabilitation related jobs which would experience increased employment activity if the temporary exemption is effective.

The expected effects of the strategy vary, depending on the specific form adopted. In general, larger exemptions might be expected to encourage larger improvements. Since longer term exemptions are worth more to property owners than shorter term exemptions, the former should encourage more improvements than the latter. If all improvements are exempted under the same terms, the net effect may be an overall increase in the number and value of improvements; but there will be no channelling of investment to particular geographic areas or types of property. If, on the other hand, there are restrictions on receiving the exemption, investment may be channelled in certain directions deemed appropriate for furthering public policy.

Three specific forms of the strategy are now discussed. These involve legislation now in force in the states of Illinois, Washington, and New Jersey.

Illinois introduced a homestead improvement exemption in 1975, effective for assessments in 1976 and thereafter.[1] It is available only for owner-occupied, single-family structures. The law provides for an exemption from assessment of up to $ 15,000 of market value per calendar year for a period of four years. Exemptions in succeeding years can be piggy-backed on earlier exemptions. For example, suppose a homeowner makes an improvement which increases the market value of his home by $20,000. Only $5,000 of this is subject to assessment for property taxes until four years have elapsed from completion of the improvement, whereupon the full $20,000 becomes assessable. Suppose another improvement is made two years after the first and that it increases market value by $10,000. Since this is less than the allowable $15,000 for that year there is no immediate increase in assessment, even though the four-year period of the first exemption has not yet expired.

Homeowners need make no special application to receive the temporary exemption. County assessors in Illinois are notified whenever a building permit is issued in their county. When notification is received, a field inspector is sent to the site, and he is charged with the responsibility of filing for the exemption if the property is eligible.

The Washington statute became effective May 23, 1972.[2] It provides a three-year exemption for improvements to single-family dwellings, as follows: The taxpayer must apply to the county assessor prior to initiation of the intended improvement. The assessor then assesses the home before the improvement is begun and after it is completed. The first assessment remains in effect for three years after completion of the improvement, provided the increase in assessed value due to the improvement is not more than 30 percent of the first assessment. If the increase is greater than 30 percent, the assessed value of the home is the amount of the second assessment less 30 percent of the first assessment.

For example, suppose a home is assessed at $30,000 and an improvement is made which increases this to $35,000. Since this is less than 30 percent, or $9,000, the owner experiences no increase in taxes for three years. However, if the second assessment is $40,000, the taxable assessed value will be $31,000 during the period of the temporary exemption.

No piggybacking is allowed under the Washington statute, and, in fact, the exemption cannot be claimed for more than one improvement in any five-year period.

New Jersey's residence improvement exemption is the most precisely targeted of the three and the only one available for multi-unit structures. Originally enacted in 1975, it was amended several times in 1976.[3] It provides a temporary exemption of up to $4,000 per dwelling unit for units in buildings which are more than 20 years old and which are located in neighborhoods designated as endangered by blight. The exemption is for five years. The following procedures are involved:

The county planning board may determine that one or more of a municipality's residential neighborhoods are endangered by blight, either on its own initiative or on petition from the governing body of the municipality. The statute identifies four criteria which may be employed in making the determination: "existence of areas within the municipality that have previously been declared blighted; deterioration in housing maintenance; age of housing stock; and arrearage in real property taxes due on residential properties."[4] If the county planning board does not respond favorably to a petition within 30 days, the municipality may appeal to the Commissioner of the Department of Community Affairs.

After an initial determination has been made, the municipality must pass its own legislation stating an intention to take advantage of the temporary exemption program and designating the neighborhood or neighborhoods wherein it will be available. Within these neighborhoods, the exemption is available to single- and multi-unit residential structures which are more than 20 years old. Taxpayers must file within 30 days of completion of the improvement, and an exemption of $4,000 of "assessor's full and true value"[5] per unit is allowed. In multi-unit structures, the value of improvements to one unit cannot be averaged over the other units. For example, if an improvement increasing value by $8,000 is made on one unit and no improvement on the other unit of a two-unit structure, the assessed value of the structure increases by $4,000, since only $4,000 can be exempted for work done on any one unit. If, however, the improvement could be divided equally between the units -- which it cannot -- there would be no increase in assessment for five years.

Subsequent improvements during the five-year exemption period can be piggy-backed, but only up to a maximum exemption level of $4,000 per unit at any one time. For example, suppose an improvement is made which increases value by $2,000. If another improvement is made the following year which increases value by another $3,000, the exemption is raised to $4,000 and further improvements are not exempted until expiration of the first exemption.

The Illinois and Washington strategies are very similar to each other in that their benefits are limited to existing single-family homes, but not restricted as to neighborhood. Hence, they are expected to encourage reinvestment in all such structures. The New Jersey strategy, on the other hand, explicitly targets its benefits to certain neighborhoods deemed to be in need of reinvestment incentives. It also extends its benefits to renters, assuming that landlords pass on at least some of the savings to their tenants.[6]

Nevertheless, there has apparently been no strong upsurge of reinvestment in any of the three states discussed here. This is to be expected because the property tax is only one among many elements which influence a property owner's decision to make improvements. At best, policymakers should expect that persons who would have invested anyway will make slightly larger improvements than they would have in the absence of the exemption. In addition, persons who would not have invested should be expected to make an improvement only if the decision not to invest was "close," i.e., if the cost of the improvement exceeded the property owner's willingness to invest by no more than the value of the short-term tax saving introduced by the temporary exemption.

Potential supporters of this strategy will vary somewhat, depending on the precise form of strategy proposed. In general, one would expect that property owners who would be eligible for the exemption could be enlisted as supporters, as well as contractors who do rehabilitation and financial institutions which might make property improvement loans. Local jurisdictions which depend on the property tax might support it if they believed that the temporary exemption would spur increases in the market and assessed value of surrounding properties large enough to offset tax losses due to the exemption.

One way to neutralize opposition to passage from jurisdictions concerned about the potential loss in tax revenue might be to include a local option requirement, as in the New Jersey statute. A more effective way might be to tie passage at the State level to companion legislation providing compensatory State aid to jurisdictions which lose revenue as a result of the exemption, since municipalities can otherwise prevent implementation of the strategy simply by not exercising their option.

The costs of these various strategies are principally the losses in revenue to jurisdictions which depend on the property tax -- the amount of the loss depending on the size, time limit, and eligibility requirements of the exemption.

The benefits are considerably more diffuse and difficult to measure. They include the public benefits of improvements which would not otherwise have been made by private persons; possible higher employeemnt in rehab industries; and some long-run increase in the tax base (although this can be, at best, only a small fraction of the taxes foregone in the short-run). Private benefits accrue to property owners who improve their property, including those who would have done so without the exemption, and to persons in the rehab and financial industries.

Possible other strategies with which this one might be combined are (1) modifications of the state income tax on financial institutions in such a way as to encourage loans for precisely the types of improvements for which the property tax exemption is granted; (2) an overall shift of the tax burden to land and away from structures of any type, by making new improvements permanently exempt and gradually extending the exemption to existing improvements, as well; and (3) various strategies which shift the overall tax burden away from the property tax, such as greater reliance on city and/or county income taxes and shifting the burden for school finance to the State.

Part I

Footnotes

[1] Illinois Revised Statutes, Chapter 120, Section 500.23-2 through 500.23-3.

[2] Revised Code of Washington, Title 84, Chapter 36, Section 400.

[3] Revised Statutes of New Jersey, Title 54, Chapter 4, Section 3.72 through 3.78.

[4] Revised Statutes of New Jersey, Title 54, Chapter 4, Section 3.74.

[5] Revised Statutes of New Jersey, Title 54, Chapter 4, Section 3.75.

[6] In addition to these substantive differences among the statutes, there are also differences in administrative interpretation among the states. For example, regulations in New Jersey exclude any exemption for improvements to be a detached garage, while Illinois regulations permit the exemption to be extended to such garages. Both states permit the exemption for attached garages.

PART 2

Differential Tax Rates to Encourage Reinvestment

This strategy involves amending the State corporate income and franchise taxes in such a way as to provide incentives for investments in furtherance of stated public policy goals. Hence, the actors most directly involved would be the General Assembly, whose members would have to pass the appropriate legislation, and the businesses whose tax burdens would be modified. Also involved would be persons seeking to obtain money for the purposes enunciated in the law, who would find resources more readily available if the strategy were successful.

There are at least four principal forms this strategy might take. Three of them apply only to financial institutions and are intended to encourage them to shift resources from more highly taxed to less highly taxed types of loans. These are (1) classification of income by source, with differential tax rates on each source (2) classification of income by source, with a graduated tax rate on total net income determined by the share of income from each source; and (3) a point system whereby points are awarded to each institution based on the total composition of its loan portfolio, with the tax rate on net income from all sources dependent on the number of points. The fourth is a tax credit program available to all businesses, provided they make certain specified types of investments. Each of these is discussed in turn below.

The <u>first strategy</u> involves classification of the income of financial institutions by source. In the simplest case, there would be only two classifications, e.g., income from loans for maintenance and/or improvements to existing residential real estate and income from all other sources. The second classification might continue to be taxed at the present rate, while the former would be taxed at a lower rate. To the extent that deductible expenses could be specifically associated with income from each classification, they would be deducted from that income. Other deductions could be prorated according to the amount of gross income in each classification as a percentage of total gross income or according to some other acceptable formula.

The <u>second strategy</u> also requires classification of income by source, but it avoids the problem of allocating deductions. For example, keeping the same classifications as before, if gross income in the first classification were less than a certain percentage of total gross income, then all net income would continue to be taxed at seven percent. If gross income in the first classification were somewhat higher, then net income might be taxed at six percent. As many graduated steps as desired could be created in this way.

A very similar, though somewhat more complex, <u>third strategy</u> involves the awarding of points. For example, points might be awarded for each one percent of income derived from loans made for use in certain communities, up to a certain maximum number of points for this income source. Additional points might be awarded for income derived from residential improvement loans, again up to a certain maximum. Further classifications could be created, and multiple counting of income from a single source might be permitted to encourage investments deemed particularly desirable from the point of view of public policy. For example, income from residential improvement loans in the designated communities might count toward points in both of the classifications just mentioned. In any case, the nominal tax rate would be determined on the basis of the total number of points earned, with the rate declining as the points increased.

One variant of the first strategy was proposed in the Pennsylvania legislature in 1975. The specific proposal called for a tax of six percent on net earnings from first mortgages of $12,000 or less on residential property, leaving the rate at 11.5 percent for all other taxable earnings. According to its principal sponsor, the bill was defeated when it failed to receive anticipated support from the financial industry.[1]

If enacted, this strategy's effectiveness relative to the other two would depend principally on the differentials allowed. A small differential between the rates on privileged and non-provileged sources of income may have little or no impact because the additional administrative costs --

especially if separate records must be kept for expenses associated with each source -- may offset most of the expected benefits to the financial institutions.

The other two strategies seem to go beyond what is required to induce the desired shifting of resources, but they are more likely to induce a shift because their benefits are spread over income from all sources. They are, in addition, administratively simpler because they involve no allocation of expenses or other deductions. However, before they could be implemented, information would have to be gathered concerning the present distribution of income by source in order to insure realistic classification boundaries or point allocation formulas. The point system has previously been suggested by the District of Columbia Public Interest Research Group.[2]

The fourth strategy is a state income tax credit to businesses for investment in activities deemed to further the achievement of specified public policy objectives. It is important to note the distinction between a tax deduction and a tax credit. A deduction is subtracted from the business's taxable income, thereby indirectly reducing the amount of tax due. A tax credit is subtracted directly from the computed taxes. Depending upon the size, the tax credit is more desirable, and usually more progressive than a deduction. Analysis of a law currently in force in Pennsylvania reveals the principal elements of the tax credit strategy.

The Pennsylvania law provides that all business firms authorized to do business in the State, and subject to its tax laws, may receive a tax credit for investments "in the activities of providing neighborhood assistance, job training or education for individuals, or crime prevention in an impoverished area."[3] Impoverished areas are certified as such by the Department of Community Affairs, and the certification must be approved by the Governor. Firms must apply to, and receive prior approval from, the Secretary of Community Affairs for each year and each credit they plan to claim. No credit will be allowed to a banking or insurance company "for activities that are a part of its normal course of business."[4]

The usual amount of credit is 50 percent of the investment, except that it may be 70 percent for programs of special priority. The latter are specified by the Secretary of Community Affairs, subject to approval of the Governor. No more than $8.75 million in such credits can be granted in any one fiscal year for all businesses combined; and no more than $ 250,000 may be allowed as a credit to any bank or insurance company. Approved but unused credits can be carried over for five years.

Among the notable features of this legislation are:

1. Allowable activities must meet a test not only of <u>type</u> but also of <u>geographic location</u>. Although the latter is not required in a strategy of this kind, it does provide an additional means of targeting

benefits where they are most desired.

2. Certain important decisions are delegated to the Secretary of a Department, who must obtain approval from the Governor. This permits greater flexibility than if, for example, an effort had been made in the law to spell out in detail the criteria for identifying impoverished areas. Review by the Governor assures greater political accountability, and seems to be a necessary concomitant to assure that the flexibility is not abused.

3. Approval must be obtained <u>prior</u> to making any investment for which a credit will be claimed, and there is a statutory limitation on the total amount of credits which may be allowed in any one year. Granting prior approval permits business firms to know with certainty the costs and benefits to themselves of planned investments which might meet the law's criteria. It also provides an important mechanism for implementing the total-cost limitation, which could be implemented only with great difficulty at the end of the year when tax returns are being filed. The cost limitation provision makes clear the maximum value which the legislature places on the benefits expected to be derived from the credit allowance.

4. Firms which normally make investments of the type

specified in the usual course of their business may not receive a credit for these investments. This is consistent with the law's intention to spur new investment activities, and not simply to provide a tax break for activities already being carried out or which would be carried out without the incentive of the credit.

5. There is a maximum credit allowance for firms in a position to use the credit extensively. This provision might reasonably be extended to cover all firms.

6. Unused credits can be carried over into future years. This provides greater flexibility for firms and may simplify administration somewhat, since new applications for approval do not have to be processed for activities approved in one year but not completed during that year.

The most likely supporters of these strategies are persons who might wish to obtain resources for the purposes specified in the law, and those businesses which might expect to realize tax savings.

The principal costs of the strategies are administrative (which will vary with the complexity of the particular strategy proposed) and a reduction in tax revenue to the State.

The expected benefits depend on the amount of actual savings which can be realized by affected businesses. Particularly with respect to financial institutions, if the

For example, if business tax benefits are associated with investments in property improvements to certain types of structures and/or in certain communities, and if property owners receive a temporary exemption for improvements meeting the same criteria, incentives are created which would be stronger than those created by either strategy alone.

differential is small or if they already pay very little taxes, there may be little change in overall lending patterns. For example, commercial banks in the 43 western Missouri counties that are part of the tenth Federal Reserve District paid an average of less than 2.5 percent of net earnings under the State franchise tax in 1974, or only about 35 percent of the nominal rate.[5]

There is little reason to believe the effective tax burden is any different for banks in the rest of the State or that the burden has changed significantly since 1974; and the nominal rate for savings and loan associations is only two percent of dividends paid on accounts. Hence, even a large differential may not produce enough additional tax savings for such institutions to make major shifts in their lending patterns.

Nevertheless, to the extent that desired investments are encouraged, there will be benefits to the community at large resulting from use of the new resources. In addition, private benefits will accrue to businesses which already make the desired types of investments but now receive no tax abatements for them.

The strategy might be made more effective if both a differential tax rate for financial institutions <u>and</u> the tax credit for all types of businesses were combined. In addition, the strategy could be combined with a property tax exemption and/or abatement for the same privileged activities.

PART II

Footnotes

[1] Pennsylvania House Bill 443 (1975) defeated; for additional information on Pa. H. B. 443, contact Representative Robert W. O'Donnell, 3 Penn Center Plaza, Suite 300, 15th and Market Streets, Philadelphia, Pa. 19102

[2] District of Columbia Public Interest Research Group, Testimony Before The Budget and Finance Committee of the D. C. City Council, May 2, 1975; reprinted in Hearings Before the U. S. Senate Committee on Banking, Housing and Urban Affairs concerning S. 1281 (Home Mortgage Disclosure Act of 1975), May 8, 1975, p. 983.

[3] Pennsylvania Laws of 1967, P. L. 636, Section 4, as amended.

[4] _Ibid_.

[5] Margaret E. Bedford, "Income Taxation of Commercial Banks," _Monthly Review_ of the Federal Reserve Bank of Kansas City, July-August 1975, p. 11.

PART III

Municipal Land Reutilization Authority

This strategy is an amendment of laws governing the disposition of real property whose owners are delinquent in their property taxes. Present laws in most states, including Missouri, provide that public authorities may sell the title to property on which taxes have not been paid for more than a specified length of time. This is done by means of an auction at what is called a Sheriff's sale, and the minimum acceptable bid is usually the amount of the back taxes, penalties, and costs related to the sale. If no acceptable bid is made, title remains in the hands of the original owner and the taxes remain unpaid.

Several factors tend to make this an ineffective method for recapturing delinquent property taxes. In the first place, the title transferred in the Sheriff's sale is no better than that held by the delinquent owner, i.e., debts secured by the property (such as mortgages and mechanic's liens) are transferred along with the title and become obligations of the new owner. This may diminish the attractiveness of the property to potential buyers. In addition, even if there are no liens on a particular piece of property, it may be in such a location or have structures in such a condition that responsible investors will not bid, since if successful, they would be responsible for rehabilitation as well as future taxes.

Finally, every year that a property remains unsold after the Sheriff's sale, another year's worth of back taxes is added to the minimum acceptable bid, making it increasingly unlikely that a bidder will ever be found.

The proposed strategy attempts to break into this vicious circle of delinquency, abandonment, and even greater delinquency by establishing procedures whereby a land reutilization authority (LRA), or similar public agency, can obtain free and clear title to property whose owners have not paid their taxes and for which no private bidder can be found.

Since tax foreclosure and redemption procedures are governed by State law, implementation of the strategy would require action by the General Assembly. Local jurisdictions would also be involved, since it is they who are most directly affected by tax delinquencies and who must implement the provisions of State law in this regard. In addition, mortgagees and other lien-holders will seek input into any strategy which might affect the ownership of properties on which they hold liens. Their interests can probably best be safeguarded by writing into the law broad notification requirements before foreclosure proceedings can be initiated.

Finally, it can be argued that delinquent property owners would be affected, but their claim to consideration seems weak because even the most streamlined procedures require a minimum of about two years between an initial delinquency and the final transfer of the title. Owners taking no steps to correct a delinquency during this time can hardly be said to have a great interest in maintaining ownership of their property. Nevertheless, the legislation should require not only public notice but also individual mail notification to the last known owner and/or taxpayer, in order to minimize the possibility of delinquency due to inadvertent oversight.

Missouri's Municipal Land Reutilization Law, passed in 1971, already embodies one form of this strategy. The law is at present applicable only "to cities not within a county, which now have or may hereafter have a population in excess of five hundred thousand," i.e., only to St. Louis; but it can be extended to other cities by action of the General Assembly.[1] The remainder of this paper is a discussion of some relevant points of similarity and difference between this law and a 1976 Ohio statute modeled after it.[2]

1. Both laws establish procedures that become operative in a local jurisdiction only after the jurisdiction enacts enabling legislation. Hence, the new procedures are not forced on any locality which prefers not to adopt them. The Ohio statute, however, permits <u>any</u> municipal corporation to implement the land reutilization procedures, whereas the Missouri statute restricts implementation to St. Louis.

2. The Missouri statute calls for the creation of a three-member LRA. One member is to be appointed by the city comptroller, one by the board of education, and one by the mayor. The Ohio statute merely requires an electing municipality to adopt a land reutilization program, without further specifying the mechnisms by which it is to be implemented. The city of Cleveland has designated the Department of Community Development to administer its program, but it is still too early to know how other Ohio municipalities will implement their programs.[3]

3. Both statutes permit the consolidation of many foreclosure proceedings into one suit, although individual property owners retain the right to have their cases considered separately. Consolidation simplifies administration and reduces costs when there are many delinquent properties to be dealt with.

4. Although both statutes require an effort on the part of municipal officials to notify the last known owner of delinquent property, actual foreclosure suits are filed against the <u>property</u> rather than against the owner. Hence, proceedings cannot be delayed by inability to locate or serve papers on an owner.

5. Both statutes set procedures for the giving of public notice and for Sheriff's sales. At the Sheriff's sale, each delinquent property is auctioned to the highest bidder, subject to the requirement that

the minimum bid be enough to pay the back taxes, penalties, and costs incident to foreclosure. In Missouri, if any property is offered for sale on three different days and no minimum bid received, the LRA is assumed to have bid and title to the property is transferred to it. In Ohio, an electing municipality is assumed to have bid after two different sales and then only on property previously determined by the municipality to be "nonproductive." This is either (a) land entirely devoid of structures, or (b) land on which there is one or more structures but such structures are both unoccupied and condemned by the city.[4] Hence, Ohio municipalities will not take title to and manage either occupied structures of any type or unoccupied structures that are in sound physical condition, as St. Louis now does. This is expected to simplify administration of the program for Ohio municipalities, but it also deprives those municipalities of the opportunity to provide decent management for occupied structures abandoned by their owners.

6. In both States, the title transferred to the public agency is declared to be free and clear of all previously existing liens other than the delinquent property taxes, penalties, and foreclosure costs. The title transferred to a successful private bidder, however, remains encumbered by any other liens that may exist, in addition to

the taxes, penalties, and costs.

7. Neither the Missouri LRA nor the Ohio electing municipality actually pays any of the back taxes or penalties on property to which it takes title (though the latter does pay foreclosure costs), until and unless the property is resold for a sufficient amount to pay such taxes and penalties.

8. Both the LRA and the Ohio municipalities are given broad discretion to hold property, to combine or subdivide individual lots, to convert property to public use, to exchange property with other owners, and to sell property with or without competitive bidding -- although the specific provisions do differ somewhat between the states.[5]

There would be no cost to the State for implementing this strategy, since all administrative and other costs are borne at the local level. Costs to localities will vary with both the number and type of properties held by the LRA and the quality of management provided. If the strategy is successful, these costs will be offset by (a) proceeds from the sale of property and (b) increases in neighboring property values due to elimination of blight on LRA-held property and/or to conversion of such property to neighborhood amenities, e.g., parks. Additional benefits may accrue to the residents of structures abandoned by their owners if the LRA is able to provide adequate management for them.

One additional potential benefit of the LRA approach is its ability to put the public sector in a position to benefit from the eventual increase in property values which often accompanies revitalization. Improvements and/or stabilization of deteriorated LRA properties may have positive residual benefits for entire neighborhoods. If other property owners and financial institutions began to reinvest in these areas as a result of LRA's activities and property values increase, LRA can be not only a good vehicle to address blight, tax delinquency and abandonment, but it also could become a good investment strategy for the public sector.

PART III

Footnotes

[1]Revised Statutes of Missouri, Sections 92.700-92.920.

[2]Revised Code of Ohio, Sections 5722.01-5722.14 and Section 5723.01.

[3]John Linner, "Tax Delinquency in Inner City Areas," Practicing Planner, June 1977, pp 9ff.

[4]Revised Code of Ohio, Section 5722.03.

[5]RSMo Section 92.900; Revised Code of Ohio, Section 5722.06-5722.07, and 5722.13.