



Don't Forget About Occupation Taxes

Now that the Tax Modernization Committee has finished its public hearings across the state, it is clear that citizens believe their taxes are too high, especially property taxes. Concerns were also raised about the income and sales taxes, as well as the infamous inheritance tax. Kearney Sen. Galen Hadley—the Committee's chairperson—remarked that he believes the committee will propose changes to how the state taxes Social Security income.ⁱ Yet for all these discussions, it appears one group of taxes has gone unnoticed: occupation taxes.

Occupation taxes are imposed on certain types of businesses or products at the local, usually municipal, level. These taxes are on top of state and local sales taxes, and because it is a part of the "gross receipts" and thereby included as an additional "cost of doing business," it is not considered as "a tax on a tax" by the Nebraska Department of Revenue.ⁱⁱ Occupation taxes come in many different forms, but the most notable are on hotels and lodgings, restaurants, cigarettes and tobacco, and telecommunications. The number of localities imposing these taxes depends on the item being taxed. For example, 74 of Nebraska's 93 counties impose some level of lodging tax, as do 19 cities, while only five cities—Grand Island, Lincoln, Norfolk, Omaha, and Sidney—have specific restaurant taxes.ⁱⁱⁱ

The Legislature has made strides in recent years to control the growth of occupation taxes. In 2011, LB165 was passed, which limited telecommunications taxes to 6.25 percent, and required a popular vote for anything over that amount.^{iv} Similarly, LB745—passed in 2012—required that new municipal occupation taxes be put to a public vote if the amount estimated to be collected reached a certain threshold; any raises in existing occupation tax rates also had to be put to a public vote.^v

While these safeguards help restrict tax growth, the existing occupation taxes still place an undue burden on individuals and businesses. For instance, despite the cap on telecommunications occupation taxes, Nebraska still has the highest cell phone taxes in the country, with 24.5 percent of the average cell phone bill being composed of federal, state, and local taxes.^{vi} Additionally, a person staying in a \$100 hotel room in Omaha would spend roughly 15.36 percent of their lodging expense on taxes.^{vii} If that individual also went to one of Omaha's bars or restaurants, they would end up paying 9.5 percent of their bill on taxes, the 6th highest meal tax rate in the nation.^{viii}

The excise tax on cigarettes is perhaps the most widespread occupation tax. Nebraska currently has a state-wide tobacco tax of \$0.64 per pack, and Omaha increased its cigarette taxes by \$0.35 per pack to pay for a new UNMC Cancer Center.^{ix} While these taxes are frequently promoted with the goal of reducing smoking, it is often a bad fiscal policy. For Nebraska specifically, cigarette sales have been decreasing by 2.1 percent a year for the past ten years, making the cigarette tax an unstable source of revenue, and one which will likely lose revenue over the long term.^x The unpopularity of smoking has made cigarette taxes an easy scapegoat for policymakers hungry for revenue, but as some call for increasing cigarette taxes as part of any future tax reform, it is important to remember the unintended consequences and fiscal uncertainty that comes with these excise taxes.^{xi}

There is no question something must be done about Nebraska's tax system; income, sales, and property taxes are all high and making Nebraska an unattractive place for people to live and work. But as we discuss the major taxes, we must remember that local occupation taxes also place a heavy burden on Nebraskans.

ⁱ Ally Phillips, "Tax Committee holds final hearing," *Columbus Telegram*, October 21, 2013. Accessed October 23, 2013, http://columbustelegram.com/banner-press/news/tax-committee-holds-final-hearing/article_0139cebe-7425-5827-a77e-34dde0dad516.html; Brent Martin, "Tax Modernization Committee hears complaints, concerns," *Nebraska Radio Network*, October 18, 2013. Accessed October 23, 2013, <http://nebraskaradionetwork.com/2013/10/18/tax-modernization-committee-hears-complaints-concerns-at-final-hearing/>; Grant Schulte, "Neb. Tax Committee Head Predicts Action on SSI Tax," *Associated Press*, October 18, 2013. Accessed October 23, 2013, http://hosted.ap.org/dynamic/stories/N/NE_XGR_TAX_MODERNIZATION_NEBRASKA_NEOL-?SITE=AP&SECTION=HOME&TEMPLATE=DEFAULT.

ⁱⁱ Nebraska Department of Revenue, "Occupation Taxes." Accessed October 23, 2013, http://www.revenue.ne.gov/info/occupation_tax.html.

ⁱⁱⁱ Jordan Cash, "Whatever Happened to Hospitality? A Look at Nebraska's Lodging Taxes," *Platte Institute for Economic Research*, June 21, 2012. Accessed October 23, 2013,

http://www.platteinstitute.org/Library/docLib/20120625_Whatever_Happened_to_Hospitality.pdf; Nebraska Department of Revenue, "Two Occupation Taxes Imposed by Sidney, NE," October 14, 2009. Accessed October 23, 2013, http://www.revenue.ne.gov/news_rel/oct_09/sidney_occupation_tax.html;

Nichole Aksamit, "Restaurant tax starts Friday," *Omaha World Herald*, September 28, 2010. Accessed October 23, 2013, <http://www.omaha.com/article/20100928/NEWS01/709289908>. Nebraska Department of Revenue, "Grand Island Occupation Tax on Meals," March 11, 2009. Accessed October 23, 2013, http://www.revenue.ne.gov/news_rel/mar_09/gi_occup_tax_031109.html.

^{iv} Legislative Bill 165, May 18, 2011. Accessed October 23, 2013, <http://nebraskalegislature.gov/FloorDocs/102/PDF/Slip/LB165.pdf>.

^v Legislative Bill 745, April 11, 2012. Accessed October 23, 2013, <http://nebraskalegislature.gov/FloorDocs/102/PDF/Slip/LB745.pdf>.

^{vi} Jordan Onwiler, "Nebraskans Pay Most in Cell Phone Taxes Across America," *NTV*, February 7, 2013. Accessed October 23, 2013, <http://www.nebraska.tv/story/20908931/nebraskans-pay-most-in-cell-phone-taxes-across-america>.

^{vii} Nebraska Department of Revenue, "Nebraska and Local Taxes on Lodging," Information Guide, October 2010. Accessed October 23, 2013, <http://www.revenue.ne.gov/info/5-141.pdf>.

^{viii} Joseph Henchman, Alex Raut, Kevin Duncan, "Meals Taxes in Major U.S. Cities," *Tax Foundation*, March 1, 2012. Accessed October 23, 2013, <http://taxfoundation.org/article/meals-taxes-major-us-cities-0>.

^{ix} Brian Mastre, "Council Approves Tobacco Tax," *WOVT*, October 3, 2012. Accessed October 23, 2013,

<http://www.wowt.com/home/headlines/Cigarette-Tax-Proposal-For-Omaha-168972516.html>; Matthew Glans, "Research & Commentary: Omaha Cigarette Occupation Tax," September 14, 2012. Accessed October 23, 2013,

<http://heartland.org/policy-documents/research-commentary-omaha-cigarette-occupation-tax>.

^x Bill Orzechowski & Rob Walker, *The Tax Burden on Tobacco*, vol. 47 (February 2013).

^{xi} Associated Press, "Advocates call for Nebraska tobacco tax increase," October 18, 2013. Accessed October 25, 2013, <http://finance.yahoo.com/news/advocates-call-nebraska-tobacco-tax-161622258.html>.