EQUITY IN TRANSPORTATION TAXATION

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Summary

1. This paper is only an exploratory piece -- not a definitive study.
2. The determination of equity or inequity in taxation depends on subjective judgements of what is equitable as well as on the tax burden of the various modes.
3. Any evaluation of tax equity between modes is complicated by at least the following:
   a. Some portion of the fuel taxes and other user charges paid by motor carriers are, in effect, prices paid for the use of their roadway and to this extent are analogous, not to railroad right-of-way property taxes, but to their costs of having privately-owned rights of way.
      1) However, although railroad right of way is private property and may cost the carriers more than the use of the public rights-of-way costs, there are some advantages in its being privately owned.
      2) Further, it may be that not all the highway user taxes paid by motor carriers are spent in providing highways for their use. Hence, some (undetermined) portion of these taxes may be analogous to railroad property taxes.

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*The Bibliography as well as Tables I and II were prepared by Lucinda W. Kasperson.

b. Different modes use different combinations of resources. Hence, equal taxation of all users of a resource will affect different carriers differently.

4. A superficial examination indicates no very significant differentiation between the modes with respect to income, payroll or excise taxes exists.

5. The real estate and property taxes have little justification on economic grounds but are so critical an element in the tax structure, especially of state and local governments, that they cannot be attacked in the relatively narrow context of transportation inequity alone. However, the following observations are relevent.

   a. These taxes make the use of taxed property more costly than it would otherwise be.

   b. Consequently, property taxation falls most heavily on those industries, including the railroads, which must use relatively large amounts of taxed property.

   c. Without detailed examination of the tax practices in individual jurisdictions, there is no assurance that there is no unjust discrimination for or against large industrial property owners, particularly in the appraisal of property.

I. Introduction

The purpose of this paper is to lay some groundwork for an analysis of the relative tax burdens borne by various transportation media. To this end three steps have been taken. First, there is presented a bibliography listing material previously published in this general area. Secondly, some data indicating the orders of magnitude of the problem are shown together with a brief analysis of the validity and uses to which such data may be put. Finally, and in part intertwined with the analysis of the data, is a discussion of the meaning of equity as it relates to taxation of transportation media.

The data presented pertains to two modes of transportation, rail and motor carrier. The analysis of the problem of equity is independent of the choice of modes; this choice was based on three considerations: (1) The modes chosen are probably more intensely competitive than any other pair of transport media; (2) Considerable effort has already been devoted to the problem of "equity" as it relates to motor carriers and railroads; and (3) Data are available in the most readily useable form for analytical purposes in the case of these two modes.

The analysis in this paper is by no means definitive; it is carried only to the point necessary for a determination of what further analysis of data, if any, should be carried out in subsequent research projects. This paper contains no conclusions with regard to the status of "equity" at present. The analysis here carried out is tentative except as it pertains to suggestions for further research.

This paper concludes that equity in transportation taxation cannot be established by relating all taxes, individually or collectively, paid by each of the modes to a single measure such as gross income, total assets or gross profits. Equity cannot be established by creating equality with regard to any of the above measures. Due to the various amounts and proportions of different types of resources used by each of the modes and the various types of taxes levied, equity must be examined separately for each type of tax (property, sales, income, etc.). Alternatively, one could examine the impact of all taxes on the cost structure (production function) of each of the modes. In the latter case, no "equity" judgements can be made, but the impact of the tax structure on the modes and, consequently, on the allocation of resources, may be examined. In the former case, the total impact cannot be measured, but the requirements of "equity," if these are ascertainable in a meaningful manner for the society as a whole, may be applied to transportation. The choice of which, if any, of these courses future research is to pursue will depend on the goals. As the analysis of this paper will show that neither road is easy to pursue, nor is either guaranteed to lead to a useful solution.

II. Scope and Coverage of the Basic Bibiliography in Carrier Taxation

The Bibliography is attached to this paper as the Appendix. It lists the major statistical sources by modes and lists about 100 works in the field of carrier taxation. For each of these sources, the bibliography lists author, title, publisher, as well as convenient location of work (Transportation Center Library or Law Library). In addition, with each of the references are a few words giving either the most significant pages for tax analysis and/or a brief statement of the contents. In some cases, there is an evaluation of the work and a guide to the particular purposes for which it may be used.

No detailed analysis of each of the works was undertaken. The conclusions of the author listed are not evaluated. Inclusion in the bibliography does, therefore, not imply endorsement of the analysis presented.

This is only a suggestive working bibliography. No attempt at completeness has been made, but it does appear to cover all the major sources readily available for research at the Transportation Center. Further passages on taxation not referred to in the index or table of contents of the individual works may have been overlooked. Some of the works cited contain additional bibliographical material and should be examined if further research in this area is undertaken.

III. The Data and Its Meaning

Table I presents a summary of taxes paid in 1956 by Class I railroads and motor carriers. This table indicates that railroads pay a somewhat larger share of total operating income as taxes than do motor carriers (10.6% v. 7%). The following analysis will show that this comparison does not carry with it an inference about the status of "equity" or the "burden of taxes."[1] For this reason, no other similar comparisons such as tax as per cent of net worth, gross profits, ton miles carried, etc., are made. While such comparisons might be interesting, they are no more valuable in determining equity than the one presented.

Differences In Resource Use

For the purpose of determining the "burden of taxes," one significant distinction between two different types of taxes must be drawn. This

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[1]No definition of either "equity" or "burden of taxes" is given at this point. A little later in the paper "equity" is defined rather loosely.

TABLE I

RAILROAD VS. COMMON MOTOR CARRIER TAXES, 1956

CLASS I RAILROADS

Item	A.A.R. Estimate ($000)	A.A.R. Estimate % of Op. Revenue	Transportation Center Estimate ($000)	Transportation Center Estimate % of Op. Revenue
1. Total Operating Revenue	$10,550,943	100.0	$10,550,943	100.0
2. Estimated Property Taxes on Roadway and Track (55%)	219,519	2.1	219,519	2.1
3. Payroll Taxes on Roadway and Track and Crossing and Draw Bridge Employees[a]	40,781	.4	40,836[b]	.4
4. Payroll Taxes (excluding item 3)	293,431	2.8	293,376[c]	2.8
5. Property and Other Taxes (excluding item 2)	175,634	1.7	175,634	1.7
6. Fed. Income Taxes	391,984	3.7	391,984	3.7
7. Total Taxes	1,121,348	10.6	1,121,348	10.6

(FOOTNOTES ON FOLLOWING PAGE)

CLASS I MOTOR CARRIERS OF GENERAL FREIGHT

Item	($000)		% of Operating Revenue
1. Total Operating Revenue		$2,907,813	100.0
2. Gasoline, Other Fuel and Oil Taxes	$65,010		2.2
3. Vehicle, License and Registration Fees	56,917		2.0
Total Fuel and Oil Taxes and License and Registration Fees		121,927	4.2
4. " " " "	121,927		
5. Payroll Taxes (Social Security)	32,760		1.1
6. Real Estate, Personal Prop. and Other Taxes	11,495		.4
Total Taxes (ex. income taxes)		166,181	5.7
7. " " " "	166,181		
8. Income Taxes			
Federal	35,205		1.2
State	1,223		.04
Other	18		.01
9. Total Taxes		202,627	7.0

FOOTNOTES FOR TABLE I

[a]Calculated at 6.28% of payroll account compensation in excess of $350/month per employee.

[b]Maintenance of Way and Structures:

Compensation of Employees Accounts (27-42) (excluding communications employees)	
No Estimate Available in Excess of $350/month/employee	$650 249 294
Multiplied by	6.28%
ESTIMATED PAYROLL TAX FOR EMPLOYEES OF ROADWAY AND TRACK MAINTENANCE	$ 40 835 656

Source: Table 69, p. 51, Transport Statistics in the U.S., 1956, I.C.C.

[c]It is recommended that this item be excluded.

NOTE: Totals Do Not Add Due to Rounding.

distinction is based on the uses of collected funds and the benefits accruing to the taxpayer as a result of his tax payments. Without attempting to be completely precise in this, funds from some general taxes are collected and used for the "general good" of the community with no attempt to benefit individual taxpayers or groups of taxpayers in relation to their tax payments. In fact, such taxes are sometimes intended to redistribute income, wealth, or both between groups of people. Income, property, or inheritance taxes are such "general" taxes.

The funds collected from some other types of taxes are largely or entirely used for specific purposes: to provide facilities or services for the use of specific taxpayers. In some cases the taxpayers and beneficiaries are not the same, [e.g., cigarette taxes to support War Veteran bonus schemes]; in other cases they are. It is the latter type with which this analysis is concerned. There are rough methods of allocating the tax burden among the various payers in relation to the amounts of facilities or services provided for the use of the various groups of taxpayers. A gasoline tax is such a tax and may, therefore, be regarded, not as a tax, but, rather, as a fee paid for the "using up" of highway resources.

The payment of fuel taxes by license and registration fees, etc., by motor carriers and motorists may be compared to property taxes paid by railroads but is probably more nearly equivalent to the annual costs incurred by railroads for the procurement, construction, and maintenance of rights of way, roadbed and tracks. The property tax is merely one of the costs incurred to these ends. The equivalence here stated is meant in terms of the types of services "purchased" through the payment of tax not in terms of dollar amounts. Only if gasoline tax funds are used for purposes other than the acquisition, construction and maintenance of roads provided for the groups paying such taxes can one logically argue that a "tax" analogous to the property tax is paid by motorists. For the purpose of comparing the railroad tax burden with that borne by motor carriers, the problem is further complicated by the fact that there exists no agreement as to which costs are incurred for the benefit of truckers and which costs are incurred for the benefit of other highway users. A large fraction of highway budgets in many jurisdictions is spent on city streets and on secondary rural roads which are of little value to inter-city motor carriers. This paper makes no attempt to investigate what fraction of the collections of gasoline taxes from truckers are used for purposes other than the provision of highway services to these groups of taxpayers. In order to do this, one would have to separate the highway network into highways used by truckers and those not used by them. One would then further have to allocate the expenditures on highways used by truckers among all types of users of these highways, (truckers, passenger cars, buses, etc.). The Transportation Center has under consideration now a research project on some aspects of this problem, and the Bureau of Public Roads has underway a large research effort in this area.

The preceding paragraph indicates that some justification exists for treating roadway and track carrying charges paid by railroads as if these charges were taxes analogous to fuel and other highway user taxes. The analogy between the charges paid by railroads and the taxes paid by motor carriers must not be pushed too far. Essentially, the similarity simply consists of the fact that both railroads and motor carriers use fixed facilities, and that, in one case, the facilities are owned, maintained and probably paid for, by the users directly; while in the other case, a tax, at least some of which is more properly a "fee," is paid by the user for the right to use the facility.

There are several significant reasons for not simply adding the right-of-way costs to the railroad tax burden in order to create an analytical equality. If railroads receive benefits from the private ownership of their facilities, which motor carriers do not receive since they use publicly-owned facilities and must share them, then only a portion of the railroad-borne charges may properly be treated as tax equivalent. Clearly, railroads do benefit from the ownership of their own rights of way. They can schedule trains without some of the limitations placed on the users of highways. Probably more important, railroads may design and build equipment to the limits of their technological know-how and economic self-interest. Motor carriers, on the other hand, are limited by the laws of the states and communities through which they pass with regard to size and weight of vehicle they may use. They are limited with respect to speeds at which they may travel and sometimes prohibited from using certain of the facilities at specified times altogether.

In addition to the above advantage of private ownership, there are at least two others. It is quite feasible that motor carriers pay more than the incremental costs incurred by their operation (i.e., that the marginal costs of motor carrier operations are less than the marginal revenue from user taxes). If this is the case, then it is possible that total motor carrier gas tax payments exceed costs incurred on account of motor carrier use of highways, and, consequently, a portion of these payments must be treated as payments in lieu of property taxes.

Finally, it can be argued that railroads have some freedom with regard to the location, construction and maintenance of rights of way not also possessed by motor carriers. All users of highway facilities must contribute to the construction of the highway and street network, but none of them have a great deal of choice about the uses to which their tax payments are put. This probably means that the highway network is not optional in terms of any of its characteristics [location, construction and maintenance] for the needs of motor carriers. Thus, it is likely that the freedom of choice open to railroads gives them some form of advantage in terms of operating conditions.

One disadvantage of private ownership lies in the workings of the capital market. In order to own private rights of way, railroads must attract considerable capital. They must attract and hold this capital of investors and, therefore, are required to pay interest and/or dividends on money devoted to these uses. Since motor carriers use publicly-owned facilities, they are not required to meet these types of capital charges, and various governmental agencies which do need to raise capital can usually borrow at rates somewhat below private borrowers the funds devoted to highway investments.[1] This problem is further complicated by the fact that some governmental agencies secure their funds by offering tax-exempt securities. In these cases, it is clear that the costs of money to them is lower than the "real" cost of money and that they are, therefore, subsidized.

Table II shows the relative tax burdens of railroads and motor carriers assuming that all costs involved in the ownership, construction, and maintenance of rights of way are, in fact, the analytical equivalent of gasoline taxes. The above discussion indicates that this assumption is not likely to be very useful and that, on balance, not all of the railroads' costs should be so counted. At the same time, it is possible that motor carriers do pay, in the form of gasoline taxes, not only sufficient funds

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[1]No argument about the relative "social costs" is made in this paper. It is assumed that highway funds are raised through bond issues.

TABLE II (Continued)

CLASS I RAILROADS							CLASS I COMMON MOTOR CARRIERS OF GENERAL FREIGHT			
Item	A.A.R. Estimate			Transportation Center Estimate			Item	($000)		% of Operating Revenue
	($000)		% of Op. Revenue	($000)		% of Op. Revenue				
Total Taxes and Roadway Costs (ex. income taxes)		2,776,770	26.3		2,508,955	23.8	9. Total Taxes		202,627	7.0
10. Total Taxes and Roadway Costs (ex. income taxes)	2,776,770			2,508,955						
11. Income Taxes	391,984		3.7	391,984		3.7				
Total Taxes and Roadway Costs (incl. income taxes)		3,168,754	30.0		2,900,884	27.5				
Reconciliation										
Total Taxes (items 5, 6, 8, 9 and 11)	1,121,348		10.6	1,121,348		10.6				
Total Roadway Costs (items 2, 3, and 4)	2,047,405		19.4	1,779,536		16.9				

FOOTNOTES ON FOLLOWING PAGE

TABLE II

RAILROAD RIGHT-OF-WAY COSTS AND TAXES VS. COMMON MOTOR CARRIER TAXES, 1956

CLASS I RAILROADS

Item	A.A.R. Estimate ($000)		A.A.R. Estimate % of Op. Revenue	Transportation Center Estimate ($000)		Transportation Center Estimate % of Op. Revenue
1. Total Operating Revenue		10,550,943			10,550,943	
2. Annual Carrying Charges On Investment in Roadway and Tracks	366,809[a]		8.2	580,393[e]		5.5
3. Maintenance of Roadway and Tracks[b]	1,142,110		10.8	1,199,143[f]		11.4
4. Crossing Protection & Drawbridge Operation	38,487		.4			
5. Estimated Property Taxes on Roadway & Track	219,519		2.1	219,519		2.1
6. Payroll Taxes on Roadway, Track, Crossing, & Drawbridge Employees[c]	40,781		.4	40,836[g]		.4
Total Annual Carrying Charges & Roadway Taxes and Maintenance		2,307,706	21.9		2,039,890	19.3
7. Total Annual Carrying Charges & Roadway Taxes and Maintenance	2,307,706			2,039,890		
8. Payroll Taxes (ex. item 6)	293,431		2.8	293,376[d]		2.8
9. Property & Other Taxes (ex. item 5)	175,634		1.7	175,634		1.7

CLASS I COMMON MOTOR CARRIERS OF GENERAL FREIGHT

Item	($000)		% of Operating Revenue
1. Total Operating Revenue		2,907,813	100.0
2. Gasoline, Other Fuel and Oil Taxes	65,010		2.2
3. Vehicle, License and Registration Fees	56,917		2.0
Total Fuel and Oil Taxes and License and Registration Fees.		121,927	4.2
4. Total Fuel and Oil Taxes and License and Registration Fees	121,927		
5. Payroll Taxes (Social Security)	32,760		1.1
6. Real Estate, Personal Property, & Other Taxes	11,495		.4
Total Taxes (ex. income taxes)		166,181	5.7
7. Total Taxes (ex. income taxes)	166,181		
8. Income Taxes:			
Federal	35,205		1.2
State	1,223		.04
Other	18		.01

FOOTNOTES FOR TABLE II

[a]Calculated at 4 per cent on investment in roadway and tracks and yard tracks exclusive of stations, office buildings, rolling stock, etc., estimated at 65 per cent of total investment in road and equipment (65% of $33,338,792,745). This calculation is based on reports of I.C.C. Bureau of Accounts, Cost Finding and Valuation.

Gross Investment	$33,338,792,745
Less Depreciation	---
	$33,338,792,745
Multiplied by .65	21,670,215,284
Multiplied by .04	866,808,600

Revised A.A.R. Estimate

Gross Expenditure for Property (Table 138, p. 87)		$30,520,287,798
Multiplied by 60%	(A.A.R. "Inequality of Taxation Among the Several Forms of Transportation, p. 10)	18,312,172,697
Multiplied by 4%		732,486,907

[b]Maintenance expenses for roadway and tracks exclude maintenance of stations, warehouses, shops, office buildings, and other facilities not forming a part of the roadway, tracks or yard tracks proper.

[c]Calculated at 6.28 per cent of payroll account compensation in excess of 350 per month per employee.

[d]It is recommended that this item be excluded.

[e]Gross Investment Accounts

Total Expenditure for Road (Table 138, p. 87)	$17,832,867,754
Plus General Expenditures (Table 138, p. 87)	765,877,539
	$18,598,745,293
Minus all Structures and Communication Systems (Account Nos. 16-27) (Table 138, p. 87)	3,091,082,501
GROSS INVESTMENT IN ROADWAY AND TRACK	$15,507,662,792

Depreciation	Owned (Table 132, p. 82)	Leased (Table 132A, p. 83)
Total Depreciation for Road	$1,710,510,014	$3,093,215
Minus Depreciation on Structure	713,331,515	2,431,582
	$ 997,178,499	$ 661,633

	$15,507,662,792
	997,840,132
NET INVESTMENT IN ROADWAY & TRACK	$14,509,822,660
Multiplied by 4%	580,392,906

[f] Maintenance of Roadway and Track:

Maintenance of Way and Structure	$1,404,985,283
Minus Structures and Communications (Accounts 227-243,247,249)	205,842,674
	$1,199,142,609

Source: Table 90, p. 62

[g] See Footnote (b) Table I.

to defray the expenses of their operation, but, also, some excess which may be looked on as a payment in lieu of property taxes.

Nevertheless, if we assume for the moment that none of the motor carriers' tax payments are devoted to property tax "purposes," a reasonable question as to the magnitude of the extra burden placed on railroads arises. It appears that about 1/5 of total taxes paid by railroads are property taxes on rights of way. If these taxes were waived entirely, railroads' total tax bills would, due to increased income tax collections, drop by less than 1/5, but more than 1/10.

Before discussing the problem of "equity" in taxation directly, a few comments on some other taxes paid by both motor carriers and railroads are in order. Superficial examination of some of the other forms of taxes such as income taxes or payroll taxes indicates that no very significant differentiation by modes occurs. The income tax is levied according to essentially the same laws on all types of businesses; and, while there is a large difference in the relation between the size of tax payments and total operating revenue (see Table I), the nature of this tax is such that no argument of unfair burden can reasonably be made. The case of payroll taxes raises an interesting analytical problem. Many, if not most, railroad employees are not covered by Social Security. They are covered in a similar scheme which is, however, specialized to railroads. It appears that the rates paid under the railroads' retirement system are somewhat higher than under Old Age and Survivors Insurance (Social Security) which covers employees in the motor carrier industry. A judgement as to whether this difference imposes an "extra burden" on railroads depends on our treatment of various supplemental retirement or welfare systems which exist in the motor carrier industry largely as a result of collective bargaining.

Since these fringe benefits are of the same general type as both Social Security and Railroad Retirement Insurance, one can logically argue that they must be considered in a package.

IV. "Equity" in Taxation

Do the tables showing the relative tax burden indicate that an inequity exists? The answer to this question depends not so much on the data presented as it does on a definition of "equity." Taxation is never equitable in the sense that it treats all taxpayers equally. A social judgement of equity consists of a judgement of what is best for society. This is subject to change through time and the result of the political and social judgements made by the electorate or their representatives.

In general, there appears to be a value judgement implicit in almost all forms of taxes that taxpayers in similar circumstances should pay the same kinds and amounts of taxes.[1] Under these kinds of rules, taxes, like income or inheritance taxes, can be justified. Note that it is considered "equitable" that these taxes be progressive with respect to income or wealth. Similarly, owners of real estate, including improvements thereon, are taxed, more or less equally, within each taxing body.

The existence of real estate and property taxes is so deeply ingrained in the present tax structure that serious questions as to the "equity" issues involved in such taxes, even though theoretically correct, are hardly useful. Nevertheless, since a large part of the argument of this paper depends on the treatment of property taxes, it is worthwhile mentioning that this form of tax has little, if any, basis in social judgements of

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[1]This value judgement must be interpreted very loosely if it is to have operational significance. There are too many violations of this principle evident in present-day taxing schemes to allow a strict interpretation.

"equity"[1] and probably has its justification in ease of collection and historical precedent.

Assuming, however, that real estate and property taxes are in some sense equitable or, at least, so deeply ingrained in the economy that they must be treated as given, the difference in the tax treatment of highways and railroad rights of way (if, indeed, there is a difference), does appear inequitable. The existence of this inequity may not be taken as an argument in favor of releasing railroads from property taxes on roadways and tracks (or reducing the "property tax" component of highway user taxes) since all other property owners are required to pay such taxes, and the suggested "rule of equity" is that all taxpayers should be treated equally if they are in equal positions. More properly, the direction of change suggested by the equity rule would be one requiring the owners of highways (the States) to make collections from the users of sufficient funds to cover a reasonable property tax payment in addition to the fees for the acquisition, construction, and maintenance of highways. This line of reasoning, if driven further, appears to lead to the conclusion that some form of property tax should be paid by the users of all "public" facilities involving the use of property which would be taxed if in private hands. Since this paper is restricted to taxation of two modes of transportation, it does not deal with the acceptability of such a rule nor, for that matter, with the equity arguments involved in property taxes in any form.

Assuming property taxes to be a permanent part of the tax structure, it would be interesting to find out how railroads fare relative to other

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[1] A great deal has been written on the equity aspects of property taxation, but that question is essentially outside the scope of this paper.

property taxpayers in various jurisdictions. An inquiry into the treatment of railroad property for tax purposes would be reasonable under the rule of equity suggested earlier. Such an investigation would involve an extremely tedious and time-consuming analysis of the records of taxes on railroads and other property owners in the several states. It would involve questions of valuation which are not readily determinable. Even if such an investigation were to show that railroads pay an "inequitable" share, any argument as to what share "equity" demanded would involve a value judgement.

Another possibly interesting line of analysis might be directed at the question of the amount of property taxes which are foregone because highways are publicly-owned, and, hence, tax exempt. An answer to this question could then be used in an analysis of the amount of benefit accruing to motor carriers by virtue of their use of tax-exempt facilities, but as indicated above, examination might indicate that motor carriers through supporting highway investments for other users may, in effect, be paying a property tax. This line of approach may be somewhat easier and more rewarding than the one suggested earlier. Substantial difficulties would arise in such an analysis due to the "joint uses" of highways by motor carriers and others, as well as the problems of benefits conferred on others due to the existence of tax-exempt highways.

To summarize this discussion of equity, the property tax is central to the whole issue. It is on the one hand a basic element in our tax structure and on the other not inherently an equitable form of taxation. Consequently, nothing fundamental can be said about equity of carrier taxation without an examination of the institution of the property tax.

V. Associated Questions and Problems Having Implications for Tax Equity

(A) Regulation of carriers. If there is stricter regulation of railroads than motor carriers as applied to "abandonment," an argument can be made that prevention of abandonment of unprofitable properties is, in effect, a special tax on railroad security holders. It is likely that the order of magnitude of this "tax" is measurable and significant.

(B) Problems associated with the acquisition of assets [the Land Grant problem]. This argument states that railroads received some benefits in the past and that they are, therefore, in a better position now than they otherwise would have been. While this sounds superficially plausible, it probably is incorrect on the grounds that past events have long since been discounted. The question raised can be dealt with fairly simply and without very much data.

(C) Receipts of subsidies (negative taxes) by various forms of transportation may be looked on as offsets to inequitable taxes. Involved are such things as mail pay. Major portions of this problem should be fairly simple to deal with statistically.

(D) Effect of the federal transportation tax. Conceivably, this tax could be looked on as if it were a tax in lieu of property tax when levied on motor carriers. Obviously, it would then constitute "double" taxation for railroads. It may also be argued that this tax is discriminatory in that it has its greatest impact on those commodities in which transportation costs are a large part of total costs. Included among these are several commodities which are important to railroads, pipelines and inland water carriers (coal, oil, etc.) and much less important to motor carriers.

VI. Recommendation

If further work in this area is to be done, the following order of procedure is desirable.

1. A thorough "think piece" should be written on the meaning of "equity" in transportation taxation.

2. The question should be re-focused so as to analyse the effects of various taxes on the allocation of resources within transportation, i.e., on the "efficiency of transportation" and upon the social and economic consequences of a change in the tax structure. This line of inquiry would be somewhat freer of subjective questions of equity and somewhat easier to define.

3. Further data-gathering should be delayed until one or both of the above are complete and thoroughly discussed. The data now collected give a "feel" for the magnitudes sufficient to allow a careful thinking through of the meaning of equity and allows some work on the reformulation suggested in (2) above.

4. The question of the property tax payments of railroads relative to other property owners in the various states is researchable without significant analytical hurdles. However, the availability of data both within the railroad industry and with respect to the relationship between value and tax of property in general is questionable. This does not appear to be a research area suitable for the Transportation Center.

APPENDIX

MAJOR STATISTICAL SOURCES IN CARRIER TAXATION

Preliminary investigation of taxes paid by carriers has yielded essentially the following data:

The published statistics of the Interstate Commerce Commission contain the following:

Railroads

"Railway tax accruals (§ 10.532) by class of railroad and by type of revenue (freight and passenger) for Class I line-haul railroads, (federal income, old-age retirement, unemployment insurance, and state and local taxes by region)." Apparently, from the evidence we have (Uniform System of Accounts of ICC), no further breakdown is published. See U.S. ICC, Transport Statistics in the U.S., 1956, Part I, Railroads, Their Lessors, and Proprietary Companies. However, "Railway tax accruals" have been segregated in the published annual statistics of the Association of American Railroads, A Review of Railway Operations in 1957, Appendix A., p. 41, as follows: payroll taxes, federal income taxes, and other taxes.

Motor Carriers

"Operating taxes and licenses" and "income taxes" are reported separately in the ICC data published by American Trucking Associations, Inc., Financial and Operating Statistics - Class I and II Motor Carriers of Property. The operating taxes and licenses are shown in sub-heads as follows in U.S. ICC, Transport Statistics in the U.S., 1956, Part VII, Motor Carriers. Tables 7 and 19, pp. 24 and 48: (motor fuel, vehicle, property, social security, federal and state income taxes).

Air

The Office of Carrier Accounts and Statistics, Civil Aeronautics Board, Washington, D.C., publish a Quarterly Report of Air Carrier Financial Statistics (certificated and non-certificated air carriers). Table 2, p. 22, reports all income taxes (federal, state, and other). This is the only published tax account for air carriers.

The basic studies on taxation in this area are old, but were well documented and could be a basic foundation for a Center study.

See General Taxation, pp. ~~30-35~~. 49-54

CLASSIFICATION OF MOTOR CARRIERS OF PROPERTY

Types

For Hire

I. Common Carriers of Property: 15,686 -- 4/1/55.

   A. General freight or special commodities.

   B. Classification by size of operating revenues.

      1. Class I - $200,000 or over (82% of all revenue and 13% by number).
      2. Class II - $50,000 up to $200,000.
      3. Class III- Less than $50,000.

   C. Basic Requirements.

      1. Certificate of public convenience and necessity from Interstate Commerce Commission.
      2. Regular or irregular routes.
      3. Interstate or foreign commerce.
      4. Distribution operation and key-point operations.

II. Contract Carriers: 2,646 -- 4/1/55.

   A. Individual contract or agreement.

   B. Interstate or foreign commerce.

III. Exempt Carriers

   A. Operated by farmers.

   B. Operated by Agricultural Marketing Act.

   C. Operated by newspaper operators.

   D. Operated as incidental to transportation by aircraft.

   E. Occasional, casual or reciprocal transportation of property.

Private -- 119,197 estimated in 1954.

Abstracted from Taff, Charles A. Commercial Motor Transportation, Chapter 5, "Types of Carriers," pp. 105-120.

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See pages 66 and 981.

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Particularly pp. 299-300 (basic discussions); 629-30 (annual cost basis - allocation of tax as cost); 634-5 (method of offset for public grants, property). Excellent bibliography at end of each chapter. Especially see pp. 344-6.

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Excellent summary of case law and Supreme Court decisions on multistate taxation of interstate carriers through 1955.
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Discussion of methods of establishing user charges, p. 137.

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Very general summary, 25 pp.

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[1]Northwestern Law Library.

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[1]Transportation Center Library and Deering - Documents.

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[1]Transportation Center Library and Deering Library.

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See pp. 41-42 and p. 261. For legislative proposal for deferred taxes, see Construction Reserve Amendment to Interstate Commerce Act, p. 256.

U.S. Treasury Department, Internal Revenue Service. Statistics of Income - 1955. Preliminary Corporation Income Tax Returns for tax years ended, July, 1955 - June, 1956. (Washington: U.S. GPO, 1958).

This includes "Federal income taxes" and all other "taxes" paid for "transportation" utilities on p. 8. Caution: Includes 27,000 corporations.

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Brabson, George D. "Multiple Taxation of the Transportation Industry." Ohio State Law Journal, Vol. 18 (Winter, 1957), pp. 22-42.[2]

Excellent summary of case law on multistate taxation of interstate carriers. Re: Franchise and business privilege taxes and property taxes. Summarizes case law and supreme court decisions through 1955.

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Excellent discussion and appraisal system of railroads' property. Complete description by states.

"Constitutional Law - Due Process - Taxable Situs of Interstate Instrumentalities," Alabama Law Review, Vol. 7, No. 2 (Spring, 1955), p. 391.[3]

Reg. contact of air carrier sufficient for constructive situs. (Apportionment - no multiple taxation.) Mobilia sequuntur personam.

"Constitutional Law: Taxation: State Taxation of Interstate Commerce: Braniff Airways, Inc. v. Nebraska State Board of Equalization and Assessment, 347 U.S. 590 (1954); Matter of United Air Lines

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[1]Transportation Center Library and Commerce Library.
[2]Northwestern Law Library.
[3]Ibid. (Periodical)

v. Joseph, 307 N.Y. 762, 121 N.E.2d 557 (1954)." Cornell Law Quarterly, Vol. 40, No. 3, pp. 594-605.[1]

Tremendous citation of background cases. Disagrees with Marsh article based on Spector case. Read both.

Federation of Tax Administrators. Mileage Tax Equivalent - State Highway Taxes, Research Report No. 37. (Chicago: Federation of Tax Administrators, December 1, 1953).

Grotewohl, Leland A. "The Railroads' Problem of Inequitable Property Taxes," Miami Law Quarterly, Vol. 11, No. 2, Winter, 1957 (Reprint).[2]

This article is an excellent summary of the problems of valuation of railroad property and the assessment ratios applied thereto. Some indication of the basic philosophy required in the approach to the appraisal problem and, in addition, an indication of the bibliography required and necessary in this particular aspect of the problem.

Haskins, George L. "The Discriminatory Effects of Multiple State Taxation of Interstate Carriers," Journal of Public Law, Vol. 5, No. 2, (Fall, 1956), pp. 327-342.[3]

Unit valuation under multiple taxation rules, p. 334. Burden in New Jersey, p. 335. Taxes/Income, p. 341. Good analysis of problems, more complete in detail and recent citations make this a "must" on inequities of interstate carriers' taxation.

________. "Uncontrolled State Taxing Power Oppressive Burden upon Interstate Carriers," Public Utilities Fortnightly, Vol. 58, No. 7, September 27, 1956, p. 531.[4]

This appears to duplicate Haskins, Journal of Public Law, Vol. 5, No. 2, pp. 327-342.

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[1]Northwestern Law Library (Periodical).
[2]Transportation Center Library and Northwestern Law Library.
[3]Northwestern Law Library.
[4]Ibid.

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Excellent discussion of "how and why" of business taxation. See p. 58, railroads object to stock and bond evaluation of property.

"Local Taxes: Some Relief Ahead," Railway Age, Vol. 144, No. 27 (July 7, 1958), p. 52.

Summary of contested assessment cases in the various states.

Marsh, James M. "Interstate Commerce: State Taxation of Motor Carriers," American Bar Association Journal, Vol. 41, No. 2 (July, 1955), pp. 603-606.[2]

Excellent summary of legal aspects of motor carrier taxation. Highway taxes include toll road mileage, p. 606.

National Association of Assessing Officers. Motor Vehicle Taxation, Assessment Information Service, Information Report No. 3. (Chicago: National Association of Assessing Officers, October, 1955).

This pamphlet includes information on automobiles only.

New York, State of, Board of Equalization and Assessment, Assessment Advisory Committee. First Report. A Look at . . . Real Property Assessment. (New York: 1957).

No mention of rails. Public utilities in a group, p. 58. Very good elementary look at assessing methods. No mention of railroads, per se, but some comment on public utilities. Not useful for Rx-14.

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[1]Transportation Center Library and Commerce Library.
[2]Northwestern Law Library (Periodical).

New York, State of, Department of Taxation and Finance. The Truck Mileage Tax, Regulation 21. (New York: Department of Taxation and Finance, 1956).

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"Property Tax Assessments in the United States." 1957 Census of Governments, Advance release G-CGA No. 5, December 16, 1957.

Railroads, pp. 3-4, description and tabulation of state assessed properties. Motor vehicles, p. 5.

Randall, Charles B. "When Will Equalization Be Achieved?" Miami Law Quarterly, Vol. 11, No. 2 (Winter, 1957), pp. 193-205.

Samson, Elizabeth. "State Highway-User Taxes Paid in 1954 and 1955 on Vehicles of Various Type and Weight Group," Public Roads, Vol. 29, No. 12 (February, 1958), pp. 279-288.

Not useful for the study of common carrier taxation.

Shott, John G. The Transportation Taxes. (Washington: Public Affairs Institute, August 31, 1954).

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Snell, Seward B. "Northwest Airlines Revisited," Taxes, Vol. 33, No. 9, (September, 1955), pp. 659-665.[1]

Discussion of cases on constructive tax situs.

Stewart, Charles L., Luther C. McKinney and Robert F. Hacker. Tax Costs Falling on Illinois Farms, 1905-1955: A Reconnaissance Study. (Urbana, Illinois: University of Illinois, College of Agriculture, Department of Agricultural Economics, August, 1957).

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[1]Northwestern Law Library.

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Excellent comparative study of burdens on six major modes of transportation. Several methods of analysis are suggested.

U.S. Federal Coordinator of Transportation. "General Comparative Analysis," Vol. 1, Part 1; "Public Aids to Scheduled Air Transportation," Vol. 1, Part 2; "The Taxation of Railroads," Vol. 2, Part 2; and "Public Aids to Motor Vehicle Transportation," Public Aids to Transportation. (Washington: U.S. GPO, 1940).

Excellent basic source of property tax information and methods. Comparative state treatment is discussed in detail (1900-1936 only).

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[1] Deering Library - Documents.
[2] 1954 only. All issues available at Joint Reference Library, 1313 East Sixtieth Street, Chicago.
[3] Transportation Center Library and Commerce Library - Documents.

White, Roy E. "Discriminatory Subsidies and Unequal Legislation," No. 13, Transportation Conditions and National Transportation Policies, submitted on behalf of the railroad industry at hearings before the Subcommittee on Domestic Land and Water Transportation of the Senate Interstate and Foreign Commerce Committee, held pursuant to Senate Resolution 50, 81st Cong. (Washington: Association of American Railroads, 1950).