STATE OF NEW JERSEY

SECOND REPORT

OF

The Commission on State Tax Policy

Part I: Taxation of Tangible Personal Property

Part II: Corporation Business Tax Act (1945)

TRENTON, NEW JERSEY
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The Commission gratefully acknowledges the valuable assistance of employees of the Corporation Tax Bureau in the State Department of Taxation and Finance, in the preparation of this report, and particularly the responsibilities assumed by Mr. William Kingsley, State Supervisor of the Bureau, Mr. Joseph P. McDonough, Principal Examiner, and Mrs. Virginia Reed, Supervisor of Tabulating Machine Operation, in the Administrative Bureau of the Department, in the preparation of statistics and other materials.

STATE OF NEW JERSEY

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The Commission on State Tax Policy

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Submitted to the Governor and to the Legislature, March 24, 1947

TRENTON, NEW JERSEY

STATE OF NEW JERSEY

COMMISSION ON STATE TAX POLICY

[*Laws of 1945*, Ch. 157]

JOHN F. SLY, *Chairman*
Professor of Politics, Princeton University
Princeton

W. PAUL STILLMAN, *Vice-Chairman*
President, National State Bank
Newark

AMOS F. DIXON
Assemblyman, Sussex County
Stillwater

CHARLES R. ENGLISH
Mayor
Red Bank

JACOB S. GLICKENHAUS
Freeholder, Essex County
Newark

NORMAN F. S. RUSSELL
President, United States Pipe and Foundry Company
Burlington

CHARLES K. BARTON
Senator, Passaic County
Paterson

STAFF MEMBERS
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WILLIAM MILLER

"A large factor that must enter into our service plans is the increasing tax pressures of our municipalities as they are reflected in the general property tax levies on real estate, improvements and tangible personal property. These problems, inherent in our New Jersey tax structure, have acquired the virtues of antiquity. . . .

"It is common knowledge throughout the State that taxes such as these cannot go much higher, and still the need for additional funds for local services is acute. I have repeatedly said that the State should assist its municipalities in meeting this condition, and I intend to do everything within my power as Governor to do so; but in fulfilling this pledge—as well as in meeting the service requirements which I have outlined to you—there are fiscal restrictions to which we are committed.

"I have heretofore made it plain to the voters of the State that I would support no proposals looking toward a State income tax, or a State consumers sales tax. I also made it plain that such additional revenues as were needed to meet the pressing service needs of the State and its municipalities should come from intelligent and effective economies; tax adjustments that would assure full coverage and equality of treatment; and replacement revenues that would be substitutes for outmoded tax bases that are no longer effective."

—GOVERNOR ALFRED E. DRISCOLL.

Inaugural Address, January 21, 1947.

STATE OF NEW JERSEY

LAWS OF 1945, CH. 157

AN ACT creating a Commission on State Tax Policy.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. A Commission on State Tax Policy is created which shall consist of seven members, one of whom shall be a member of the Senate to be appointed by the President of the Senate, one a member of the General Assembly to be appointed by the Speaker thereof, and five citizens of this State to be appointed by the Governor, each of whom shall hold office until the second Tuesday of January following the date of his appointment. . . .

2. Vacancies caused otherwise than by expiration of terms shall be filled for the unexpired term only. Members shall serve without salary but shall be reimbursed for traveling and other expenses actually and necessarily incurred in the performance of their duties.

3. The commission shall engage in continuous study of the State and local tax structure and related fiscal problems, with particular attention to (a) all laws relating to the assessment and collection of taxes in this State; (b) all proposals for change in such laws; and (c) the impact of Federal tax laws of the State financial structure.

4. The commission shall determine the respects in which the existing tax laws may be simplified, modified, rearranged, consolidated and revised to insure greater efficiency in the assessment and collection of all taxes.

5. The commission shall report annually on the second Tuesday in January to the Governor and the Legislature, setting forth the result of its studies of the preceding year and shall make such recommendations, as it shall deem fit, for changes in our laws relating to the assessment and collection of taxes and for sound and equitable methods of supporting the public services.

6. The commission may hold hearings in any part of the State, and by its subpœna may compel the attendance of witnesses and the production of books, papers and records. It may draft necessary legal and clerical assistance from any State department as may be required. It may engage such competent counsel and expert advisors on the subject of taxation as it may deem necessary to the proper accomplishment of the purposes of this act; *provided,* that the compensation to be paid such counsel or advisors shall at all times be within the limits of the appropriation made therefor.

7. There is appropriated to the commission the sum of ten thousand dollars ($10,000.00) for the fiscal year ending June thirtieth, one thousand nine hundred and forty-six.

8. This act shall take effect immediately.

Approved April 12, 1945.

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COMMISSION ON STATE TAX POLICY
20 Nassau Street, Princeton, New Jersey

March 24, 1947.

His Excellency, Governor Alfred E. Driscoll, and Members of the One Hundred and Seventy-first Legislature:

There is submitted herewith the *Second Report of the Commission on State Tax Policy.* This report, unlike its predecessors in which the members of this *Commission* have joined, covers a broad field of tax readjustment, and involves existing local tax revenues of some thirty-five million dollars. This is the largest of the problems the *Commission* has undertaken.

The *Commission* believes that the present situation with respect to the tangible personal property tax is intolerable. It also believes that some new manner of taxing this type of property must be adopted, and that the longer the present situation is permitted to continue the more difficult the readjustment will become.

The *Report* itself, although divided into two Parts, is concerned with five principal subjects:

1) Findings and conclusions as to the present tax environment;
2) Proposals with respect to machinery, equipment, furniture, fixtures, tools, dies and jigs used in business;
3) Proposals with respect to business inventories of raw materials, work in process, semi-finished goods and stock in trade;
4) Proposals regarding farm and housesold personalty;
5) Adjustments in the Corporation Business Tax Act (1945).

The recommendations in respect to these five subjects are interrelated, and except for the fourth subject, they are not well suited for separate consideration by the Legislature. For example, the proposed adjustments in the net worth tax will reduce the State revenue by about $1.5 million; but this loss is replaced by proceeds from the proposals under subjects 2) and 3).

This report is new in that it brings together the first factual demonstration of the morass of inequities and discriminations in our present taxing system. It is old in that its findings and conclusions on this score have long been the common belief of the citizens throughout the State.

A series of steps to remedy the present situation is proposed, including a gross receipts tax to replace the present property tax on raw materials, work in process, finished goods and stock-in-trade. This represents a further development of the policy declared by this *Commission* two years ago when it unanimously recommended a new replacement tax—the corporate net worth tax—stating as follows:

> "The Commission . . . wishes to emphasize this point: The ownership of corporate property is only a remote measure of corporate ability to pay taxes. So long, therefore, as property is the base of the tax, so long will there be inequalities in its application. It is not possible to tax business activity with satisfactory fairness without giving consideration to its earnings. . . . New Jersey is a great industrial State but its densely populated areas are still attempting to finance their municipal services as if they were agrarian communities. Their real wealth lies in business activity not in real estate; and the Commission's proposal suggests the establishment of a modest activity base."

The case for an activity base has become doubly imperative in light of the greatly increased burden on real estate, and the emergencies in State and local finance, that have since occurred. The broad issue today is simply this:

> Shall New Jersey continue to raise practically all of its local revenues from owners of property, or shall the base of taxation be modified by including some measure of business activity?

COMMISSION ON STATE TAX POLICY
JOHN F. SLY, *Chairman,*
W. PAUL STILLMAN, *Vice Chairman,*
CHARLES K. BARTON,
AMOS F. DIXON,
CHARLES R. ENGLISH,
NORMAN F. S. RUSSELL.

SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS

PART I

TAXATION OF TANGIBLE PERSONAL PROPERTY

TAX ENVIRONMENT (Pages 1–33)

This *Commission's* report, submitted herewith, represents a sincere effort to repair a major part of our present tax system within the very restricted frame of reference permitted by the shibboleths which have impaired every effort to achieve an equitable tax system in New Jersey. The *Commission* deems it essential that the people of New Jersey realize that the proposals of this report represent perhaps the last of the revenue possibilities to be realized through the process of tax adjustment and replacement. It is not the province of this *Commission* to pass upon any or all of the rising demands for new and improved services by our State and local governments. But when these demands are made, it should be clearly understood that there is little remaining of possible sources of State or local revenue within our present tax structure which can support any substantial expenditure program. It is perfectly true that we have not to this point added any new and additional taxes, but this can be no more than a soporific observation. A careful examination of the constantly rising municipal tax rates is sufficient to prove that we are raising and expending new and additional tax dollars every year—and we are raising those tax dollars through an indifferently administered and inequitable tax system. Even if it were perfectly administered, our tax system would still fall far short of the requirements of a modern industrial State.

The difference between the potential tax of $100,000,000 which legally could have been assessed to business under the present law and the actual tax of $28,000,000 represents the measure of potential "tax lightning" inherent in our present system. That is, as municipalities feel the pressure for added tax revenues, they may turn, and in some cases have turned to sharp increases in assessments on business tangibles, assessments which are either sudden reversals of former policy or arbitrary impositions on selected taxpayers. So long as these assessments do not exceed true value the taxpayer has no effective remedy, and may even be subject to the "omitted property" provisions of the law which permit the added assessments to be made retroactive for two years. This is what is meant by "tax lightning."

This is not to imply that any such complete exploitation of personal property is either contemplated or economically feasible. It has long been recognized, either as a matter of law in States which have met the problem through a variety of statutory devices, or as a matter of practice in such States as New Jersey, that personal property, particularly inventories of stock in trade, semi-finished goods, work in process and raw materials, is totally unsuited to taxation *ad valorem* under the general property tax. *In this sense, personal property is not now and never has been truly a part of the general property tax base.* But the letter of the law which places it within that base has caused negotiation to be substituted for taxation, and an unhealthy atmosphere of caprice to take the place of clear-cut official responsibility. The result, to be expected under such conditions, has been discriminatory, unequal and sometimes arbitrary assessments.

> **Under the personal property tax as now applied, cross currents of favoritism, inequalities and inequities are so extensive, and in many cases so compounded, that the establishment of equality of treatment must be expected in and of itself to produce some marked tax readjustments with respect to individual taxpayers and municipalities. But it is equally evident that the longer action is postponed the more difficult readjustment will become.**

MACHINERY AND EQUIPMENT (Pages 41–45)

Machinery, equipment, tools, furniture and fixtures used in business are essentially a form of capital wealth and the *Commission* has approached this part of the problem with a view toward obtaining a solution which does not depart too radically from the manner of taxation of comparable capital, particularly buildings and structures. The problem has been to restore equality of treatment as among taxpayers and as among taxing districts, to eliminate intermunicipal competition and to afford a clear and certain basis of assessment.

There are also several collateral advantages to retaining the ad valorem taxation on personal property, other than inventories, used in business. These are:

> *First,* since 13 per cent of the entire property tax base is now composed of tangible personal property, the removal of the entire tangible personalty base from the local property tax in one sweep would present too drastic a problem of adjustment in municipal revenues to be undertaken without a reasonable period of adaptation in a "property tax State" such as New Jersey.
>
> *Second,* the problem of returning to the municipalities sufficient revenue to replace that lost by abolition of the present method of taxing tangible personal property is reduced to more manageable proportions by the simple device of returning to the municipality of situs all of the yield from the taxation of non-inventory business personalty. The problem of distribution will then relate solely to replacement of the $17 million now derived in the aggregate from local taxation of inventories.

The *Commission's* estimates indicate that a tax rate of something like $2 per $100 of book valuation would be required to replace the present property tax upon "other business tangibles." Because this is an average rate, it is higher than would be required in some taxing jurisdictions and lower than what would be needed in other districts.

The average rate, however, is largely dominated by the general tax rate in the large cities which have the principal concentration of inventory and machinery and have made a more strenuous effort to tax such tangible personal property. In order to avoid the element of inter-municipal competition which has thus far operated to the disadvantage of large cities, it would be helpful to adopt a uniform rate to be applied against business tangibles throughout the State. Revenue requirements, however, are not uniform in all municipalities and application of a uniform rate would serve only to transfer the area of inter-municipal competition to real estate. The alternative is to provide for uniform valuations and application of a uniform ratio of the personal property rate to the general tax rate in each municipality. In this way all property will share increases and reductions in the general tax burden and competition will be confined to that based only upon local revenue requirements.

The Commission recommends that machinery, tools, equipment, furniture and fixtures used in business be state-assessed at true value, which shall be presumed to be book value but not less than 20 per cent of cost so long as an item remains in use; and that such property be assessed at one-half the local general property tax rate, but not in excess of the previous year's average state rate. This will yield $16 million annually, in place of the present $11.6 million, to be returned to the respective municipalities in which the property is located.

The effect of this recommendation would be to establish a uniform basis of valuation for personal property of a fixed character used in business. In this way, it would eliminate the present hazard of "tax lightning" on business property of this type. The use of one-half of the local general property rate, by fixing the personalty rate in proportion to the real estate rate, will prevent real estate from having to bear the whole burden of any future increases in the cost of government, a burden which real estate would have to bear under a flat rate assessment of personalty. The proposal will also provide increased revenue for practically all municipalities, will in many cases serve to increase total ratables and thereby effect a reduction in the local general property tax rate, and will permit machinery and equipment to remain in the calculation of net valuation taxable upon which county taxes are apportioned among the various municipalities.

BUSINESS INVENTORIES (Pages 46-55)

It is perfectly clear that treatment of tangible business personalty, particularly business inventories, under the general property tax, however assessed, is entirely undesirable from an economic viewpoint. The economic objection is directed principally toward any effort to assess inventories of finished goods, work in process or raw materials on an ad valorem basis. This type of property, which has borne the brunt of the present personal property tax on business ($17 million out of a total of $28.6 million in 1946) has greatly varying characteristics from industry to industry, so that in some industries inventory may turn over twice a year whereas in others it may turn over twelve times a year or more. The value of raw materials and work in process is especially questionable in those industries where spoilage is an important factor. While slow-moving inventory may be kept on the books at the same value as rapidly moving inventory, it obviously has vastly different characteristics as a tax source. It is well known, moreover, that inventory is readily controllable in some industries, and any attempt at effective application of an ad valorem tax would merely result in a flight of such inventories out of the State. In brief, inventory is mobile, is consumption goods, whereas other forms of personal property are relatively fixed in location and are production goods. It is neither logical nor practical to tax them the same way.

It is the characteristic of inventory as a current asset, uniformly recognized by accountants, which distinguishes it from machinery and equipment, furniture and fixtures which are similarly recognized as fixed assets. This is no mere distinction of terminology. The fixed assets are, as their designation implies, stable in their location, use, and identity. Current assets, however, are constantly fluctuating in amount, in character as between inventory and accounts receivable or cash, and frequently even in location. Any system of taxation which attempts to treat both in the same manner must obviously be unsuited to one or the other.

Property taxes generally seek to avoid discrimination with respect to industries with fluctuating inventories by requiring the assessment of inventories to be based on an average value throughout the year. In practice, however, this requirement (which now appears in New Jersey Revised Statutes 54:4–11) has in most cases proved impossible to meet, since taxpayers do not, as a matter of sound business practice, take an inventory more than once or twice a year in any manner which would be suitable for valuation purposes. Nor has any assessor ever been found with either the facilities or the desire to pursue a periodic valuation of the myriad items which make up a typical inventory in our American economy.

Following the principle that an in lieu or replacement tax should be related to the relief afforded by abolition of the tax on inventories, the *Commission* has sought to develop a plan of taxation which would be closely related, in an equitable manner, to the use of inventories in business. The *Commission* has also followed the principle that it is insufficient to establish equity within the group of taxpayers owning or using inventories, but that it is also necessary to establish equity as between those businesses which require relatively large amounts of inventory as compared with those which require lesser amounts or none.

In a highly industrialized State such as New Jersey, these two objectives can be readily fulfilled by an excise tax on production of goods, and as to distributive and service industries on the volume of business done in New Jersey.

A criticism sometimes directed against this type of tax is that it does not vary with the profitableness of the business. Those who offer such a criticism are, of course, thinking in terms of a net income tax, which is the only tax that varies according to the profitableness of business. As compared with the property tax, the proposed plan will at least vary in accordance with the volume of business, a characteristic which is entirely lacking in the property tax. In the case of the property tax applied to inventories, however, it is quite apparent that in periods of low business volume, the amount of inventory required to do such business will necessarily be less than that required in periods of higher business activity. In this respect, a tax measured by production and business activity is well adapted to replace the present tax on business inventories if it were enforced as written.

The element of cyclical variation in the amount of tax which can be anticipated from the activity tax base is roughly comparable to variations of business inventories under changing economic conditions. Business activity and business inventories are closely related and they both fluctuate over the course of the business cycle. *For example, even during the period of acute war-time shortages, the Federal Reserve Board reported average inventories for* 266 *department stores in* 1945 *as* 64 *per cent greater than the average in* 1939. As "in lieu" tax base for business inventories, business activity is a relatively stable source of public revenues.

The Commission recommends that the present property tax as applied to business inventories of raw materials, work in process, semifinished goods and stock in trade be abolished, and that in lieu thereof there be adopted a "general business excise tax" at the rate of 2/10 of 1 per cent upon the value of goods produced in New Jersey, in the case of manufacturers, and on the gross volume of business in this state, in the case of all other enterprise (with certain exceptions). This will yield $24.0 million annually in place of the present $17.0 million raised from business inventories.

DISTRIBUTION OF THE YIELD FROM THE PROPOSED REPLACEMENT TAXES (Pages 58–65)

The total proposed program will produce an estimated $40 million per year, including:

$24 million—General Business Excise Tax.
$16 million—State assessed on machinery and equipment, etc.

The entire amount would be returned to the respective municipalities in which the property or business giving rise to the tax is located, except for 5 per cent of the total, that is, $2 million, which would be retained by the State to pay costs of administration and to make up the loss in State revenue entailed in the *Commission's* recommendations regarding corporation franchise tax adjustments.

> **This will mean a return to municipalities of a net of $38 million to replace the present $28.6 million being raised from business personal property, or a net increase in local revenue to relieve real estate of 32.8 per cent of the present personal property tax levy. So far as it can be determined, every municipality will receive more revenue than it received in 1946 from assessments on tangible personalty.**

Nothing is provided in the proposed program to meet State needs, although the increased local revenues should relieve some of the pressure for additional State aid. If the Legislature should so desire, it would be possible to add one-half mill to the gross receipts rate which would provide $6 million for State purposes.

The effect in individual municipalities will vary, depending upon the extent to which personal property is now used as a tax base. The effect upon individual taxpayers will depend upon the extent to which their personal property is now assessed.

Any remedy which removes personal property from local ratables may affect the ratio of the county budget to the net valuations upon which county taxes are apportioned—a ratio which is popularly referred to as the "county rate." Actually the amount required for county purposes may be raised by any municipality entirely from miscellaneous revenues and not from the general property tax at all.

In the counties, if the aggregate book value of machinery and equipment as established under the new proposal, and as included in county ratables, should be less than the present assessed valuation of tangible personalty, the so-called "county rate" might appear to go up. This is a purely fictitious result so far as the amount of tax to be paid by individual property owners is concerned. The "general tax rate" is the only rate actually extended on the tax list and duplicate, and that rate is computed after deducting the "total amount of miscellaneous revenues, including surplus revenue appropriated, for the support of the taxing district budget" (Table of Aggregates, Item 21). The revenue received by the several municipalities under the new program will be included in such "miscellaneous revenue" and will more than offset the reduction of county "ratables" that might be caused as a result of the adjustments under the proposed program.

FARM AND HOUSEHOLD PERSONALTY (Pages 66–70)

The *Commission* recommends that the taxation of household goods as property be completely abandoned, and that the municipalities be given the power to impose as a matter of local home rule an occupancy tax which would apply in such manner as the local governing body may determine. It is further recommended that the taxation of farm personalty remain as at present to be administered under the general property tax.

PART II

CORPORATION BUSINESS TAX ACT (1945)

The *Commission* makes the following recommendations with respect to requested changes in this act—

As to modification of the requirement that domestic corporations allocate all of their intangible personal property to New Jersey (pages 87-92):

The allocation of net worth according to the proportion of total assets in and out of the State, under Section 5(b) of the tax act, should be amended so as to require domestic corporations owning intangible personal property which has a business situs outside the State to include only 50 per cent of such intangibles as assets within New Jersey.

This would reduce present State revenue by $1.5 million—but the State treasury would be protected against loss through the provision for withholding by the State of 5 per cent of the revenues to accrue under the proposals of Part I of this report.

* * *

As to proposed change in the attribution of sales in and out of New Jersey (pages 92-96):

The sales factor in the business allocation formula under Section 6 of the Corporation Business Tax Act should remain unchanged pending further study and investigation.

* * *

As to consolidated return (pages 96-100):

The provisions of the Corporation Business Tax Act (1945) which do not permit the filing of consolidated returns should remain unchanged.

* * *

As to a minimum alternative tax based upon assets allocated to New Jersey (pages 100-102):

The minimum tax provisions under the Corporation Business Tax Act (1945) should be supplemented by an additional provision that the tax for any single corporation shall in no instance be less than an amount derived by multiplying its total assets allocated to New Jersey by .0002 (two-tenths of one mill).

* * *

As to investment and personal holding companies (pages 102-104):

The present allocation factor for all investment companies and personal holding companies, whether domestic or foreign corporations, should be revised. All such companies should be assessed for franchise tax measured by 25 per cent of their net worth at the same rates as other corporations. In the alternative, such corporations may elect to be taxed under Section 5(b) as it is proposed to be amended.

* * *

PART I

TAXATION OF TANGIBLE PERSONAL PROPERTY

TAX ENVIRONMENT

1. *The Tax Situation Today*

Specific problems of State and local taxation must necessarily be considered in light of the entire tax environment of which they are a part. In New Jersey, as in other States, we are faced with the need to assume our proper share of programs vested with a national interest, but which have elements of State responsibility as well. While it may not be of immediate consequence, the announced policy of Congress, in the "Employment Act of 1946," to require the "assistance and cooperation of industry, agriculture, labor and State and local governments . . . to promote maximum employment, production, and purchasing power," must serve as notice to the States that their present expenditure programs, however great, are but a small part of their possible future commitments. In such fields as hospital construction, airport facilities and housing, to mention only a few, the Federal policy is clearly directed toward inducing, if not compelling, large State expenditures.

Within the various States, including New Jersey, it has become clearly apparent that, without allowing for any increase in governmental services, it is perfectly futile to accept the rising cost of everything and to attempt to resist the rising cost of government. The most costly services of government, that is, education, police and fire protection, represent service costs which are almost entirely matters of compensation to public employees engaged in these fields. If vital government services are not to be interrupted or undermined as a result of unsatisfied but reasonable salary demands, it is inevitable that public expenditures must be adjusted to meet the salary increases.

This is not to say that any State or local government should take a passive attitude toward the rising cost of government. As Governor Driscoll has emphasized there are three essential steps which should precede the acceptance of any expenditure program:

First, determine what services of government are really essential and for which the public is willing to pay; *second,* effectuate economies at every level of government; and *third,* establish a clear cut division of responsibility among the four levels of government so that there will be no overlapping of effort on the part of municipal, county, State and Federal governments. The Governor has gone on to urge the placing of the largest practical measure of service responsibility at the local level of government where the responsibility of public officials to the citizenry is clear, direct and effective.

This *Commission* subscribes whole-heartedly to the principles enunciated by the Governor and to their corollary, that is, that with service responsibility there must be provided proportionate fiscal capacity. In this respect, New Jersey has long prided itself on freedom from the onerous types of taxation under which some other States are burdened. We have succeeded in maintaining our tax position only because we were able to use some $109,000,000 of highway revenues for non-highway purposes during the depression years, and only because we have engaged in a continual process of patching and repairing our failing tax system. By any measure of a fair distribution of the cost of government, we have suffered and still suffer under the grossest inequities and inequalities.

This *Commission's* report, submitted herewith, represents a sincere effort to repair a major part of our present tax system within the very restricted frame of reference permitted by the shibboleths which have impaired every effort to achieve an equitable tax system in New Jersey. The *Commission* deems it essential that the people of New Jersey realize that the proposals of this report represent perhaps the last of the revenue possibilities to be realized through the process of tax adjustment and replacement. It is not the province of this *Commission* to pass upon any or all of the rising demands for new and improved services by our State and local governments. But when these demands are made, it should be clearly understood that there is little possible remaining source of State or local revenue within our present tax structure which can support any substantial expenditure program. It is perfectly true that we have not to this point added any new and additional taxes, but this can be no more than a soporific observation. A careful examination of the constantly rising municipal tax rates is sufficient to prove that we are raising and expending new and additional tax dollars every year—and we are raising those tax dollars through an indifferently administered and inequitable tax system. Even if it were perfectly administered, our tax system would still fall far short of the requirements of a modern industrial State.

In this kind of tax environment, with all its pressures on existing tax bases, it becomes imperative to correct inequities and inequalities which become intolerable as the total tax burden becomes greater. While much remains to be done to improve the administration of the real property tax, the weakest and least defensible among our present taxes is the present personal property tax. In this connection, the *Commission* has set up these *objectives of tax policy:*

Removal of "tax lightning"—
Establishment of honesty in our tax laws—
Elimination of inequities and inequalities—
Broadening of the tax base to the extent required to remove inherent inequity in the present system—
Relief of property from an excessive tax burden.

2. *Present Law—"Tax Lightning"*

Every business establishment and individual in New Jersey is, under the law as presently written, legally subject to annual assessment on all tangible personal property according to its true value, at the local general property tax rate. The meaning of this kind of tax on business alone may be defined in terms of the estimated book value of business tangible personal property (of corporations and unincorporated business in New Jersey):

Inventory	$1,450 million
Machinery and Equipment	500 million
Other	50 million
Total	$2,000 million

If the law were enforced as written, under the 1946 average general property tax rate of $5.15 per hundred dollars of valuation, this would mean an estimated annual tax upon business tangibles alone of over $100,000,000.

The fact is, of course, that the law is not anywhere enforced as written—each assessor being a law unto himself—and the actual tax assessed in 1946 was almost $35 million on all personal property, including $28.6 million on business tangibles as follows:

$17.0 million (49.0 per cent)—business inventories
11.6 million (33.6 per cent)—other business tangibles
5.6 million (16.1 per cent)—household goods
0.5 million (1.4 per cent)—farm tangibles

The difference between the potential tax of $100,000,000 which legally could have been assessed under the present law and the actual tax of $28,000,000 represents the measure of potential "tax lightning" inherent in our present system. That is, as municipalities feel the pressure for added tax revenues, they may turn, and in some cases have turned to sharp increases in assessments on business tangibles, assessments which are either sudden reversals of former policy or arbitrary impositions on selected taxpayers. So long as these assessments do not exceed true value the taxpayer has no effective remedy, and may even be subject to the "omitted property" provisions of the law which permit the added assessments to be made retroactive for two years. This is what is meant by "tax lightning."

This is not to imply that any such complete exploitation of personal property is either contemplated or economically feasible. It has long been recognized, either as a matter of law in States which have met the problem through a variety of statutory devices,[1] or as a matter of practice in such States as New Jersey, that personal property, particularly inventories of stock in trade, semi-finished goods, work in process and raw materials, is totally unsuited to taxation *ad valorem* under the general property tax. *In this sense, personal property is not now and never has been truly a part of the general property tax base.* But the letter of the law which places it within that base has caused negotiation to be substituted for taxation, and an unhealthy atmosphere of caprice to take the place of clear-cut official responsibility. The result, to be expected under such conditions, has been discriminatory, unequal and sometimes arbitrary assessments.

As shown in Table I, the average assessment ratios for tangible personal property reported by 6,198 corporations in the 1946 corporation business tax returns was 35 per cent. However, corporations reporting assessed values in excess of $1 million indicated an average assessment ratio of more than 50 per cent while those

[1] See discussion of "Alternatives" *infra* p. 34 where this point is amplified.

TABLE I

ASSESSED VALUE AND BOOK VALUE OF TANGIBLE PERSONAL PROPERTY REPORTED BY 6,198 CORPORATIONS—1946

Amount of Assessed Value	*Number of Corporations*	*Assessed Value*	*Book Value—Business Tangibles* Total	Inventory	Other	*Assessment Ratio (Per Cent)*
		(Amounts in thousands of dollars)				
1. Domestic Corporations:						
0—$10,499	3,682	$13,253	$64,991	$39,064	$25,927	20.4
$10,500—$50,499	1,242	30,343	87,866	52,681	35,185	34.5
$50,500—$100,499	255	19,612	51,597	31,903	19,694	38.0
$100,500—$200,499	116	17,270	49,677	30,909	18,768	34.8
$200,500—$500,499	73	22,911	70,711	52,734	17,977	32.4
$500,500—$1,000,499	22	16,178	47,773	28,112	19,661	33.9
$1,000,500 and over	23	51,448	97,779	55,101	42,678	52.6
Totals	5,413	$171,015	$470,394	$290,504	$179,890	36.4
2. Foreign Corporations:						
0—$10,499	353	$2,478	$12,273	$8,024	$4,249	20.2
$10,500—$50,499	239	7,537	44,043	31,070	12,973	17.1
$50,500—$100,499	70	5,877	19,800	14,564	5,236	29.7
$100,500—$200,499	55	9,437	29,527	19,382	10,145	32.0
$200,500—$500,499	40	14,143	36,182	28,088	8,094	39.1
$500,500—$1,000,499	16	12,066	47,975	34,766	13,209	25.2
$1,000,500 and over	12	34,964	73,743	61,412	12,331	47.4
Totals	785	$86,502	$263,543	$197,306	$66,237	32.8
3. All Corporations:						
0—$10,499	4,035	$15,731	$77,264	$47,088	$30,176	20.4
$10,500—$50,499	1,481	37,880	131,909	83,751	48,158	28.7
$50,500—$100,499	325	25,489	71,397	46,467	24,930	35.7
$100,500—$200,499	171	26,707	79,204	50,291	28,913	33.7
$200,500—$500,499	113	37,054	106,893	80,822	26,071	34.7
$500,500—$1,000,499	38	28,244	95,748	62,878	32,870	29.5
$1,000,500 and over	35	86,412	171,522	116,513	55,009	50.4
Totals	6,198	$257,517	$733,937	$487,810	$246,127	35.1

Source: N. J. Corporation Business Tax Returns (1946)—includes all corporations reporting property (Schedule E) in New Jersey.

TABLE II

A Sample of Corporation Franchise Tax Returns (1946)

Reported Detail of Property Assessment Ratios by Industrial Classification

(Amounts in Thousands of Dollars)

Item	Total—All Corporations	No Classification	Mining and Quarrying	Manufacturing	Public Utilities	Retail and Wholesale Trade	Service	Finance, Insurance and Real Estate	Construction	Agriculture, Forestry and Fishing
1. Book Value of Property:										
A. Land	$268,408	$3,448	$3,067	$69,465	$4,779	$16,716	$20,184	$144,096	$3,275	$3,378
B. Buildings and Improvements	503,107	3,295	1,679	220,179	16,438	25,581	27,437	201,109	4,479	2,910
C. Tangible Personal Property	733,937	7,963	2,177	596,184	11,362	89,366	12,147	6,036	4,690	4,012
(1) Machinery and Equipment	227,366	1,746	1,227	182,641	9,662	16,930	7,837	3,026	2,885	1,412
(2) Inventory	487,810	6,136	728	399,723	1,508	70,268	3,110	2,226	1,667	2,444
(3) Other Tangibles	18,761	81	222	13,820	192	2,168	1,200	784	138	156
Total Book Value	$1,505,452	$14,706	$6,923	$885,828	$32,579	$131,663	$59,768	$351,241	$12,444	$10,300
2. Assessed Value of Property:										
A. Land	$168,587	$2,094	$1,091	$45,245	$2,516	$9,219	$7,684	$97,297	$2,049	$1,392
B. Buildings and Improvements	337,548	3,142	581	134,577	16,246	15,768	16,459	146,327	2,754	1,694
C. Tangible Personal Property	257,517	3,105	853	174,756	8,001	50,980	8,800	6,225	3,894	903
Total Assessed Value	$763,652	$8,341	$2,525	$354,578	$26,763	$75,967	$32,943	$249,849	$8,697	$3,989
3. Ratio of Assessed to Book Value:										
A. Land	62.8	60.7	35.6	65.1	52.6	55.2	38.1	67.5	62.6	41.2
B. Buildings and Improvements	67.1	95.4	34.6	61.1	98.8	61.6	60.0	72.8	61.5	58.2
C. Tangible Personal Property	35.1	39.0	39.2	29.3	70.4	57.0	72.4	103.1	83.0	22.5
Average Assessment Ratio	50.7	56.7	36.5	40.0	82.1	57.7	55.1	71.1	69.9	38.7
4. Assessed Value of All Business Tangibles in New Jersey	$550,797									
5. Business Tangibles in Sample as Per Cent of Total (2C ÷ 4)	46.8									

Source: N. J. Corporation Business Tax Returns (1946)—includes all corporations reporting property (Schedule E) in New Jersey.

reporting assessed values of less than $10,000 indicated an average of only 20 per cent assessment. The total assessed valuations reported by the 6,198 corporations represents almost 47 per cent of all business tangible valuations taxable in the State in 1946 and thus constitutes a substantial sample of the assessment practice.

As shown in Table II, the average assessment ratios vary even more widely as among major industrial classifications. Within the over-all assessment ratio of 35 per cent for all tangible personalty reported, the average varies from 22 per cent for agriculture, forestry and fishing corporations to more than 100 per cent for finance, insurance and real estate corporations. In five classifications the average assessment ratio for tangible personalty is below the average for all property while in four classifications it is above the general average. In the last analysis, there is no discernible pattern in assessment practices as they apply to personal property or for that matter to any property in New Jersey.

3. *Demand for Change*

The *Hearings* of the *Commission on Taxation of Intangible Personal Property* held in the fall of 1944 produced evidence of widespread dissatisfaction with the present tax on tangible personal property. The report of the *Commission's Hearings,* held in the Assembly Chamber on November 29 and 30, 1944, contains expressions of a wide variety of viewpoints, all directed to the hazard of ''tax lightning'' on tangible personal property, of which the following are illustrative:

GEORGE J. BAUMANN, Counsel, Jersey City Chamber of Commerce.

(*Hearings,* pp. 15-16.)———

"The application of the personal property tax law, based on the present tax rates, not only in our city but in other communities of New Jersey, when applied on the true value of the property, often constitutes confiscation, and may I at this juncture say in our city, for example, for the year 1944 our tax rate is $61.62. That, applied to true value assessments, is confiscation. We are of the opinion that unless the personal property tax law is drastically revised, the post-war future of our State will be dark indeed. Real estate taxpayers, we are certain, appreciate that if business removes from the State and employment of necessity falls off, the tenants who pay the rent will eventually become fewer and fewer, and real estate again will suffer. . . .

"We also make a further recommendation which I think your committee might consider, and that deals with tangibles. I think you are authorized to take that up. Again we say that applying not only our rate but the average rate throughout the State of New Jersey, I think about 4.6, on a true value basis of machinery stock or raw materials, is confiscation, and with that in mind we make this recommendation: that a nominal ceiling tax rate should be fixed by the State to be applied to all tangible personal property on true value assessment, modified by an equalization factor suitable to the various types of property, the taxes to be assessed, collected, and allocated by the State pro rata to the municipalities in accordance with the amount of moneys collected from each municipality. . . . A nominal ceiling tax rate on tangible personal property, uniformly applied throughout the State, would, in our opinion, be fair and equitable. If properly enforced we believe it would raise sufficient revenue to replace those now obtained under our present law.

". . . The Federal Government has constructed thousands of new plants throughout the country. When the war is over, our neighboring States, as well as others, will do everything possible to obtain and retain new industries. If we are to compete with other States, if we wish to retain the industries now located here and attract new ones, we must abolish the present personal property tax law and substitute one that will make it more attractive for business to operate in New Jersey."

* * *

ANTHONY F. DALY, Assessor, New Brunswick, New Jersey. (*Hearings,* pp. 19, 20, and 21.)———

". . . I feel as tax assessor that the tangible and intangible taxes should be taken out of the hands of the local tax assessors and placed with the State Tax Commissioner. As several of you gentlemen have stated here, they are discriminatory because while we have a State law, each municipality has its own law, so there are being administered 531 different laws.

"Insofar as household goods are assessed, I say there are very few people assessed outside of the owners of the property. Tenants are not assessed. I feel that what we need in this State is a tenancy tax. I feel that if the State should take over the assessment of all personalty taxes, it would make it possible for all the local assessors to devote more time to equalization of all real property taxes in their community. We know that each municipality is competing with the other for industry, and they are offering inducements, inducements which cannot be made if they are State taxed. We know that in some municipalities they pay 30 per cent of the personal taxes; in other municipalities, 70 per cent, and there is no uniform basis; it is very discriminatory.

"I know myself, speaking for my own district, that when I send out these questionnaires, they are not returned. No one fills them out, so according to law we have to use our own figures, and they are just guess figures. You can go to an industrial concern and talk with them and they will tell you that, 'Well, so-and-so gives us 30 per cent, and they are only on the borderline.' . . . I say to each and every one of you here today that there never will be a satisfactory solution to the personal taxes as long as they remain in the hands of the local assessors, because where the assessors in some instances are appointed, in some instances are elected to office, you don't solve the problem. It is either a political appointment or he is elected politically. That should be done by the State.

"I believe that from the local assessor's viewpoint, something can and should be done, and should be done by this committee and should be done throughout the State, not acting through any local municipality, because each municipality has its own selfish interests at heart."

* * *

LEO ROSENBLUM, President, Hudson County Board of Taxation.

(*Hearings,* pp. 28-31.)———

"That doesn't end the problem of personal property taxation, as I see it, because I think an attempt to legislate upon intangible taxes exclusively, without any regard to the tangible personal property, will accomplish very little. The problem of taxation of intangible personal property cannot be segregated successfully from that of tangible personal property. Their problems are alike and differ only in degree. The levying of a confiscatory tax on tangibles may drive taxpayers to more sympathetic taxing districts just as in the case of intangibles. The taxation of all tangibles at the full local rate is impractical and works a hardship on the taxpayer. Particularly is this true in the taxation of inventories, as distinguished from machinery and equipment, whether comprised of raw materials, goods in process or finished goods. To tax these inventories at anywhere from five to six per cent of their full value is manifestly unfair. With respect to inventory, the manufacturer is taxed first. He completes the finished product. Then he passes the finished goods on to the jobber, who again is taxed at full rate, and thereafter the goods go on to the hands of the retailer, who is taxed for the same property, again at the full rates, which is entirely different from the machinery taxed once, remains at the situs, and produces more goods.

"As a practical matter, most assessors ignore the law and assess such personal property on some arbitrary basis, usually far below the true value. An analysis throughout the State of the varying taxes paid upon inventories would produce a story of complete confusion. The merchant or manufacturer is at the mercy of the assessor. He is taxed too little or too much, and seldom uniformly. My experience is that local assessors treat the problem of tangible personal property on a purely hit-and-miss-basis. They are neither equipped nor prepared for the problem, and the uniformity demanded by the constitution and statutes is shockingly disregarded.

"Tangible personal property cannot be assessed properly unless it is administered by a specialized and efficient assessing department. Local assessors cannot do the job and they should be relieved. . . .

"It is also suggested that the tangible tax base be broadened by the elimination of exemptions upon all motor vehicles not constructed for purposes of pleasure. There seems to be no satisfactory explanation for the exemption of large and expensive motor vehicle equipment, such as concrete mixers, trucks, and similar property. The fact that a license fee is paid to the State is no justification, because, by the same token, we may have a grocer who pays a license fee to the city for the privilege of selling milk; yet we don't exempt the milk cans or the milk itself from taxation. I think we have a tremendous amount of very valuable equipment in the State, personal property, running around tax free just because of that provision which crept in the law some time ago—it possibly crept in before we had this type of elaborate motor equipment. Here we have concrete mixers, steam shovels, etc., tax exempt because they run on wheels, they are propelled as a motor vehicle and bear a license of the State, for which a small fee is paid to the State, all out of proportion to what the fee should be if the property were taxed as tangible property.

"Now, as to distribution, after deducting a sufficient amount for administration expenses, the entire proceeds from tangible personal property taxes should be redistributed to the taxing districts wherein the property has its situs, which is just another way of saying the taxing districts will lose nothing by it other than the cost of administration, which will be defrayed by the State; it will be collected by the State before the distribution process takes place. I think that is the only fair way. I don't think there would be any argument by anybody studying the situation. After all, the property is tangible, something real, to a certain extent it enjoys the municipal services situated in the taxing district under question, and the taxpayers of that taxing district should get the benefit of it in the local tax rate. . . ."

* * *

J. H. THAYER MARTIN, representing the Newark Chamber of Commerce. (*Hearings*, pp. 52-54.)———

". . . Now, of course, to abolish the tax on intangibles would remove a large part of the threat, but the tax on tangible property is subject to exactly the same dangers, and particularly in Newark the danger of that form of tax lightning is just as disturbing to business as is the threat of the intangibles. For that reason, because the Newark Chamber of Commerce feels that the entire tax lightning threat should be abolished, the Newark Chamber hopes that the Commission will realize that the question of taxation of intangibles can't be well-separated from the taxation of tangible personal property that is devoted to business. The Newark Chamber does not feel that it is any part of its province to recommend to this Commission what should be done with respect to the taxation of property owned by individuals and not used in business, because that isn't part of the function of the Newark Chamber. Of course, your Commission is interested in the whole problem, but the Newark Chamber is not expressing any opinion on how you should treat the individual holder of intangible or other personal property.

"The Newark Chamber believes that the proper solution of eliminating the present method of taxing personalty lies in some State-administered tax which will treat all property of like class throughout the State on the same or exactly the same basis—all property, that is, that is devoted to business use. The Newark Chamber believes there is no constitutional difficulty in classifying personal property according to whether it is used in business or is held out of business by private individuals. There are several forms of substitute taxation that might be recommended by your Commission. The Newark Chamber would be satisfied with whatever one the Commission feels has the best chance of being adopted, because after all, unless your recommendations are going to be enacted into law, they won't accomplish the purpose that we all have in mind, the creation in New Jersey of a tax setup where business can know what its tax is going to be. Business realizes the amount of the tax itself is not so important as the certainty. Business has to make its plans long years ahead and can't take the chance of tax lightning.

". . . We hesitate to talk about the distribution of the substitute tax. The Newark Chamber does not feel that the location either of the home office of a business or the location of its factory or what not is the sole basis on which distribution or allocation of the substitute tax should be based, and, therefore, the Newark Chamber does believe that the best permanent basis of allocation is to place the substitute tax—use that, in the reduction of the school tax in order that the benefits may be spread over the entire State, as any going business affects the entire State.

"Some cases—I might mention the electric power plant down in South Jersey on the Delaware River, I forget for the moment the name of the municipality where it is located—I understand that practically every worker in that plant lives in an adjoining municipality. The plant itself is in the municipality but has practically none of the workers. Obviously, it is not entirely fair that the entire tax on that company should go to the place where it has its being. For that reason, the Newark Chamber does believe that the fairest distribution is by placing the substitute tax in the school fund. It is possible—looking at this from a practical point of view—that such method of distribution might in a few municipalities result in their getting less than they are getting today. If that is so, then that can be corrected by providing that for the first year of operation, each municipality should receive under the new tax, substitute tax, no less that it has been collecting in the past from taxation of personalty, and then that allocation could be gradually tapered off over a period of years until that municipality was simply getting its share under the State school tax. I don't believe there would be very much difference in any municipality because those municipalities that are now taxing personalty the heaviest are the municipalities that have the largest number of school children and, therefore, the largest amount of State school tax. So it is probable that there is not a very serious problem there. But the Newark Chamber does not wish to stress the manner of the distribution of the tax.

"The Newark Chamber does not quarrel with any of those organizations that asked you to take a single small step on abolishing the tax on intangibles. If that is the most that you think can be adopted at this time, why, it is very much better to take that step than not to take any. The Newark Chamber does not believe that that of itself will furnish the aid in the way it could be furnished if you eliminated both types of present taxation of personal property."

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Frederick S. Kellogg, General Counsel, Manufacturers Association of New Jersey. (*Hearings,* p. 67.)———

"I think a manufacturer is at a disadvantage if he has to pay the going rates on his tangibles in proportion with what he pays on those tangibles in Pennsylvania and what I understand he is going to pay on them in New York. In other words, I agree with—perhaps it is presumptious to say, I agree—with Mr. Martin here. I followed with great interest the remarks of Mr. Martin. I don't think you can sort out your intangibles from tangibles and get a workable result."

* * *

JOHN F. O'BRIEN, Tax Consultant, New Jersey Association of Real Estate Boards. (*Hearings*, pp. 77, 78, and 85.)———

"With reference to the particular question of the taxation of intangible property, I can say to you, not only as a real estate man, but also as an assessor, that not only intangible property but the whole question of personal property taxation needs new treatment. . . . With reference to tangible personal property I think that all household goods should be completely exempted from taxation, or at least up to a value of $2,500.00. In my judgment, it is not only inequitable but antisocial, to place an annual capital tax on the furniture in a man's house and at the same time exempt a stock or bond in his safe deposit vault. It may well be that tangible personal property should also be placed in the hands of the State Tax Commissioner for more equitable and uniform treatment. This, however, presents a very real problem in industrial and business centers, where this particular revenue represents a very important element in the local tax structure. In any event, it should be a very definite and permanent part of any law providing for the assessment of personal property by the State Tax Commissioner that all of the revenue derived, less administration costs, be paid back to the municipality where the property is located. . . .

"As I said in this statement, there may be a whole lot of merit [in State administration] because of the inability of local assessors who are equipped with poor tools, who are the forgotten men in the local government structure to properly assess personal property. It may well be that the taxation of both tangible and intangible personal property should be handed over to the State Tax Commission section with the safeguard that the revenue derived be handed back to the municipality. As to the taxation of tangible personal property, the same evils are attached as are present in the capital tax on real estate. You take, for instance, the assessment of the merchandise in a drug store. Some of that merchandise because of its special character may remain in a drug store for five years before a purchaser is found. On the other hand, you take the Great Bear Stores, they turn over their merchandise twice a week. Still these two businesses are supposed to be assessed on the same basis. There is no rhyme or reason to it. The drug store man is very inequitably treated in the assessment of tangible personal property."

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EDMUND W. WOLLMUTH, Executive Vice-President, Newark Chamber of Commerce. (*Hearings*, pp. 97 and 98.)———

"If your Commission feels that it cannot at this time recommend the complete removal of the fear of "tax lightning," of course the elimination of intangible property use in business would be a step in the right direction. In that case, however, every effort should be made to take the additional steps in the near future. Until this ever present threat of the possible taxation of personal property at full value at rates from 3 to 5 per cent has been completely lifted, New Jersey cannot hope for the expansion of New Jersey's business and industry.

"That is the nub of the argument presented by the Newark Chamber of Commerce. It is important because we have lived through this as no other city in New Jersey. And presently because the taxing authorities of the City of Newark have proceeded to undertake to do what they did in 1934, which resulted in the ruin of many businesses and the removal of them from the State.

"At the present time, the Revenue and Finance Department, headed by the Mayor of our city, Mr. Murphy, is asking people to come in who have tangible value, for the purpose of jacking them up. One reason for that is that the Tax Board has made many revisions in the assessment on the real property of the City of Newark and obviously the Local Board is almost compelled to seek another source at higher levels.

"We do not oppose the plan proposed by the State Chamber. We would like to be in accord on these things. Beyond that we believe the Commission would be justified in its wisdom not to forego the need for studying this problem of the tangible property assessment which is in the same position now as is the intangible "tax lightning."

"In our community apparently our taxing authorities have seen the danger and futility of modifying this "tax lightning" on intangibles. They have seen the vast degree of damage done in our city. They know that real estate can't be covered any further; that in imposing this "tax lightning" they are going to do it in a much better way than before. They hope to bring about an adjustment that is "tax lightning" in a modified form. That is what they call it."

* * *

The surprising unanimity of viewpoints, shown in these expressions by representatives of both business and government, as well as its own studies, prompted the *Commission* itself to conclude:

"The question of the taxation of tangible personal property used in business, is as vital as the question of intangibles. Though neither as extreme nor as drastic as the intangible problem, "tax lightning" is a real hazard on business personalty and has the additional danger of being more widespread, more consistently and more continuously applied and equally subject to abuse and discrimination." [1]

[1] *Report of the Commission on Taxation of Intangible Personal Property,* March 26, 1945 (Trenton, 1945), p. 85.

4. *Diversity of Impact*

The cross-currents of inequality which permeate the present personal property tax must be appreciated as a background for consideration of proposed remedies. In only one respect is there any substantial degree of uniformity throughout the State. Contrary to some popular impressions, this element of uniformity is found in the quite general use of the personal property tax in some form in municipalities throughout the State.

Table III shows, for example, that 470 municipalities or 83.6 per cent of the total number now assess business inventories, and only a slightly smaller number, 82 per cent of the total number, now assess machinery and equipment. Except for the 29 municipalities with tax rates under $3.00 per hundred, dependence upon the personal property tax ranges from 11.3 per cent to 14.7 per cent of total general property tax assessed. This is a relatively narrow range, and the variations in percentage of business tangibles are equally small. (Item 6 of Table III.)

Any semblance of uniformity of treatment of tangible personalty ends with the information presented in Table III. Each municipality treats personal property differently, the four classes of personalty share in the tax burden unevenly and there is no uniformity of treatment as among individual taxpayers within any given class or even within single taxing jurisdictions. In brief, the entire system is ridden with inequities and inequalities.

Tables I and II have shown the gross variations in assessment ratios among the various industries and among the various sizes of assessments. Data shown in these Tables are necessarily averages for the corporations sampled and they include extreme variations within each group. On a State-wide basis, which tends to further minimize the effect of local discrepancies, the variations among the four classes of tangible personalty are equally pronounced. By any standard there is no pattern or uniformity in the assessment and taxation of business tangible personal property.

Concentration of business personalty taxes in certain areas—particularly taxes on business inventories—causes those business tangibles which are assessed to be taxed at a higher average rate than are other classes of property. This is especially true as between business inventories which are concentrated in higher rate taxing districts and farm tangibles which are concentrated in lower rate taxing districts.

TABLE III

Distribution of General Property Tax and Tangible Personal Property Tax by Municipalities According to General Property Tax Rates—1946

(Amounts in Thousands of Dollars)

Item	Total All Municipalities	Municipalities by Local Tax Rates: Under $3	$3-$3.99	$4-$4.99	$5-$5.99	$6-$6.99	$7 and Over
1. Number of Municipalities	562	29	86	181	157	62	47
2. Number of Municipalities Assessing Different Kinds of Tangible Personalty:							
A. Household Goods	512	27	80	174	147	56	28
B. Farm Tangibles	325	25	70	106	80	30	14
C. Business Inventories	470	25	75	157	139	45	29
D. Other Business	461	25	74	143	130	50	39
3. Per Cent of All Municipalities Assessing Different Kinds of Tangible Personalty:							
A. Household Goods	91.1%	93.1%	93.0%	96.1%	93.6%	90.3%	59.6%
B. Farm Tangibles	57.8	86.2	81.4	58.6	51.0	48.4	29.8
C. Business Inventories	83.6	86.2	87.2	86.7	88.5	72.6	61.7
D. Other Business	82.0	86.2	86.0	79.0	82.8	80.6	83.0
4. General Property Tax Assessed	$266,621	$1,944	$13,696	$94,664	$96,274	$49,087	$10,956
5. Tangible Personal Property Tax Assessed	34,649	529	1,996	10,728	14,119	6,065	1,212
A. Household Goods	5,588	75	290	3,003	1,625	466	129
B. Farm Tangibles	450	38	107	177	86	34	8
C. Business Inventories	17,007	261	764	4,046	7,239	4,405	292
D. Other Business	11,604	155	836	3,502	5,169	1,160	783
6. Tangible Personal Property Tax as Per Cent of All General Property Tax	13.0%	27.2%	14.6%	11.3%	14.7%	12.4%	11.1%
A. Household Goods	2.1	3.9	2.1	3.2	1.7	.9	1.2
B. Farm Tangibles	.2	2.0	.8	.2	.1	.1	.1
C. Business Inventories	6.4	13.4	5.6	4.2	7.5	9.0	2.7
D. Other Business	4.3	7.9	6.1	3.7	5.4	2.4	7.1

Source: Computed from County Abstracts of Ratables.

The average general property tax rate for 1946 was $5.15 for each $100 of valuation taxable. The average tax rate applied to business inventories, however, was $5.28 per $100 valuation and that applied to farm tangibles was $4.19, as follows (1946):

Class of Property	*Net Value Taxable*	*Taxes Assessed*	*Average Tax Rate*
	(Amounts in millions of dollars)		
Total—All Property	$5,176.67	$266.6	$5.15
Total Tangible Personalty..	677.05	34.6	5.12
Business Inventories	322.04	17.0	5.28
Other Business Personalty	228.76	11.6	5.07
Household Goods[1]	115.42	5.6	4.84
Farm Personalty	10.83	0.5	4.19
All Real Property[2]	4,499.62	232.0	5.16

[1] Valuation less household deductions.
[2] All deductions other than household allowed against real property valuations.

Application of the general property tax law to some businesses and by some municipalities creates large inequities within the State's business population. It creates inequities as among businesses which are taxed and those which are not taxed and as among municipalities which apply the law and those which do not. While no municipality has been discovered which seeks to assess business tangibles at or approaching 100 per cent of true value, the hazard of such assessment is very real. In the large cities in particular, reports of "tax raids" on business personalty are becoming more frequent.

In Newark, for example, the city administration has for a number of years informed taxpayers by letter of proposed annual increases in tangible personalty assessments. As real estate rates have increasingly felt the pressure for new sources of municipal revenues, the practice of looking to tangible personalty has spread. The cases of General Motors in Linden, of United Piece Dye Works in Lodi, of American Can in Jersey City are examples of sharp and unanticipated increases in tangible personal property assessments. This treatment of personalty is pursued by municipal officials with reluctance, but it represents an erratic application of the general property tax law which constitutes a serious deterrent to business expansion in those areas where its effects have been noticeable.

There is a definite tendency toward such increased assessments against business tangibles. Between 1945 and 1946, tangible personalty valuations taxable increased in 19 of the 21 counties by amounts ranging from less than 1 per cent in Bergen County to

42 per cent in Ocean County. As shown in Table IV, the increase amounted to more than 5 per cent in nine of the 21 counties. This range of increase is even more significant when compared with the extent to which the municipalities in the several counties rely on personal property (Tables III, VI and VII).

TABLE IV

CHANGE IN TANGIBLE PERSONAL PROPERTY VALUATIONS IN NEW JERSEY BY COUNTIES, 1945-1946

(Thousands of Dollars)

County	*Total Tangible Personal Property* *1945*	*1946*	*Per Cent Increase (+) or Decrease (—)*
Total—All Counties	$728,427	$736,345	+ 1.09
Atlantic	10,410	11,062	+ 6.26
Bergen	55,289	55,491	+ .36
Burlington	8,095[1]	8,682	+ 7.25
Camden	33,135	31,830	— 3.94
Cape May	3,459[1]	3,502	+ 1.24
Cumberland	9,757	9,886	+ 1.32
Essex	188,598	203,771	+ 8.04
Gloucester	7,861	8,403	+ 6.89
Hudson	151,212	127,184	—15.90
Hunterdon	5,959	6,332	+ 6.26
Mercer	39,572	41,509	+ 4.89
Middlesex	27,638	28,890	+ 4.52
Monmouth	15,610[1]	16,403	+ 5.08
Morris	14,497[1]	15,122	+ 4.31
Ocean	4,128	5,883	+42.51
Passaic	46,434[1]	51,925	+11.82
Salem	18,704	19,317	+ 3.28
Somerset	8,560	9,070	+ 5.95
Sussex	3,027	3,153	+ 4.16
Union	68,558	70,881	+ 3.39
Warren	7,925	8,049	+ 1.59

[1] Total Personal Property—no breakdown reported.
Source: County Abstracts of Ratables (1945 and 1946).

For the State as a whole the tax upon all classes of tangible property represented about 13 per cent of the total general property tax in 1946. As shown in Table V, this ratio varies from a low of 6.6 per cent in Cape May County to a high of 31.4 per cent in Salem County. Taxes upon business inventories represent 6.4 per cent of all general property taxes—varying from nothing in Atlantic County to more than 16 per cent in Salem County. Other

TABLE V

—A—

TOTAL GENERAL PROPERTY TAX AND ALL TANGIBLE PERSONAL PROPERTY TAX IN NEW JERSEY BY COUNTIES (1946)

(Thousands of Dollars)

—B—

TAX UPON TANGIBLE PERSONAL PROPERTY AS PER CENT OF TOTAL GENERAL PROPERTY TAX IN NEW JERSEY BY COUNTIES (1946)

Total General Property Tax	Total Tax On Tangibles[1]	Household Goods[2]	Farm Stock and Machinery	Business Inventories	Other Business Tangibles	County	Total Tax On Tangibles	Household Goods[2]	Farm Stock and Machinery	Business Inventories	Other Business Tangibles
$266,621	$34,649	$5,588	$450	$17,007	$11,604	State Total	13.0	2.1	0.2	6.4	4.4
8,638	807	0	0	0	807	Atlantic	9.3	0	0	0	9.3
25,013	2,366	732	10	587	1,037	Bergen	9.5	2.9	0.04	2.3	4.1
3,224	368	97	48	88	135	Burlington[3]	11.4	3.0	1.5	2.7	4.2
12,067	1,333	292	7	566	469	Camden	11.0	2.4	0.05	4.7	3.9
3,393	224	103	7	27	87	Cape May	6.6	3.0	0.2	0.8	2.6
2,582	419	198	24	131	66	Cumberland[3]	16.2	7.7	0.9	5.1	2.6
68,023	9,769	1,713	4	4,211	3,840	Essex	14.4	2.5	0.01	6.2	5.6
2,711	312	125	24	104	58	Gloucester	11.5	4.6	0.9	3.8	2.1
50,688	7,459	0	0	6,623	836	Hudson	14.7	0	0	13.1	1.6
1,091	169	37	46	39	47	Hunterdon	15.5	3.4	4.2	3.5	4.3
11,464	1,784	289	27	771	697	Mercer	15.6	2.5	0.2	6.7	6.1
11,770	1,636	189	19	708	721	Middlesex	13.9	1.6	0.2	6.0	6.1
10,251	830	384	17	142	287	Monmouth	8.1	3.7	0.2	1.4	2.8
6,002	611	233	23	130	225	Morris	10.2	3.9	0.4	2.2	3.7
2,705	287	107	6	26	147	Ocean	10.6	4.0	0.2	1.0	5.4
16,970	2,175	231	4	1,226	714	Passaic	12.8	1.4	0.02	7.2	4.2
1,626	510	92	36	264	118	Salem	31.4	5.7	2.2	16.3	7.3
3,101	397	122	24	95	156	Somerset	12.8	3.9	0.8	3.1	5.0
1,466	131	28	45	37	21	Sussex	8.9	1.9	3.1	2.5	1.4
22,109	2,769	546	31	1,155	1,037	Union	12.5	2.5	0.1	5.2	4.7
1,727	294	70	48	78	98	Warren	17.0	4.0	2.8	4.5	5.7

1 No allowance made for veterans' exemptions which may have been applied against tangible property.
2 Net assessment derived by subtracting amount of deduction for household goods (R. S. 54:4-3.16) from value of household goods.
3 Exclusive of special taxes for fire and light districts.
Source: Computed from County Abstracts of Ratables (1946) as corrected by State Department of Taxation and Finance.

business tangibles provide 4.4 per cent of all general property taxes—ranging from 1.4 per cent in Sussex County to more than 9 per cent in Atlantic County.

But in dollar amount, the bulk of the tangible personal property tax is raised in relatively few municipalities, that is, in the 46 taxing districts in which taxes upon tangible personal property amount to $100,000 or more. As shown in Table VI, tangible personalty taxes in these 46 municipalities total almost $27 million, or 77 per cent of the total in the State. These municipalities account for 89 per cent of all property taxes upon business inventories and 73 per cent of all other business tangible taxes. Taxes upon all classes of tangible personalty represent 14 per cent of all general property taxes in the 46 municipalities varying from 7 per cent in North Bergen (Hudson County) to 57 per cent in Lower Penns Neck (Salem County).

In addition to these 46 municipalities, there are 38 municipalities where the personal property tax amounted to less than $100,000 in 1946 but represented 20 per cent or more of the total general property tax. Table VII shows 45 taxing districts in this "20 per cent or more" class, but seven of them also appear in the "$100,000 or more" class shown in Table VI. While tangible personal property taxes represent 23 per cent of all general property taxes assessed by the 45 "20 per cent or more" municipalities in this group, the ratio for individual municipalities ranges from 20 per cent to 100 per cent.

As shown in Table VI, four municipalities (Newark, Trenton, Bayonne and Jersey City) levied tangible personalty taxes in excess of $1 million in 1946. These four cities account for almost $14 million, or 40 per cent of the total for the State. They account for over $9 million, or 55 per cent of the total tax upon business inventories. But the potentialities for increases in other cities are so marked that the present distribution must be viewed as unstable at best.

For example, Table VI shows that Trenton taxes business inventories to the extent of $640 thousand while Elizabeth taxes this class of property to the extent of only $180 thousand. These two cities are comparable in size and in business structure. This means that Elizabeth can probably increase assessments upon inventories as the pressure for new revenues is felt. In the same way, New Brunswick taxes upon "other business tangibles" amount to $26 thousand as compared with $114 thousand in Plainfield where the tax rate is lower. Within the various cities, discrimination is apparent, not only by size of assessment, but also among industry groups and as between real and personal property. Illustrations of some of these variations are shown in Tables VIII through XV for samples of corporations reporting property in the eight largest New Jersey cities.

From this analysis of the present administration of the personal property tax, the *Commission* concludes:

> EXISTING CROSS CURRENTS OF INEQUALITIES AND INEQUITIES ARE SO EXTENSIVE, AND IN MANY CASES SO COMPOUNDED, THAT THE ESTABLISHMENT OF EQUALITY OF TREATMENT MUST BE EXPECTED IN AND OF ITSELF TO PRODUCE SOME MARKED TAX READJUSTMENTS WITH RESPECT TO INDIVIDUAL TAXPAYERS AND MUNICIPALITIES. BUT IT IS EQUALLY EVIDENT THAT THE LONGER ACTION IS POSTPONED THE MORE DIFFICULT READJUSTMENT WILL BECOME.

TABLE VI

IMPORTANCE OF TANGIBLE PERSONAL PROPERTY TAX TO TOTAL GENERAL PROPERTY TAX IN FORTY-SIX MUNICIPALITIES WHERE TANGIBLE PERSONAL PROPERTY TAXES AMOUNT TO $100,000 OR MORE (1946)

(Thousands of Dollars)

County and Municipality	*Total General Property Tax*	*Total Tangible Personalty Tax*	*Household Goods*	*Farm Stock and Machinery*	*Business Inventories*	*Business Machinery and Equipment, etc.*	*Tangible Personalty Tax As Per Cent of Total*	*Local Tax Rate (Per $100 Valuation)*
Total—46 Municipalities	$182,560	$26,529	$2,871	$11	$15,143	$8,502	14.3	......
Atlantic Co.								
Atlantic City	5,080	476	0	0	0	476	9.3	6.45
Bergen Co.								
Edgewater	714	150	1	0	37	112	21.0	3.36
Englewood	1,470	138	80	0.1	11	48	9.4	4.93
Garfield	1,274	234	43	0	183	7	18.3	5.83
Hackensack	1,739	173	41	0	72	59	9.9	4.76
Teaneck	1,815	177	74	0	7	95	9.7	6.09
Camden Co.								
Camden	6,379	921	120	0	485	316	14.4	4.92
Cumberland Co.								
Bridgeton	803	171	129	0	42	0	21.3	5.728
Essex Co.								
Belleville	1,611	178	27	0.2	54	96	11.0	4.71
Bloomfield	2,800	352	120	0.4	118	113	12.6	4.24
East Orange	4,350	421	242	0	98	81	9.7	4.16
Irvington	3,302	395	100	0.4	273	22	12.0	4.61
Maplewood	1,750	137	69	0	65	4	7.8	4.14
Millburn	1,125	121	63	0.1	2	56	10.8	3.86
Montclair	3,874	349	255	0	25	69	9.0	4.74
Newark	39,479	7,001	370	0	3,399	3,232	17.7	5.56
Orange	1,966	176	77	0	36	63	8.9	4.76
South Orange	1,421	116	64	0	6	46	8.2	4.46
West Orange	2,140	184	101	0.3	74	9	8.6	4.26

Hudson Co.								
Bayonne	7,130	1,443	0	0	1,443	0	20.2	5.752
Harrison	1,029	267	0	0	112	155	26.0	3.790
Hoboken	3,891	521	0	0	521	0	13.4	5.729
Jersey City	25,243	3,912	0	0	3,912	0	15.5	6.588
Kearny	3,162	516	0	0	231	285	16.3	4.064
North Bergen	2,818	190	0	0	31	158	6.7	6.220
Union City	3,534	254	0	0	66	188	7.2	5.757
West New York	2,372	229	0	0	229	0	9.6	6.437
Mercer Co.								
Hamilton Twp.	1,542	162	34	3	60	64	10.5	4.96
Trenton	7,669	1,341	181	0	640	520	17.5	5.04
Middlesex Co.								
Carteret	841	190	11	0	147	31	22.6	7.62
New Brunswick	2,084	211	5	0.3	179	26	10.1	5.04
Perth Amboy	2,678	411	23	0	86	302	15.3	5.65
Woodbridge	1,409	202	4	0.2	78	120	14.4	7.78
Monmouth Co.								
Long Branch	1,268	138	22	0	13	103	10.9	7.747
Passaic Co.								
Clifton	2,622	274	35	0.9	87	151	10.5	4.61
Passaic	4,269	754	59	0	627	68	17.7	4.96
Paterson	7,338	968	87	0	460	421	13.2	4.42
Salem Co.								
Lower Penns Neck	566	323	43	0.2	189	90	57.0	2.28
Union Co.								
Elizabeth	6,088	712	68	0.1	180	464	11.7	4.57
Hillside	1,195	144	23	0.1	52	69	12.1	4.94
Linden City	2,613	590	0.3	0.2	415	174	22.6	3.52
Plainfield	2,537	283	78	0	91	114	11.2	4.38
Rahway	1,173	186	22	0	164	0	15.9	4.71
Summit	1,281	105	89	4	8	4	8.2	4.08
Union Twp.	1,590	212	40	0.3	126	45	13.3	4.42
Westfield	1,526	120	68	0	7	44	7.9	4.12

Source: Computed from County Abstracts of Ratables (1946) as corrected.

TABLE VII

IMPORTANCE OF TANGIBLE PERSONAL PROPERTY TO TOTAL GENERAL PROPERTY TAX IN FORTY-FIVE MUNICIPALITIES WHERE TANGIBLE PERSONAL PROPERTY TAXES ARE 20 PER CENT OR MORE OF TOTAL GENERAL PROPERTY TAXES (1946)

County and Municipality	*Total General Property Tax (thousands)*	*Total (thousands)*	*Household Goods*	*Farm Stock and Machinery*	*Business Inventories*	*Other Business Tangibles*	*Tangible Property As Per Cent of Total*	*Local Tax Rate*
Total—45 Municipalities	$16,561	$3,868	$322,074	$60,214	$2,628,530	$856,594	23.4	......
Atlantic Co.								
Folsom	9	2	0	0	0	2,193	24.4	4.53
Bergen Co.								
Edgewater	714	150	1,462	0	36,624	111,689	21.0	3.36
Burlington Co.								
Eastampton	11	3	471	538	1,284	837	27.6	5.68
New Hanover	3	2	89	152	1,302	0	46.7	3.72
Springfield	44	11	0	11,021	36	0	25.1	4.52
Camden Co.								
Gibbsboro	24	6	0	1,325	3,902	1,097	26.6	2.89
Cumberland Co.								
Bridgeton	803	171	129,069	0	42,114	0	21.3	5.728
Commercial	63	14	0	1,912	886	10,929	21.9	7,048
Maurice River	45	9	2,060	144	220	7,042	21.0	4.000
Essex Co.								
Caldwell Twp.	106	28	531	154	25,522	1,554	26.3	2.23
Gloucester Co.								
Swedesboro	104	26	3,398	0	14,273	8,024	24.6	5.36
Hudson Co.								
Bayonne	7,130	1,443	0	0	1,442,512	0	20.2	5.752
East Newark	155	60	0	0	10,444	50,006	39.0	4.151
Harrison	1,029	267	0	0	112,250	155,064	26.0	3.790
Hunterdon Co.								
Delaware	46	11	554	6,416	898	3,377	24.3	3.08
East Amwell	49	11	1,283	5,288	428	3,651	21.8	3.93
Hampton	21	4	1,512	271	2,090	330	20.1	4.13
Holland	13	3	247	709	307	1,504	22.0	0.85
Kingwood	28	6	857	4,420	135	299	20.6	2.54
Lebanon	38	8	1,787	1,379	96	4,929	21.8	4.16
Milford	53	16	1,318	0	2,842	11,548	29.8	2.25

Middlesex Co.								
Carteret	841	190	11,430	0	147,314	31,489	22.6	7.62
Helmetta	34	15	795	0	14,400	64	45.5	3.20
Middlesex Boro	236	49	6,257	0	25,943	16,737	20.7	5.04
Piscataway	353	77	44,227	566	3,744	28,005	21.7	6.02
Spotswood	53	13	0	0	12,554	366	24.6	4.90
Monmouth Co.								
Englishtown	32	9	2,384	0	6,882	0	29.1	5.735
Jersey Homestead	5	5	5,482	0	0	0	100.0	18.098
Morris Co.								
Hanover	123	31	3,018	85	7,395	20,199	25.0	4.46
Roxbury	164	40	2,790	683	19,911	16,153	24.1	4.75
Ocean Co.								
Little Egg Harbor	31	12	353	109	35	11,312	38.5	4.97
So. Toms River	13	4	160	22	1,837	1,749	28.6	4.39
Stafford	39	20	1,113	20	130	18,379	49.9	3.63
Passaic Co.								
Pompton Lakes	196	39	4,729	0	18,688	15,854	20.1	3.66
Salem Co.								
Elsinboro	15	5	407	1,654	334	2,449	33.0	3.18
Lower Penns Neck ...	566	323	43,475	185	188,722	90,123	57.0	2.28
Upper Penns Neck ...	173	55	8,813	8,838	25,931	11,642	32.0	4.34
Somerset Co.								
Bernardsville	199	42	28,918	1,468	2,060	9,144	20.9	5.08
Sussex Co.								
Branchville	26	7	1,034	51	1,334	4,760	27.6	4.85
Union Co.								
Kenilworth	185	44	4,331	0	34,061	5,533	23.7	4.95
Linden City	2,613	590	250	225	415,465	174,383	22.6	3.52
Warren Co.								
Franklin Twp.	43	13	2,162	2,751	247	7,725	30.0	3.99
Greenwich	45	9	1,639	7,628	55	0	20.9	4.40
Oxford	39	10	2,176	127	2,886	5,134	26.4	6.35
Washington	48	15	1,493	2,073	435	11,321	32.0	3.86

Source: Computed from County Abstracts of Ratables (1946) as corrected.

TABLE VIII

City of Bayonne

Sample of Corporation Franchise Tax Returns (1946)

Reported Detail of Personal Property Taxes by Business Classification

(Amounts in Thousands of Dollars)

Item	Total—All Corporations	Mining and Quarrying	Manufacturing	Public Utilities	Retail and Wholesale Trade	Service	Finance, Insurance and Real Estate	Construction
1. Book Value of Property in Sample:								
A. Land	$2,783	$194	$658	...	$842	$46	$1,040	$3
B. Buildings and Improvements	4,114	502	426	...	1,297	64	1,792	33
C. Tangible Personal Property	7,727	1,837	4,471	$14	1,044	114	31	216
(1) Machinery and Equipment	2,079	853	849	14	180	93	4	86
(2) Inventory	5,370	828	3,517	...	853	21	21	130
(3) Other Tangibles	278	156	105	...	11	...	6	...
Total Book Value	$14,624	$2,533	$5,555	$14	$3,183	$224	$2,863	$252
2. Assessed Value of Property in Sample:								
A. Land	$2,405	$229	$557	...	$613	$28	$969	$9
B. Buildings and Improvements	4,698	411	1,307	...	1,474	29	1,444	33
C. Tangible Personal Property	3,325	50	2,568	$14	525	93	10	65
Total Assessed Value	$10,428	$690	$4,432	$14	$2,612	$150	$2,423	$107
3. Assessment Ratios for Sample:								
A. Land	86.4	118.0	84.7	...	72.8	60.9	93.2	300.0
B. Buildings and Improvements	114.2	81.9	306.8	...	113.6	45.3	80.6	100.0
C. Tangible Personal Property	43.0	2.7	57.4	100.0	50.3	81.6	32.3	30.1
Average Assessment Ratio	71.3	27.2	79.8	100.0	82.1	67.0	84.6	42.5
4. Assessed Value of All Business Tangibles in Municipality	$25,078							
5. Business Tangibles in Sample as Per Cent of Total (2C ÷ 4)	13.3							

Source: Corporation Business Tax Returns (1946)—includes all corporations reporting property (Schedule E) in Bayonne.

TABLE IX

City of Camden

Sample of Corporation Franchise Tax Returns (1946)

Reported Detail of Personal Property Taxes by Business Classification

(Amounts in Thousands of Dollars)

Item	Total—All Corporations	No Classification	Manufacturing	Public Utilities	Retail and Wholesale Trade	Service	Finance, Insurance and Real Estate	Construction
1. Book Value of Property in Sample:								
A. Land	$5,411	$264	$1,353	$124	$946	$765	$1,767	$192
B. Buildings and Improvements	12,322	635	3,415	1,175	543	1,459	5,036	59
C. Tangible Personal Property	18,382	2,089	13,735	...	2,195	196	115	52
(1) Machinery and Equipment	4,131	290	3,311	...	256	126	112	36
(2) Inventory	13,940	1,799	10,129	...	1,928	70	...	14
(3) Other Tangibles	311	...	295	...	11	...	3	2
Total Book Value	$36,115	$2,988	$18,503	$1,299	$3,684	$2,420	$6,918	$303
2. Assessed Value of Property in Sample:								
A. Land	$3,788	$219	$993	$117	$439	$518	$1,312	$190
B. Buildings and Improvements	6,895	752	2,020	286	405	731	2,660	41
C. Tangible Personal Property	7,724	280	5,569	...	1,535	151	141	48
Total Assessed Value	$18,407	$1,251	$8,582	$403	$2,379	$1,400	$4,113	$279
3. Assessment Ratios for Sample:								
A. Land	70.0	83.0	73.4	94.4	46.4	67.7	74.3	99.0
B. Buildings and Improvements	56.0	118.4	59.2	24.3	74.6	50.1	52.8	69.5
C. Tangible Personal Property	42.0	13.4	40.5	...	69.9	77.0	12.3	92.3
Average Assessment Ratio	51.0	41.9	46.4	31.0	64.6	57.9	59.5	92.1
4. Assessed Value of All Business Tangibles in Municipality	$16,281							
5. Business Tangibles in Sample as Per Cent of Total (2C ÷ 4)	47.4							

Source: Corporation Business Tax Returns (1946)—includes all corporations reporting property (Schedule E) in Camden.

TABLE X

City of Elizabeth

Sample of Corporation Franchise Tax Returns (1946)

Reported Detail of Personal Property Taxes by Business Classification

(Amounts in Thousands of Dollars)

Item	Total—All Corporations	No Classification	Manufacturing	Public Utilities	Retail and Wholesale Trade	Service	Finance, Insurance and Real Estate	Construction
1. Book Value of Property in Sample:								
A. Land	$5,935	$7	$1,296	$37	$304	$248	$3,998	$45
B. Buildings and Improvements	7,791	22	2,144	207	461	599	4,320	38
C. Tangible Personal Property	14,932	14	12,049	26	2,402	141	32	268
(1) Machinery and Equipment	4,047	3	3,520	25	314	95	22	68
(2) Inventory	10,410	11	8,119	1	2,041	38	...	200
(3) Other Tangibles	475	..	410	...	47	8	10	...
Total Book Value	$28,658	$43	$15,489	$270	$3,167	$988	$8,350	$351
2. Assessed Value of Property in Sample:								
A. Land	$4,216	$7	$977	$58	$174	$79	$2,908	$13
B. Buildings and Improvements	6,535	21	1,626	99	276	335	4,164	14
C. Tangible Personal Property	4,753	14	3,596	23	651	87	132	250
Total Assessed Value	$15,504	$42	$6,199	$180	$1,101	$501	$7,204	$277
3. Assessment Ratios for Sample:								
A. Land	71.0	100.0	75.4	156.8	57.2	31.9	72.7	28.9
B. Buildings and Improvements	83.9	95.5	75.8	47.8	59.9	55.9	96.4	36.8
C. Tangible Personal Property	31.8	100.0	29.8	88.5	27.1	61.7	412.5	93.3
Average Assessment Ratio	54.1	97.7	40.0	66.7	34.8	50.7	86.3	78.9
4. Assessed Value of All Business Tangibles in Municipality	$14,096							
5. Business Tangibles in Sample as Per Cent of Total (2C ÷ 4)	33.7							

Source: Corporation Business Tax Returns (1946)—includes all corporations reporting property (Schedule E) in Elizabeth.

TABLE XI

CITY OF JERSEY CITY

SAMPLE OF CORPORATION FRANCHISE TAX RETURNS (1946)

REPORTED DETAIL OF PERSONAL PROPERTY TAXES BY BUSINESS CLASSIFICATION

(Amounts in Thousands of Dollars)

Item	Total—All Corporations	No Classification	Mining and Quarrying	Manufacturing	Public Utilities	Retail and Wholesale Trade	Service	Finance, Insurance and Real Estate	Construction
1. Book Value of Property in Sample:									
A. Land	$12,661	$53	...	$3,411	$275	$744	$1,334	$6,563	$281
B. Buildings and Improvements	42,147	134	$258	12,672	8,912	1,108	2,386	15,695	982
C. Tangible Personal Property	35,822	37	94	25,592	430	7,178	1,120	186	1,185
(1) Machinery and Equipment	13,513	15	66	10,586	221	956	799	60	810
(2) Inventories	21,846	22	28	14,790	209	6,125	283	16	373
(3) Other Tangibles	463	...	...	....	....	97	38	110	2
Total Book Value	$90,630	$224	$352	$41,675	$9,617	$9,030	$4,840	$22,444	$2,448
2. Assessed Value of Property in Sample:									
A. Land	$10,734	$37	...	$2,724	$196	$559	$849	$5,956	$413
B. Buildings and Improvements	33,271	127	$30	9,374	6,014	1,022	1,841	14,064	799
C. Tangible Personal Property	22,533	8	50	13,499	615	4,520	1,188	532	2,121
Total Assessed Value	$66,538	$172	$80	$24,597	$6,825	$6,101	$3,878	$20,552	$3,333
3. Assessment Ratios for Sample:									
A. Land	84.8	69.8	...	79.9	71.3	75.1	63.6	90.8	147.0
B. Buildings and Improvements	78.9	94.8	11.6	74.0	67.5	92.2	77.2	89.6	81.4
C. Tangible Personal Property	62.9	21.6	53.2	52.7	143.0	63.0	106.1	286.0	179.0
Average Assessment Ratio	73.4	76.8	22.7	61.4	71.0	67.6	80.1	91.6	136.2
4. Assessed Value of All Business Tangibles in Municipality	$59,378								
5. Business Tangibles in Sample as Per Cent of Total (2C ÷ 4)	37.9								

Source: Corporation Business Tax Returns (1946)—includes all corporations reporting property (Schedule E) in Jersey City.

TABLE XII

City of Newark

Sample of Corporation Franchise Tax Returns (1946)

Reported Detail of Personal Property Taxes by Business Classification

(Amounts in Thousands of Dollars)

Item	Total—All Corporations	No Classification	Mining and Quarrying	Manufacturing	Public Utilities	Retail and Wholesale Trade	Service	Finance, Insurance and Real Estate	Construction	Agriculture, Forestry and Fishing
1. Book Value of Property in Sample:										
A. Land	$46,947	$1,395	...	$8,043	$393	$2,832	$2,058	$31,769	$414	$43
B. Buildings and Improvements	57,738	336	$8	20,772	909	3,152	2,501	29,747	265	48
C. Tangible Personal Property	89,977	127	50	68,255	1,383	18,025	1,380	545	190	22
(1) Machinery and Equipment	26,993	89	9	22,369	630	2,723	871	222	63	17
(2) Inventory	61,503	37	41	44,899	641	15,033	468	266	113	5
(3) Other Tangibles	1,481	1	...	987	112	269	41	57	14	...
Total Book Value	$194,662	$1,858	$58	$97,070	$2,685	$24,009	$5,939	$62,061	$869	$113
2. Assessed Value of Property in Sample:										
A. Land	$26,459	$815	...	$5,399	$177	$1,716	$1,008	$17,129	$192	$23
B. Buildings and Improvements	46,206	287	$5	14,331	653	2,979	2,662	24,916	307	66
C. Tangible Personal Property	42,903	132	51	27,539	1,081	12,075	1,104	735	175	11
Total Assessed Value	$115,568	$1,234	$56	$47,269	$1,911	$16,770	$4,774	$42,780	$674	$100
3. Assessment Ratios for Sample:										
A. Land	56.4	58.4	...	67.1	45.0	60.6	49.0	53.9	46.4	53.5
B. Buildings and Improvements	80.0	85.4	62.5	69.0	71.8	94.5	106.4	83.8	115.8	137.5
C. Tangible Personal Property	47.7	103.9	102.0	40.3	78.2	67.0	80.0	134.9	92.1	50.0
Average Assessment Ratio	59.4	66.4	96.6	48.7	71.2	69.8	80.4	68.9	77.6	88.5
4. Assessed Value of All Business Tangibles in Municipality	$119,260									
5. Business Tangibles in Sample as Per Cent of Total (2C ÷ 4)	36.0									

Source: Corporation Business Tax Returns (1946)—includes all corporations reporting property (Schedule E) in Newark.

TABLE XIII

City of Passaic

Sample of Corporation Franchise Tax Returns (1946)

Reported Detail of Personal Property Taxes by Business Classification

(Amounts in Thousands of Dollars)

Item	Total—All Corporations	No Classification	Manufacturing	Public Utilities	Retail and Wholesale Trade	Service	Finance, Insurance and Real Estate	Construction
1. Book Value of Property in Sample:								
A. Land	$3,695	$4	$1,456	...	$299	$65	$1,861	$10
B. Buildings and Improvements	13,188	26	8,804	...	168	142	3,730	18
C. Tangible Personal Property	28,128	26	25,606	$16	2,284	152	43	1
(1) Machinery and Equipment	12,559	2	12,148	16	230	120	43	...
(2) Inventory	15,443	24	13,379	...	2,007	32	...	1
(3) Other Tangibles	126	...	79	...	47	...	...	...
Total Book Value	$45,011	$56	$35,866	$16	$3,051	$359	$5,634	$29
2. Assessed Value of Property in Sample:								
A. Land	$3,120	$3	$1,179	...	$205	$42	$1,686	$5
B. Buildings and Improvements	7,978	20	4,673	...	254	60	2,964	7
C. Tangible Personal Property	9,194	15	8,286	$16	800	52	24	1
Total Assessed Value	$20,292	$38	$14,138	$16	$1,259	$154	$4,674	$13
3. Assessment Ratios for Sample:								
A. Land	84.4	75.0	81.0	...	68.6	64.6	90.6	50.0
B. Buildings and Improvements	60.5	76.9	53.1	...	54.3	42.3	79.5	38.9
C. Tangible Personal Property	32.7	57.7	32.4	100.0	35.0	34.2	55.8	100.0
Average Assessment Ratio	45.1	67.9	39.4	100.0	41.3	42.9	83.0	44.8
4. Assessed Value of All Business Tangibles in Municipality	$14,014							
5. Business Tangibles in Sample as Per Cent of Total (2C ÷ 4)	65.6							

Source: Corporation Business Tax Returns (1946)—includes all corporations reporting property (Schedule E) in Passaic.

TABLE XIV

City of Paterson

Sample of Corporation Franchise Tax Returns (1946)

Reported Detail of Personal Property Taxes by Business Classification

(Amounts in Thousands of Dollars)

Item	Total—All Corporations	No Classification	Manufacturing	Public Utilities	Retail and Wholesale Trade	Service	Finance, Insurance and Real Estate	Construction	Agriculture, Forestry and Fishing
1. Book Value of Property in Sample:									
A. Land	$8,693	$43	$1,757	$61	$388	$612	$5,805	$19	$8
B. Buildings and Improvements	16,168*	234	5,033	177*	597	956	9,130	31	10
C. Tangible Personal Property	25,476	592	18,593	59	5,097	453	500	172	10
(1) Machinery and Equipment	9,046	293	7,092	43	828	316	409	63	2
(2) Inventories	15,988	298	11,254	16	4,131	137	36	108	8
(3) Other Tangibles	442	1	247	...	138	...	55	1	...
Total Book Value	$50,337*	$869	$25,383	$297*	$6,082	$2,021	$15,435	$222	$28
2. Assessed Value of Property in Sample:									
A. Land	$6,704	$16	$1,092	$38	$293	$223	$5,005	$19	$18
B. Buildings and Improvements	17,710*	128	2,917	7,139*	496	468	6,526	24	12
C. Tangible Personal Property	7,327	115	4,768	58	1,972	196	180	36	2
Total Assessed Value	$31,741*	$259	$8,777	$7,235*	$2,761	$887	$11,711	$79	$32
3. Assessment Ratios for Sample:									
A. Land	77.1	37.2	62.2	62.3	75.5	36.4	86.2	100.0	225.0
B. Buildings and Improvements	109.5*	54.7	58.0	4033.3*	83.1	49.0	71.5	77.4	120.0
C. Tangible Personal Property	28.8	19.4	25.6	98.3	38.7	43.3	36.0	20.9	20.0
Average Assessment Ratio	63.1*	29.8	34.6	2436.0*	45.4	43.9	75.9	35.6	114.3
4. Assessed Value of All Business Tangibles in Municipality	$19,930								
5. Business Tangibles in Sample as Per Cent of Total (2C ÷ 4)	36.8								

* Subject to further investigation.

Source: Corporation Business Tax Returns (1946)—includes all corporatio s reporting property (Schedule E) in Paterson.

TABLE XV

City of Trenton

Sample of Corporation Franchise Tax Returns (1946)

Reported Detail of Personal Property Taxes by Business Classification

(Amounts in Thousands of Dollars)

Item	Total—All Corporations	No Classification	Mining and Quarrying	Manufacturing	Public Utilities	Retail and Wholesale Trade	Service	Finance, Insurance and Real Estate	Construction	Agriculture, Forestry and Fishing
1. Book Value of Property in Sample:										
A. Land	$3,894	$37	$30	$1,290	$30	$206	$254	$2,028	$19	...
B. Buildings and Improvements	11,140	67	26	5,543	147	347	239	4,487	284	...
C. Tangible Personal Property	15,739	111	27	11,072	113	3,463	399	389	164	$1
(1) Machinery and Equipment	4,567	1	3	3,527	98	508	147	233	50	...
(2) Inventory	11,003	110	13	7,456	14	2,909	250	142	108	1
(3) Other Tangibles	169	...	11	89	1	46	2	14	6	...
Total Book Value	$30,773	$215	$83	$17,905	$290	$4,016	$892	$6,904	$467	$1
2. Assessed Value of Property in Sample:										
A. Land	$3,009	$51	$6	$684	$10	$147	$153	$1,942	$16	...
B. Buildings and Improvements	7,933	83	29	3,231	143	294	352	3,604	197	...
C. Tangible Personal Property	6,151	63	8	3,316	52	2,103	342	176	90	$1
Total Assessed Value	$17,093	$197	$43	$7,231	$205	$2,544	$847	$5,722	$303	$1
3. Assessment Ratios for Sample:										
A. Land	77.3	137.8	20.0	53.0	33.3	71.4	60.2	95.8	84.2	...
B. Buildings and Improvements	71.2	123.9	111.5	58.3	97.3	84.7	147.3	80.3	69.4	...
C. Tangible Personal Property	39.1	56.8	29.6	29.9	46.8	60.7	85.7	45.2	54.9	100.0
Average Assessment Ratio	55.5	91.6	51.8	40.4	70.7	63.3	95.0	82.9	64.9	100.0
4. Assessed Value of All Business Tangibles in Municipality	$30,659									
5. Business Tangibles in Sample as Per Cent of Total (2C ÷ 4)	20.1									

Source: Corporation Business Tax Returns (1946)—includes all corporations reporting property (Schedule E) in Trenton.

ALTERNATIVE REMEDIES

The first alternative is to permit the present bad situation to become worse, that is, do nothing with the tangible personal property tax. As a result of extensive contacts with taxpayer groups, with local officials and with many others concerned with the problem, the *Commission* has become convinced that such a course is neither acceptable nor desirable. In fact, abolition of the ad valorem tax on tangible personal property, at least in its present form, seems to be a point of beginning in all considerations of the problem which look toward some constructive improvement. The question arises, how to replace the $35 million now being raised from this source?

The *Commission* has given careful consideration to many alternatives, including, among others, the old device of the classified property tax, State or local assessment at a fixed rate, adaptation of the corporate net worth tax, personal and business income taxes, consumer sales tax and many varieties of other excise taxes. While there is much to say for and against the details of specific types of taxation, the problem in its essence reduces itself to a question of policy: Shall we continue the ad valorem taxation of personal property, or shall we adopt some form of in lieu taxation?

1. *Ad valorem Taxation*

It has been argued that there is nothing wrong with our present personal property tax, that could not be cured by centralization of the assessment process in a technically competent State agency, and the establishment of a fixed rate of taxation. State assessment might very well have the advantage of eliminating the present inter-municipal competition for industry on a tax basis, and in that way of curtailing the present unfortunate loss of ratables by cities due to the decentralization of industry. There are two principal objections to this alternative, which go to the very root of the problem before the *Commission:*

First, it is perfectly clear that treatment of tangible business personalty, particularly business inventories, under the general property tax, however assessed, is entirely undesirable from an economic viewpoint. The economic objection is directed principally toward any effort to assess inventories of finished goods, work in process or raw materials on an ad valorem basis. This type of property, which has borne the brunt of the present personal property tax on business ($17 million out of a total of

$28.6 million in 1946) has greatly varying characteristics from industry to industry, so that in some industries inventory may turn over twice a year whereas in others it may turn over twelve times a year or more. The value of raw materials and work in process is especially questionable in those industries where spoilage is an important factor. While slow-moving inventory may be kept on the books at the same value as rapidly moving inventory, it obviously has vastly different characteristics as a tax source. It is well known, moreover, that inventory is readily controllable in some industries, and any attempt at effective application of an ad valorem tax would merely result in a flight of such inventories out of the State. These characteristics of inventories are illustrated in the discussion of the *Commission's* proposal respecting them (pages 46 to 50) herein). In brief, inventory is mobile, is consumption goods, whereas other forms of personal property are relatively fixed in location and are production goods. It is neither logical nor practical to tax them the same way.

Secondly, from the viewpoint of tax equity, a tax system which seeks to raise its revenue by taxation solely in proportion to the ownership of machinery and equipment and of business inventories has an inherent inequity and inequality which is already too prevalent in our State tax system. This is especially true in the case of processing industries, service, construction and amusement industries, all of which may enjoy extensive and profitable business activity without becoming subject to any substantial personal property tax in any system dependent upon ad valorem assessment.

Authorities on taxation, both practitioners and theorists, are almost unanimous in the opinion that inventories cannot be soundly taxed under an ad valorem system of taxation. Thirty-five years ago, the International Tax Association adopted a resolution indorsing the report of its Committee on Causes of Failure of the General Property Tax. The Committee, headed by Judge Oscar Leser, Maryland Tax Appeal Court, and including Professor Edwin R. A. Seligman, City Assessor James C. Forman, of Toronto, Nils P. Haugen, chairman of the Wisconsin State Tax Commission, and Frederick N. Judson, Chairman of the Missouri Special Tax Commission, 1906, reported:*

"In the case of tangible property such as merchandise, the results of general evasion are similar. Selling prices are fixed on the assumption that the

* National Tax Association, State and Local Taxation: Fourth International Conference, Addresses and Proceedings (Columbus, Ohio, 1911), pp. 309-310.

business will largely, if not wholly, escape taxation. The few merchants who are caught find themselves taxed out of all proportion to others, and are unable to recoup themselves for the tax by adding to prices, because of the competition with those who escape, or with nonresidents—who may be wholly relieved from such liability in their own States.

"Sometimes it is argued that if every one would make a full return of property, the tax rate would be so low that no hardship would result and any theoretical injustice would not be felt. The reply of the Ohio Commission of 1908 to this argument is sufficient:

" 'The present tax is so imminent and the prospect of a full return by all citizens is so remote that the individual taxpayer has not felt inclined to institute a reform which may turn out to be wholly at his own expense.' "

Professor Seligman, in his own treatise, has taken an even more positive point of view, thus:*

"Let us recognize the fact then, once and for all, that a system of property taxation, except in so far as certain forms of real estate are concerned, is unsuited to modern economic conditions as the ordinary and principal source of revenue, however strong the arguments may be for its utilization in exceptional cases as in the European *post-bellum* situation. Let us boldly face the situation and confess that while a classified property tax may constitute the only possible step in advance for those states that are still tied up by a rigid constitution, the scheme is inapplicable to, or undesirable for, those states which are more fortunately situated from the constitutional point of view; and that even in the former class of states the energy that is being developed in the promotion of a classified property tax might more profitably be directed to what is at all events a more thorough-going remedy."

More recently, the Committee on Taxation of the Twentieth Century Fund under the chairmanship of Thomas I. Parkinson, aided by Professors Carl Shoup, Ray Blough, and Mabel Newcomer, reported on a survey of taxation in the United States and concluded:**

"In common with practically every other observer, past or present, we deplore the obvious injustices found under the property tax. We urge that they be speedily lessened, even though complete elimination is too much to hope for. Continual pressure for better assessors and better assessment under the real estate tax must be exerted. Whether state assessment rather than local assessment is called for is a matter that must be decided in each state in the light of local conditions, but we should like to see a few states, at least, try the experiment. *There are substantial reasons for abolishing the tax on tangible personal property in any state that can possibly raise its revenue in another*

* E. R. A. Seligman, Essays in Taxation, 10th Ed. (New York, The MacMillan Company, 1928), p. 650.

** Carl Shoup, et al., Facing the Tax Problem (New York, Twentieth Century Fund Inc., 1937), pp. 411-412 (*italics* added).

way. It is difficult to administer. Even if it is perfectly administered, it is a poor means of measuring either the benefit to or the ability of an individual or a business firm.

2. *In Lieu Taxation*

The inherent inequities and difficulties of ad valorem taxation of tangible personal property are so great, under any of the available alternatives, that it would appear highly desirable to adopt some form of in lieu taxation. Were it not for the substantial amounts of municipal revenue involved, the simplest remedy would, of course, be to abolish the taxation of tangible personal property in the same manner that the *Commission* recommended, and the Legislature adopted, with respect to intangible personalty. But the replacement problem is so large and the nature of the problem so different with respect to tangibles that this method would not be either feasible or fair.

Nor is it conceivable that any adjustment of the net worth tax could be used to provide the necessary replacement revenues. Local taxes on inventories alone produce, as we have seen, $17 million a year at current rates, which is more than twice the entire yield of the corporate net worth tax. The personal property tax is, moreover, derived in very substantial amounts from taxpayers who are not and could not be made subject to the corporate franchise tax.

In New York, and in other States where ad valorem taxation of personal property has been either completely abolished or modified, the income tax or consumers' sales tax is ordinarily used as a replacement levy. While it is certainly arguable as to whether or not the replacement feature is clear in the case of tangible personal property, this *Commission* has more than once indicated that it does not believe New Jersey is as yet prepared to accept either a personal income tax or a consumers' sales tax, or what is more likely, both of them together.

The development of a tax base to replace the present tangible personal property tax, however, should logically be related in some way to the benefit that will be conferred on present large holders of personalty as the result of the removal of "tax lightning." This was the basis upon which the *Commission* approached the problem of intangible personal property and it was widely accepted as a fair and reasonable approach. In this connection, some reference to the manner in which competitive industrial areas have met the problem is helpful. It is impossible to compare individual taxes among the States without considering the respective State and local tax systems in their entirety, but reference to Table XVI will at least show that in all competitive areas, in an industrial sense, the personal property tax has either been abandoned or has been supplemented by one or more additional taxes of the excise type.

An examination of Table XVI indicates that sooner or later industrial States have come to the realization that personal property cannot be fairly or effectively taxed under the general property tax, and that the property tax itself, however well administered is much too narrow a base upon which to hope to apportion fairly the common burden of the cost of government. In an effort to make the personal property tax work in Connecticut (Bridgeport), Ohio (Cleveland) and Illinois (Chicago) the device of fractional assessment is employed, but under the New Jersey constitution any such device is purely extra legal and could not be regularized by statute. In Connecticut, the property tax is supplemented by a corporation income tax, in Ohio by a consumer sales tax and in the City of Toledo by a city income tax as well. In Illinois, State and local government is struggling under the same tax ills that beset us in New Jersey.

Further reference to Table XVI shows that in the two areas most directly competitive with New Jersey, that is New York and Philadelphia, inventories are completely exempt from property taxation, and in New York this extends to machinery, tools, equipment, furniture and fixtures as well. In Massachusetts, whose economy both in character and volume is very similar to that of New Jersey, taxation of personal property ad valorem has also been largely abandoned.

This is not to say that New Jersey should necessarily model its taxing system after any other State. But we must at least be constantly aware of what other States are doing simply because of the competition they offer for the location of employment-giving industry, if for no other reason. It is reasonable to expect, moreover, that we should seek to adopt the best features and avoid the failures of other States in revision of our own taxing system.

New Jersey has long been a favorable place for the location of industry, and to the extent that tax policy may have any influence in this respect, the *Commission* would strongly recommend continued consideration of the economic implications of State and local taxation. But it is clearly evident that the people of New Jersey cannot look across the Hudson River on the one hand or

TABLE XVI

TANGIBLE PERSONAL PROPERTY AND BUSINESS EXCISE TAXES IN SELECTED CITIES (1946)

0—Not Taxable. ( )—Alternative Minimum Tax. X—Tax in Effect, Rate Variable.

Tax Base	*1946 Tax Rate in Per Cent* Baltimore	Boston	Bridgeport	Chicago	Cleveland	Newark	New York	Philadelphia
Personal Property:								
1. Machinery, tools and equipment	0		2.98[3]	4.24[4]	2.98[8]	5.56[5]	0[6]	0[7]
2. Inventory	.1275[1]	(.565)[2]	2.98	4.24	2.98[9]	5.56	0	0
3. Furniture and fixtures	3.09		2.98	4.24	2.98[10]	5.56	0	0
Business Excise Taxes:								
4. Retail sales	0	0	0	2.0	3.0	0	2.0	0
5. Use taxes	0	0	0	0	3.0	0	2.0	0
6. Gross receipts	0	0	.025 to 0.1[1]	0	0	0	0.1	0
7. Corp. net income tax	1.5	X[2]	2.0	0	0	0	0	4.0
8. Personal net income tax.	2.0–5.0	X	0	0	0	0	2.0–7.0	1.0
Corp. Franchise:								
9. Cap. Stock and net worth	X	X[2]	0	X	X	X	0	X
10. Franchise Income	0	0	0	0	0	0	4.5 (1 mill on assets)	0

1 Baltimore: State assessed. Also note that exemption of machinery, tools and equipment is a matter of county option. Same as to raw materials and manufactured products in hands of manufacturers.

2 Boston: The Massachusetts corporate excise tax consists of (1) an income tax (at 2.5 per cent) and (2) a tax upon the fair value of capital stock after deduction of the following: equity in real estate, value of motor vehicles certain exempt securities, tangible property outside the State and cash and receivables attributable to an office outside Massachusetts. The remainder, after these deductions, is known as the "corporate excess" and is taxable at 0.5 per cent, but the tax may not be less than the same rate applied to all tangible property (without allocation), other than real estate and automobiles.

Either of two alternative minimum computations is effective whenever the tax would be greater than the sum of (1) and (2) above. These minimum excises are either 0.05 per cent of the fair value of the capital stock without any deductions, or 0.05 per cent of allocated gross receipts.

In any event 13 per cent is added to the tax as computed; for this reason all the above rates appear in the table multiplied by 1.13.

General business corporations, other than manufacturing, and unincorporated business are taxable locally on machinery. Unincorporated business is also taxable on inventory. Both classes are as essable at true value, at the average State rate.

3 Bridgeport: In practice, inventory is assessed at from 50 to 60 per cent of average book value; machinery, tools, equipment and furniture at book value. Total value is adjusted by an "equalized percentage" of 83 per cent for assessment purposes.

4 Chicago: Valuation of tangibles is at 70 per cent book, but not less than 20 per cent of replacement cost. Some 140,000 small business units are assessed by a "pragmatic approach"—that is, they are billed for an amount equal to one-third of a month's rent.

5 Newark: It is impossible to arrive at the assessment ratio, if any, customarily used in Newark assessments of tangible personalty.

6 New York: Although personalty is not taxed, it enters into determination of second minimum in State franchise tax, i. e., 1 mill on total assets.

7 Philadelphia: In cities outside Philadelphia and Pittsburgh machinery in "factories" is deemed real estate.

8 Cleveland: Assessed at 50 per cent of true value.

9 Cleveland: Assessed at 70 per cent of average monthly value for merchandise in stores.

10 Cleveland: Assessed at 50 per cent for inventory of manufacturers.

the Delaware on the other, at the standard of governmental services or the level of the general property tax and attempt to equal either of them here in New Jersey under our agrarian system of taxation. It is only by making a gradual transition to a substantial measure of activity as a basis of taxation, as well as by the practice of the highest order of economy and efficiency in State and local government, that New Jersey can hope to provide the high standard of governmental service which its people desire and at the same time to avoid general property tax rates of $6.00 and $7.00 per hundred dollars of true value.

The *Commission* accordingly recommends:

> That New Jersey Abandon the Present Tangible Personal Property Tax on Business and Substitute an In Lieu Measure of Taxation Which Will Reflect Business Activity as Well as Broaden the Base to Include Industries Not Now Bearing Their Fair Share of the Cost of Government.

REPLACEMENT TAXES

The foregoing considerations have led the *Commission* to deal separately with each of the segments of the personal property tax problem. That is, it is possible to breakdown the problem into manageable segments by dealing separately with—

Taxation of Business—involving the replacement of—

$17.0 million—derived in 1946 from the taxation of inventories;

$11.6 million—derived in 1946 from the taxation of machinery and equipment, furniture and fixtures.

Taxation of Household Personal Property—involving the replacement of—

$5.6 million—assessed in 1946 but subject to a substantial amount of uncollectible delinquencies.

Taxation of Farm Personalty involving—

$.5 million—assessed in 1946 upon farm stock machinery.

* * *

While the *Commission* is aware of the deficiencies in the local assessment process, the foregoing breakdown has been reported by the assessors themselves and is obviously as significant as their valuations. Since the total valuations are legally acceptable for taxation, it is apparent that the breakdown, even though arrived at by questionable methods in some cases, is not more questionable than the valuations themselves, and is therefore a satisfactory basis upon which to deal with the total problem.

* * *

MACHINERY AND EQUIPMENT

1. *Manner of Assessment*

Machinery, equipment, tools, furniture and fixtures used in business are essentially a form of capital wealth and the *Commission* has approached this part of the problem with a view toward obtaining a solution which does not depart too radically from the manner of taxation of comparable capital, particularly buildings and structures. The problem has been to restore equality of treatment as among taxpayers and as among taxing districts, to eliminate intermunicipal competition and to afford a clear and certain basis of assessment.

The *Commission* finds that it is possible to meet these requirements as well as related technical needs by merely stabilizing the assessment of this type of property upon a uniform State-wide basis. While the variations among municipalities have been shown to be extreme, if the over-all result could be duplicated in each municipality, a fair and reasonable tax would be imposed in each municipality.

To this end, State assessment, at the State average rate which this type of property has experienced in 1946 would be a satisfactory solution provided it were not necessary to attempt actual valuation of each and every item of the millions of items of tangible personal property. While our State constitution requires property taxes to be assessed under general laws by uniform rules according to true value, the validity of a classification of property according to use such as here proposed is well established in the decisions of our courts.[1] The difficulty has always been in arriving at an effective basis of valuation which would cure the present situation of every assessor being a law unto himself.

By establishing a single State assessing agency, part of the difficulty is overcome in that there is one assessor instead of 564. The need for a uniform rule of valuation to which we have heretofore paid mere lip service through the statutory requirements of valuation at true value, can be given definite and reasonable content by the adoption of a method which has been tried and tested in Ohio, under a constitutional requirement very much like our own.

The *Commission* has been advised of the results of a careful field study of the personal property valuation problem under the Ohio law and practice. While that State has not yet reached the point of recognizing the fallacy of any attempt to tax inventories as property, it has adopted the fractional valuation device (which would be unconstitutional as a legislative matter in New Jersey), and has had a very favorable experience with the use of a presumption that book value shall be deemed true value in the absence of a different finding by the assessor. The use of this presumption has two key advantages:

First, it places the great mass of taxpayers under a reasonable rule of assessment; and second, it permits the processing of the great bulk of assessments as a matter of routine. As a result, the

[1] *Salem and Pennsgrove Traction Co.* v. *State Board,* 97 N. J. L. 386, 117 Atl. 401, affirmed 98 N. J. L. 570, 119 Atl. 926; *Central R. R. Co.* v. *State Board of Assessors,* 75 N. J. L. 120, 145, 67 Atl. 672, 682, affirmed *Central R. R. Co.* v. *Baird,* 75 N. J. L. 771, 69 Atl. 239.

Ohio method overcomes the principal defects and inequalities in our present system. The result of the survey in that State is reported as follows:

> "There is no doubt as to the meaning of 'true value' in Ohio. The law requires that *net book values* are to be as true values 'unless the assessor shall find otherwise.' The assessor may make adjustments on his own initiative or in response to a claim filed by the reporting company asking for an adjustment on the basis that its book figures do not represent the true value of its assets. In practice, only a small number of these adjustments are made. The law provides one other exception to the use of net book values. Machinery and equipment is not to be depreciated below 20 per cent of original cost as long as it is still in use.
>
> "Net book values are the basis of true value in Ohio, and any adjustments are applied to that basis. Every reporting company is required to file with its personal property tax return a detailed balance sheet which is exactly the same as that used for Federal income tax purposes. The personal property valuations appearing in this balance sheet are the basis for the assessment of that property. The assessment date in Ohio is January 1st, but companies on a fiscal year basis may use their regular year-end balance sheet as the basis for their valuations. We were informed by Mr. Stanley Bauers, Chief of the Personal Property Division of the Ohio State Tax Commission, that extensive audits were made to see that the taxpayers are complying with this provision.
>
> "As part of our investigation, we interviewed several bank executives in Cincinnati and also the president of the Property Owners' Association of that city. One of the bank executives arranged an interview for us with an aggressive manufacturing concern in Cincinnati. The vice-president of this company allowed us to examine both the company's personal property tax return and its Federal income tax return for the year 1945.
>
> "As a result of the foregoing, we satisfied ourselves that in Cincinnati the net book values of personal property are actually reported by the taxpayers and, with the exceptions previously noted, constitute the 'true values' which are the assessed values.

"It may be noted that in Ohio personal property tax returns are frequently prepared by the reporting company's certified public accountants. In most if not all of the other States in the group under survey, public accountants would have nothing to do with the filing of a property tax return."*

There are also several collateral advantages to retaining the ad valorem taxation on personal property, other than inventories, used in business. These are:

First, since 13 per cent of the entire property tax base is now composed of tangible personal property, the removal of the entire tangible personalty base from the local property tax in one sweep would present too drastic a problem of adjustment in municipal revenues to be undertaken without a reasonable period of adaptation in a "property tax State" such as New Jersey.

Second, the problem of returning to the municipalities sufficient revenue to replace that lost by abolition of the present method of taxing tangible personal property is reduced to more manageable proportions by the simple device of returning to the municipality of situs all of the yield from the taxation of non-inventory business personalty. The problem of distribution will then relate solely to replacement of the $17 million now derived in the aggregate from local taxation of inventories.

2. *Tax Rate to be Applied Under Proposed State Assessment*

As shown in Tables I and II, the average assessment ratio for business tangible personal property reported by 6,198 corporations in their 1946 corporation franchise returns was 35 per cent of book value. Upon this basis, ad valorem taxation of such property upon book value at 35 per cent of the present average general property tax rate would be required to replace the present tax upon personal property. This indicates an average tax rate of $1.80 per $100 of book value to replace the personal property tax assessed in 1946 ($5.15 × .351 = $1.80).

However, it has been shown that the effective average tax rates applied to business tangibles is not identical with the over-all average general property tax rate ($5.15 in 1946). The average rate applied to "other business tangibles" in 1946 was $5.07 per

* Memorandum from Touche, Niven, and Co., certified public accountants, to Twin Cities Research Bureau, Inc., July 26, 1946, Re "Pilot Study of the Impact of Taxes on Manufacturers in Seven Midwestern States"—pp. 24-26.

$100 valuation (see page 17). Differences in assessment practices as among taxing districts implies that rates derived in this way only approximate the necessary replacement rate. Estimates by the *Commission* indicate that "other business tangibles" are more completely assessed than are business inventories. Upon an estimated total book value of $550 million for this class of property (see page 3) the necessary tax rate to replace $11.6 million of taxes assessed in 1946 would become $2.10 per $100 valuation.

All of these estimates are of necessity only approximations. However, they indicate that a tax rate of something like $2 per $100 of book valuation would be required to replace the present property tax upon "other business tangibles." Because this is an average rate, it is higher than would be required in some taxing jurisdictions and lower than what would be needed in other districts.

The average rate, however, is largely dominated by the general tax rate in the large cities which have the principal concentration of inventory and machinery and have made a more strenuous effort to tax such tangible personal property. In order to avoid the element of inter-municipal competition which has thus far operated to the disadvantage of large cities, it would be desirable to adopt a uniform rate to be applied against business tangibles throughout the State. Revenue requirements, however, are not uniform in all municipalities and application of a uniform rate would serve only to transfer the area of inter-municipal competition to real estate. The alternative is to provide for uniform valuations and application of a uniform ratio of the personal property rate to the general tax rate in each municipality. In this way all property will share increases and reductions in the general tax burden and competition will be confined to that based only upon local revenue requirements.

The *Commission* accordingly recommends:

> That Machinery, Tools, Equipment, Furniture and Fixtures Used in Business be State-Assessed at True Value, Which Shall be Presumed to be Book Value but Not Less Than 20 Per Cent of Cost so Long as an Item Remains in Use; and That Such Property be Assessed at One-half of the General Property Tax Rate as Determined in Each Municipality But Not Exceeding the Average State General Property Tax Rate for the Preceding Year; With the Yield of Such Tax to be Returned to the Respective Municipalities in Which the Property Is Located.

BUSINESS INVENTORIES

The *Commission* has considered taxation of business inventories, including raw materials, work in process, semi-finished goods, and stock in trade, from the viewpoint of perfecting, if possible, the present plan of taxation of this kind of property, somewhat along the lines recommended for machinery and equipment, etc. Upon analysis, this approach has proved to be neither feasible nor sound. The problem has two sides: First, the basic inequity in seeking to use the ownership of commodities ad valorem as a measure of distributing the tax burden; and second, the impossibility under such a plan of making any distinction between the great variety of business patterns of inventory production and turnover, as illustrated in Table XVII.

Property taxes generally seek to avoid discrimination in favor of seasonal industries by requiring the assessment of inventories to be based on an average value throughout the year. In practice, however, this requirement has in most cases proved impossible to meet, since taxpayers do not, as a matter of sound business practice, take an inventory more than once or twice a year in any manner which would be suitable for valuation purposes. Nor has any assessor ever been found with either the facilities or the desire to pursue a periodic valuation of the myriad items which make up a typical inventory in our American economy.

It is the characteristic of inventory as a current asset, uniformly recognized by accountants, which distinguishes it from machinery and equipment, furniture and fixtures which are similarly recognized as fixed assets. This is no mere distinction of terminology. The fixed assets are, as their designation implies, stable in their location, use, and identity. Current assets, however, are constantly fluctuating in amount, in character as between inventory and accounts receivable or cash, and frequently even in location. Any system of taxation which attempts to treat both in the same manner must obviously be unsuited to one or the other.

Following the principle that an in lieu or replacement tax should be related to the relief afforded by abolition of the tax on inventory, the *Commission* has sought to develop a plan of taxation which would be closely related, in an equitable manner, to the use of inventories in business. The *Commission* has also followed the principle that it is insufficient to establish equity within the group of taxpayers owning or using inventories, but that it is also necessary to establish equity as between those businesses which

TABLE XVII

Relationship Between Inventories and Assets, Sales and Profits for Sample of Business Firms By Major Industry as of About December 31, 1945

(Amounts in Millions of Dollars)

	Number of Companies		*Inventories As % of Assets*		*Sales as Multiple of Inventories*		*Profit as % of Sales*	
Industry	*Assets Under $250,000*	*Total Reporting*	*Assets Under $250,000*	*Total Reporting*	*Assets Under $250,000*	*Total Reporting*	*Assets Under $250,000*	*Total Reporting*
1. All Manufacturing	366	1,843	28.38	20.97	10.76	6.88	4.2	4.1
A. Food Products	52	196	25.00	26.48	20.09	10.11	2.3	2.1
B. Textile Mill Products	33	212	39.13	29.31	8.81	5.18	5.0	3.6
C. Apparel	50	124	31.33	37.05	12.04	6.41	5.1	2.9
D. Leather and Leather Products.	12	99	40.90	35.93	7.89	5.66	2.8	2.8
E. Lumber Products	41	100	27.06	24.92	9.74	6.07	6.7	4.1
F. Paper and Paper Products	19	99	24.25	15.27	10.88	7.76	3.4	3.7
G. Printing and Publishing	27	70	17.50	13.50	12.00	9.38	4.8	5.7
H. Chemicals and Chemical Products	23	123	29.79	18.31	9.21	6.10	3.9	6.8
I. Stone and Clay Products	6	44	14.47	13.73	19.56	6.30	3.5	5.9
J. Iron and Steel Products	34	218	28.89	17.48	9.27	7.11	3.7	2.3
2. All Retail Trade	191	409	31.76	28.54	8.57	9.11	4.4	2.8
A. Food and Beverages	12	33	46.92	37.63	8.85	9.85	2.2	1.5
B. Department Stores	9	61	35.84	23.37	7.51	9.44	3.1	3.7
C. Men's and Boys' Clothing	15	22	25.05	25.47	8.95	9.65	5.9	4.8
D. Women's Ready to Wear	19	32	30.28	29.28	10.64	4.94	5.0	6.2
E. Shoes	9	15	40.62	31.40	8.15	9.24	2.8	3.1
F. Furniture	16	32	28.44	21.43	5.75	5.79	8.5	5.4
G. Automobile and Accessories ...	25	48	24.99	29.78	15.92	8.32	5.7	5.5
H. Hardware	8	16	48.03	42.82	5.01	5.34	3.9	3.1
3. All Wholesale Trade	195	488	38.13	41.34	13.14	8.84	2.8	1.7
A. Dairy, Poultry, Fruit, Vegetables	25	31	25.89	40.08	33.33	19.42	1.6	1.5
B. Groceries	23	79	53.07	52.22	9.31	8.47	2.0	1.3
C. Wines and Liquors	6	15	51.86	48.89	10.77	9.43	3.7	2.0
D. Tobacco and Tobacco Products	4	12	35.93	60.95	28.00	6.19	6.4	1.5
E. Textile Products and Apparel..	21	55	31.00	25.13	12.71	12.00	4.4	2.4
F. Lumber and Coal	12	42	16.19	16.79	26.73	15.08	4.0	1.9
G. Paper and Paper Products	12	27	33.35	30.14	10.58	12.49	3.5	2.3
H. Iron and Steel Products	25	79	38.31	41.23	8.52	6.70	3.6	2.3
I. Electrical Products	10	16	36.21	32.13	8.25	9.62	3.1	2.1
J. Machinery and Equipment	8	21	44.36	40.83	6.98	7.43	5.2	2.2
K. Auto Parts and Accessories ...	7	11	41.49	43.39	8.59	7.28	3.6	3.0

Source: Bd. of Gov. of Fed. Reserve System and Robert Morris Associates, joint study.

require relatively large amounts of inventory as compared with those which require lesser amounts or none.*

In a highly industrialized State such as New Jersey, these two objectives can be readily fulfilled by an excise tax on production of goods, and as to distributive and service industries on the volume of business done in New Jersey. In the case of a manufacturers excise tax, taxation of inventory ad valorem would be replaced by taxation measured by the flow of products in each business unit. In the case of the general business excise tax, the present base of personal property taxation would be broadened to include all business activity according to its volume regardless of whether or not it involves dealing in inventories. Since the character of the tax and its measure would be definite and readily ascertainable, the present process of taxation by negotiation and all of its discriminatory by-products would be eliminated. The large business would be treated no worse than the small business, industry with visible assets no worse than the industry with less visible assets.

While the in lieu tax which the *Commission* will propose is peculiarly well-fitted to the present situation in New Jersey, it is supported by the experience of practically all other States which have sought to avoid the consumers' sales tax and its usual concomitant, a personal income tax.

Table XVIII shows ten jurisdictions which have in one form or another adopted a plan of taxation containing the essential elements of that here proposed. While all of the areas are not entirely comparable in industrial development with New Jersey, they are largely comparable in that their people have apparently shared the abhorrence of New Jersey for the obvious alternatives. From a practical viewpoint, moreover, it is significant that both the City of New York and the City of Philadelphia have had similar taxes, and the City of New York still imposes, with success, a general business tax and a financial business tax, both of which are measured in a manner somewhat similar to that here proposed. When it is considered that business in New York is also subject to a net income tax and to a consumer sales tax, in addition to the gross business tax, and that business in Philadelphia is now subject to a corporate franchise tax and net income tax as well as to a

* While the *Commission* has heretofore reiterated its belief that the only satisfactory way of achieving a full measure of such equality of treatment, on the principle of capacity to pay, would be through a net income tax applicable to business and individuals, the *Commission* is aware that the Federal Government has, to a considerable extent, preempted this field of taxation and that it would be otherwise unacceptable as a recommendation at this time.

city-imposed payroll income tax, the proposals of this report will be seen to maintain New Jersey's favorable position for the development of industry and employment opportunities.

A criticism sometimes directed against this type of tax is that it does not vary with the profitableness of the business. Those who offer such a criticism are, of course, thinking in terms of a net income tax, which is the only tax that varies according to the profitableness of business. As compared with the property tax, the proposed plan will at least vary in accordance with the volume of business, a characteristic which is entirely lacking in the property tax. In the case of the property tax applied to inventories, however, it is quite apparent that in periods of low business volume, the amount of inventory required to do such business will necessarily be less than that required in periods of higher business activity. In this respect, a tax measured by production and business activity is well adapted to replace the present tax on business inventories if it were enforced as written.

The *Commission* accordingly recommends:

> THAT THE PRESENT PROPERTY TAX AS APPLIED TO BUSINESS INVENTORIES OF RAW MATERIALS, WORK IN PROCESS, SEMI-FINISHED GOODS AND STOCK IN TRADE BE ABOLISHED, AND THAT IN LIEU THEREOF THERE BE ADOPTED A GENERAL BUSINESS EXCISE TAX ON THE VALUE OF GOODS PRODUCED IN NEW JERSEY, IN THE CASE OF MANUFACTURERS, AND ON THE GROSS VOLUME OF BUSINESS IN THIS STATE, IN THE CASE OF ALL OTHER BUSINESS ENTERPRISE.

1. *Rate of General Business Tax*

The rate of any tax is, of course, related to the revenue requirements, and in the present instance these requirements may be defined as the replacement of at least the $17 million now being raised in the aggregate from the taxation of inventories under the general property tax. In the process of equalizing the tax burden and of broadening the tax base, however, there may be an opportunity for the development of substantial additional revenue as an incident of the tax readjustment. While this *Commission* has never conceived itself to be a revenue raising body it must nevertheless be constantly aware of the revenue requirements of the State and local governments and of the implications of its recommendations in terms of these requirements. The *Commission* has sought at the outset to establish a minimum tax rate which would

TABLE XVIII

Taxes Measured By Gross Receipts in Selected States

State and Citation	*Basis—Measure*	*Rates*	*Administration*	*Reports and Payment*
ARIZONA: Occupational Gross Income, Code, Secs. 73-1301 to 73-1334.	Gross proceeds of sales and gross income from certain occupations.	Vary according to type of occupation from ¼ of 1% to 2% plus license fee of $1. Public utilities and motor carriers—1%.	Tax Commission.	15th. Annual report due within 30 days after close of tax year.
CONNECTICUT: Unincorporated Business Gross Income, General Statutes, Secs. 1340 to 1351.	Gross income, allocated to Conn., of unincorporated business, including mercantile, manufacturing, amusement, repair, cleaning, automobile transportation, and other business.	Wholesalers — 25 cents per $1,000. Others—$1 per $1,000. Minimum—$5.	Tax Commissioner.	75 days after close of taxable year.
DELAWARE: Merchants' and Manufacturers' License, Revised Code, Ch. 6, Arts. 13, 14.	Merchants — flat rate plus aggregate cost value, in excess of $5,000, of merchandise, produce, goods, and wares purchased for sale. Manufacturers — flat rate plus aggregate gross receipts.	General merchants' license—$5 plus 1/10 of 1%. Dealers in grain, commercial feeds, fruits, vegetables, poultry, coal, and feed bags—$5 plus 20 cents per $1,000. Vendors of damaged or insolvent goods—$200 plus 10 cents per $100. Manufacturers—$5 plus 1/40 of 1%.	State Tax Department.	June 1.
INDIANA: Gross Income, Burns' Annotated Statutes, Secs. 64-4601 to 64-4632.	Gross income over $1,000. Retail merchants are allowed an exemption of $3,000 on income derived from retail sales.	Wholesale sales and display advertising—¼ of 1%. Retail sales, dry cleaning and laundering—½ of 1%. Motor carriers and other sources—1%.	Gross Income Tax Division.	Last days of April, July, October, and January, or if tax in any quarter does not exceed $10, January 31. Annual report due on January 31.
MISSISSIPPI: Business and Occupation (Sales), Code, Title 40, Ch. 3, Div. 1, as last amended by 1946 Laws, H. B. 311.	Gross income or gross proceeds of sales derived from certain businesses.	Selling—varying according to type of business from ⅛ of 1% to 2%. Sales prohibited by law, 10%. Manufacturing—commercial feeds, ⅛ of 1%; others, ¼ of 1%. Public utilities — industrial gas and electricity, 1%. Motor carriers and others, 2%. Sales prohibited by law—10%.	Tax Commissioner.	15th, or if tax does not exceed $10 in any month, 15th of month after close of calendar quarter.

NEW YORY CITY: Gross Receipts NYC Administrative Code, Ch. 41, Title RR, as last amended by 1946 Laws, Local Law 14.	Gross receipts of certain trades, businesses, or professions and gross income of financial institutions.	Financial institutions — 1/5 of 1%. Other businesses — 1/10 of 1%.	Assessment — Bureau of Excise Taxes, Office of Comptroller. Collection — Division of Special Taxes of Dept. of Finance and City Collector.	June 15.
RHODE ISLAND: Unincorporated Business Tax, 1942 Laws, Ch. 1212, Art. IX, as last amended by 1944 Laws, H. B. 977.	Gross receipts from intrastate business less an annual exemption of $5,000.	Retail mercantile, motor transportation, amusement, and manufacturing businesses—$1 per $1,000. Wholesale mercantile businesses—50 cents per $1,000.	Tax Administrator.	February 15.
VIRGINIA: Merchants' License, Tax Code, Sec. 188.	Wholesalers—gross purchases. Retailers—gross sales.	Wholesalers — $50 on purchases up to $10,000 plus 13 cents per $100 over $10,000. Retailers—$10 on sales up to $1,000; $20 on sales exceeding $1,000 and not exceeding $2,000 plus 13 cents per $100 over $2,000.	Local Commissioners of Revenue and Local Treasurers.	January 10.
WASHINGTON: Business and Occupation, Remington's Revised Statutes, Secs. 8370-4 to 8370-15.	Value of products, gross proceeds of sales or gross income, depending on the type of business.	Mechanical devices—10% if element of skill involved; 20% if no element of skill. Other businesses — 1/100 of 1%, ¼ of 1%, or ½ of 1%, according to type of business.	State Tax Commission.	July 15th and bimonthly thereafter on 15th.
WEST VIRGINIA: Gross Income, Code. Ch. 11, Art. 13.	Gross income over $50 received by all businesses.	195/1000 of 1% to 7.8%, according to type of business minus 10% of total net balance of taxes due.	Tax Commissioner.	Within 30 days after close of calendar quarter, or if tax is less than $100 per year, within 30 days after end of taxable year.

SOURCE: Tax Research Dept., Commerce Clearing House, Inc., *Tax Systems* (New York: Commerce Clearing House, Inc., Nov. 1946). 10 Ed., p. 223–227.

only produce sufficient revenue to protect the various municipalities throughout the State, which have in the past more or less relied upon the taxation of personal property for their local revenue requirements. Provision for State revenue needs out of the same base may then be considered by the proper State authorities, provided no undue burden is placed upon business.

The establishment of the actual rate requires, of course, an estimate of the base to which it will be applied. While the *Commission* has sought to avoid the use of the term "gross receipts" because of its variable content in different State laws and the uncertain connotation that it would have for that reason, for the sake of convenience of expression, the proposed tax may be considered as applicable to the following gross receipts:

	(*in millions*)
Manufacturing	$6,800
Construction	260
Wholesaling	1,700
Retailing	2,970
Service Industries and Amusements	310
	$12,040

A uniform rate of 1 mill (1/10 of a cent per dollar) would, on the basis of the above estimates of gross receipts, produce a yield of $12 million. In order to produce sufficient revenue to replace the $17 million previously assessed on inventories, and to leave a safe margin of additional revenue which will be required to assure adequate distribution to all municipalities, it will be necessary to have a tax rate of two mills on all of the above business groups, or in the alternative to provide a classified rate structure, depending upon the type of business activity, which would produce an average rate of two mills.

The problem of whether to classify the rate or not is complicated by economic considerations which clash with administrative considerations. It might well be argued that manufacturers should be entitled to a lower rate because their business requires the use of a substantial investment in machinery and equipment which under the *Commission's* previous recommendation will subject them to the State-wide tax measured by book value of these items, in addition to the gross receipts measure. Wholesalers might argue that they are inherently required to operate at a smaller margin of profit than retailers and for that reason that they should be allowed a lower rate. The public at large might accept the argument that amusements, which are more or less in the nature of luxuries, could well afford to pay a higher rate than businesses which provide necessities of life.

Any departure from uniformity of rate on the other hand, is bound to create serious administrative difficulties because of the complex nature of our economy. Many business units would fall in more than one rate class and would seek to identify their transactions as much as possible with the lower rate class. Taxpayers in the higher rate classes would quite reasonably be constantly alert to the advantages of a lower rate classification. Since our economy produces very fine distinctions as to class of activity, the administrative problem of determining such controveries would be difficult at best, and would be aggravated by the normal tendency of taxpayers to give themselves the benefit of any doubt in making tax reports. While these arguments each have counter-arguments, the *Commission* believes that as a practical matter, any effort to classify rates should await a period of experience during which the administrative requirements of the tax may be clarified and its actual revenue implications be confirmed. A uniform rate of two mills would mean a tax of $0.20 per hundred dollars on business done. The amount is so small as compared with taxes in other States that the *Commission* does not deem it desirable to complicate the administration, both from the viewpoint of the taxpayer and the State, by attempting to make inter-industry discriminations.

The *Commission* accordingly recommends:

> That the Rate of the General Business Tax be Established Uniformly for All Classes of Business at 2/10 of 1 Per Cent.

2. *Recommended Relief Provisions*

Whenever taxes relating directly to business activity are under consideration, the question of double taxation is usually given some attention. Where goods are the subject of multiple turnover, it is common to point to the fact that the sales value will enter into the tax base of a succession of taxpayers, and from this characteristic to draw the conclusion of double taxation. Upon analysis, it is clear that the same characteristic is present in a personal property tax under which the raw materials may be taxed in the hands of one owner, semi-finished goods in the hands of another, finished goods in the hands of another, stock in trade in the hands of a wholesaler and again later in the hands of the retailer. These are characteristics which inhere in all taxation in so far as each individual taxpayer finds it possible to shift a given tax from himself to others. As this *Commission* has heretofore observed:*

. . . This problem is a very old one and takes numerous forms. It arises as between the Federal Government and the State when both jurisdictions tax the same base—as in income, gasoline, inheritance and estate taxes. It is seen again as between the State and its local subdivisions when a State and a city within its borders both levy sales, gross receipts or franchise taxes. It is perhaps most oppressive when State, county, municipality, school district and special district each levy against the same piece of real property with little or no co-ordination among them. And it is felt among different taxpayers when a tax is levied on corporate income; and when the same income is distributed as dividends, is then taxed again in the hands of the stockholders.

It is plain, however, that taxes can be collected, ultimately, from only two sources—capital or income. The only way to completely avoid multiple taxation is to tax only a *single* base through a *single* jurisdiction. Double taxation is inherent in any governmental structure that accepts the principle of multiple jurisdictions, and is equally inherent in a tax policy that accepts different types of levies for different public purposes. An income tax may be levied on corporate income for revenue purposes; a franchise tax may be required for the privilege of doing business within the State; an excess-profits tax may be imposed to reduce artificial profit advantages arising from a national emergency; and a capital-gains tax may be used to reduce gains arising from circumstances outside the operations of the company. But all of these are paid from either capital or income, and as such they represent double or multiple taxation.

The fault, nevertheless, lies not in double taxation, *but in the excessive burden which double, or even multiple taxation imposes on a given tax base.* So far as the *Commission* is able to determine, few industrial States require so little taxes from business *for State purposes,* as New Jersey. . . .

There are five situations in the proposed tax which would, however, require a measure of relief. These are:

(1) Rentals for use of real estate and the profits from sale of real estate, taxable in New Jersey should be excluded from gross receipts for the reason that the real estate itself if already fully taxed, as a matter of general State policy.

* From the Commission on Taxation of Intangible Personal Property, *Report,* Submitted to the Governor and to the Legislature, March 26, 1945 (Trenton, New Jersey), p. 38.

(2) Where a taxpayer conducts both a wholesaling and a manufacturing business in New Jersey under a single ownership, the taxpayer should be required to report only that part of its wholesaling business which does not relate to products manufactured in New Jersey. This provision would place on an equal plane those manufacturers who sell directly and those who have organized the distribution side of their business as a wholly owned subsidiary corporation.

(3) Interest and dividends received by business enterprise are closely parallel in a tax sense to interest and dividends received by individual residents of New Jersey. It is not deemed feasible to seek to include such receipts in the gross receipts of business at the present time, since the same receipts of individual residents are not taxed in any way. The *Commission* accordingly recommends that interest and dividends be exempt in defining the proposed tax base.

(4) Because of a variety of legal, practical and political restrictions, New Jersey has a welter of corporations which are specially taxed, or in some respects untaxed. These include banks, insurance companies, financial business in competition with national banks, public utilities, building and loan associations and others. The usual business activities of all of these specially taxed types of enterprise should be exempt from the gross receipts tax.

(5) Professional people, such as accountants, dentists, engineers, lawyers, and physicians, are comparable to the individual resident of New Jersey who pays no State or local tax other than a property tax. In the case of professional services, as in the case of interest and dividends, the *Commission* believes that it is undesirable to attempt to extend the gross receipts tax to members of the professions so long as individual residents pay no excise tax upon their receipts. The *Commission* accordingly recommends that the various professions be exempt from the gross receipts tax.

3. *Effect of Recommendations Upon Individual Taxpayers*

The effect of the *Commission's* recommendations will be the sum of the general business excise tax—estimated to yield $24,000,000; and the *ad valorem* tax on non-inventory business tangibles at one-half the local property tax rate—estimated to yield in the aggregate $16,000,000. This will account for an average increase in business taxes over the present tangible personalty levy of about 40 per cent ($40 million ÷ $28.6 million = 1.40). Within this over-all change, however, the effect upon individual taxpayers will vary widely depending upon their business activity and the extent to which their personal property is presently taxed. Some taxpayers will find their taxes reduced while others will realize tax increases.

The *Commission* has endeavored to appraise the effect of its recommendations upon all classes and all sizes of businesses. Because some small business taxpayers are generally assessed at a lower effective rate upon their personal property than are larger taxpayers, they face a greater potential tax increase and they have been the object of special study. As shown in Table XIX, 23 small manufacturing corporations paid (1946) tangible personal property taxes totaling $135,801. The aggregate book value of their tangible personalty is $10,290,000 and their assessed value is $2,546,700, making an average assessment ratio of 24.7 per cent as compared with an average of 35.1 per cent for all reporting corporations (see Table I). The effective tax rate upon their book value is $1.32 per $100.

TABLE XIX

EFFECT OF RECOMMENDATIONS FOR TWENTY-THREE MANUFACTURING CORPORATIONS

		Recommended Tax Program			
Corporations	*Present Personalty Tax (1946)*	*Total*	*.002 Product*	*Machinery at ½ Local Rate*	*Change (+) or (—)*
1	$1,858	$1,336	$820	$516	— $522
2	600	8,578	4,362	4,216	+ 7,978
3	774	1,048	222	826	+ 274
4	485	386	386	....	— 99
5	2,838	1,903	574	1,329	— 935
6	2,196	1,629	1,382	247	— 567
7	304	676	676	....	+ 372
8	1,290	2,392	1,970	422	+ 1,102
9	519	2,461	2,061	400	+ 1,942
10	3,565	2,363	2,363	....	— 1,202
11	519	931	467	464	+ 415
12	4,710	16,193	8,814	7,379	+ 11,483
13	444	826	582	244	+ 382
14	163	4,127	2,620	1,507	+ 3,964
15	2,660	9,653	6,596	3,057	+ 6,993
16	826	1,855	1,194	661	+ 1,029
17	962	4,204	2,424	1,780	+ 3,242
18	235	4,846	3,131	1,715	+ 4,611
19	3,425	9,028	6,168	2,860	+ 5,603
20	445	623	525	98	+ 178
21	28,386	42,274	37,716	4,558	+ 13,888
22	32,160	32,079	15,516	16,563	— 81
23	46,440	52,060	34,000	18,060	+ 5,620
Total	$135,801	$201,471	$134,569	$66,902	+$65,670

Application of the business excise tax at two mills upon the value of product and the *ad valorem* tax at one-half of the local general property tax rate would cause these 23 small manufacturers to pay total taxes of $201,471 under the recommended program. This represents an increase of about 48 per cent over what they paid in 1946.

While their over-all taxes would increase by 48 per cent, or double the minimum expectation for all business (24 per cent), and slightly more than the average expectation (40 per cent), six of the 23 manufacturers would have their taxes reduced from their present level and 17 would receive tax increases.

DISTRIBUTION OF THE TAX YIELD

1. *Nature of the Problem*

As a replacement for the present local property tax upon tangible personal property owned by business, the proceeds of the general business excise tax and the *ad valorem* tax upon business tangibles other than inventories, must be distributed in such a way as to provide support for local services. Property taxes upon business tangibles are now available to local governments as part of the general property tax and replacement requires that the substitute taxes be used in the same way.

Application of the replacement for local taxes can take the form of financing specific local services and thus eliminating or reducing their dependence upon general property tax revenues. In this way the reduction in the general property tax base would be offset by a similar reduction in general property tax requirements. While the specific property tax rates for each local service level may change as a result of the shift, the total rate would not be affected.

The *Commission* has considered several local services from the standpoint of financing them with the replacement taxes and thus reducing or eliminating their dependence upon general property tax revenues. For example, payment of the replacement tax to local school districts would reduce the dependence of schools upon local property taxes. In the same way, other local services such as police, fire protection, courts, hospitals or welfare could be financed from the replacement tax. However, support for each of these services would require distribution according to some formula which would not in every instance be related to the location of personal property or to the incidence of present personal property assessments.

Distribution based upon specific local services would thus involve local property tax adjustments in excess of those incidental to developing uniform assessment and taxation. In this sense, it would go beyond "replacing" a local tax upon property with a substitute tax measured by the value or use of that same property. It would have the effect of redistributing tax revenues from business activity and property situated in some municipalities for use in other municipalities. While such a redistribution of tax revenues is sometimes desirable or even essential, it should not be undertaken without a clear determination of its effect. The *Commission* is of the opinion the immediate tax need of the State is for uniformity of tax treatment for business tangibles and that the matter of distribution should be limited to that of direct property tax replacement.

Direct property tax replacement implies that the replacement tax be returned to the municipalities where the property is located. In the case of the recommended *ad valorem* tax upon business tangibles other than inventory, this represents no large problem of allocation. With few exceptions, taxable property such as machinery and equipment has a definite and readily determined location. It can be taxed at that location at one-half of the local tax rate and the amount of the allocation to each taxing district becomes the sum of such assessments.

Instances where a single taxpayer owns numerous items of related properties and keeps its books in such a way that the book value of each item cannot be determined present one form of allocation problem even in the case of tangible property. For example, gasoline retailers may own a large number of gasoline pumps of varying age and value. General practice in such cases is to keep records showing book value based upon average or group costs and depreciation. In such instances, adoption of a unit rule whereby each item is assigned a book value at the group average would seem justified. While it would not produce entirely accurate results for each piece of equipment, it would produce an accurate over-all result.

In the case of business activity the matter of allocation as among municipalities within New Jersey poses more serious problems. While many businesses have but a single location or office and their activity requires no allocation, others operate from multiple offices or plants situated in different municipalities within the State. Particularly in the case of manufacturers which transfer materials from one plant to another in the course of production, or from plant to sales office, it is difficult to apportion their total business volume as among municipalities. For such businesses, apportionment of manufacturing activity can be based upon the value of product at each plant or within each municipality after allowance for inter-plant transfer of goods in process. Apportionment of sales to municipalities where manufacturers' sales offices are located can represent the mark-up over value of products already apportioned to a New Jersey municipality for purposes of the tax.

While these elements of apportionment of the tax base among municipalities require some administrative discretion, they can probably be reduced to a formula which is sufficiently well defined to enable each municipality to receive an equitable portion of the total tax paid by business taxpayers having more than one location within this State.

State administration of the general business excise tax as well as the *ad valorem* tax upon business tangibles will result in substantial savings to the municipalities in administrative costs. At the same time, it implies additional administrative costs to be borne by the State. Although the State-wide costs of administering these taxes upon a uniform basis will probably be less than the aggregate costs involved in separate administration by each municipality, they represent a State charge which must be taken into account.

Therefore, the *Commission* recommends:

> THAT 5 PER CENT OF THE TAX REVENUE FROM THE GENERAL BUSINESS EXCISE TAX AND THE AD VALOREM TAX UPON BUSINESS TANGIBLES OTHER THAN INVENTORIES BE RETAINED BY THE STATE AND THAT THE REMAINDER BE DISTRIBUTED TO THE MUNICIPALITIES IN WHICH THE BUSINESS IS DONE OR IN WHICH THE PROPERTY IS SITUATED.

The effect of this recommendation will be to provide a small amount of revenue to the State to pay the cost of administering the tax and to replace the expected loss in revenue in the corporation business tax which would result from adoption of the *Commission's* recommendations concerning that tax. The *Commission* estimates that the State will realize about \$2 million to meet its costs of administration and to make up a loss in corporation business tax revenues which is involved in the recommendations in Part II of this Report. *Municipal net revenues will total about* \$38 *million, or* 33 *per cent more than the* \$28.6 *million assessed against all business tangibles in* 1946.

Substitution of a gross receipts or value of product tax base for a property tax base represents a shift from property to activity as a measure of tax liability. As shown in Table XX, it is estimated that the business activity tax structure as described would result in assessments totaling about \$12.5 million upon 1939 activity as compared with \$24 million for 1945. Thus, at the 1939 level of activity the general business excise tax would be about 70 per cent of the \$17 million now assessed upon business inventories. Since the present tax on inventories is only about 6 per cent of the aggregate general property tax, such a fluctuation in yield represents a very moderate recognition of the economic condition of taxpaying businesses.

TABLE XX

ESTIMATED ACTIVITY TAX BASE AND TAX IN NEW JERSEY 1939-1945

(Amounts in Millions of Dollars)

Industry Group	*Activity Tax Base* *1939*	*1945*	*Tax at .002* *1939*	*1945*
1. Manufacturers	$3,429	$6,800	$6.86	$13.60
2. Trade:				
A. Wholesale	912	1,700	1.82	3.40
B. Retail	1,580	2,970	3.16	5.94
3. Services	125	200	.25	.40
4. Construction	164	260	.33	.52
5. Places of Amusement	34	60	.07	.12
6. Hotels	27	50	.05	.10
Total	$6,271	$12,040	$12.54	$24.08

The element of cyclical variation in the amount of tax which can be anticipated from the activity tax base is roughly comparable to variations of business inventories under changing economic conditions. Business activity and business inventories are closely related and they both fluctuate over the course of the business cycle. For example, even during the period of acute war-time shortages, the Federal Reserve Board reported average inventories for 266 department stores in 1945 as 64 per cent greater than the average in 1939.[1] As an "in lieu" tax base for business inventories, business activity is a relatively stable source of public revenues.

2. *Ad Valorem Tax Upon "Other Business Tangibles"*

In 1946, the general property tax upon business tangible personal property other than business inventories amounted to about $11.6 million. However, as shown elsewhere in the *Commission's* report, the amount of this tax is unevenly distributed among local taxing districts. Almost 42 per cent of all assessed valuations for this kind of property was reported by six cities and about one-fourth was reported by Newark alone.

[1] Board of Governors, Federal Reserve System, *Federal Reserve Bulletin,* Vol. 33, No. 1, p. 82 (Washington, January, 1947).

As shown in Table XXI, the book value of all "other business tangibles" in these six of New Jersey's largest cities have been estimated by comparison with tabulations from 1946 corporation business tax returns. These six cities account for $5 million of the $11.6 million of 1946 taxes upon "other business tangibles." They would require an average rate of 2.16 per cent to replace the present tax with one based upon book value. But the required rate is different for each city and varies from 1.27 per cent in Paterson to 2.65 per cent in Newark. According to the abstracts of tax ratables, Jersey City and Bayonne do not assess this class of property and thus have no replacement problem.

Some discrepancies in the basic property tax data are suggested in the comparisons between corporation tax returns and the county abstracts of tax ratables. Although Jersey City and Bayonne report no assessment of "other business tangibles," reported assessments upon such properties owned by them in those two cities average 63 and 43 per cent of book value. Such differences may be due to various causes such as differences in tax year or to differences in allocation of assessments as among the classes of properties. They stand as additional evidence of the haphazard manner in which the general property tax law is applied in the taxation of tangible personal property.

The *Commission's* estimates indicate that a basic rate of one-half of the general property tax rate *ad valorem* upon the book value of all business tangibles other than inventories will be more than adequate to replace the present tax upon such property in municipalities. As shown in Table XXI, it would result in increased tax revenue for 1946 upon this kind of property in each of six large New Jersey cities and the aggregate increase for the six cities would total about $976 thousand. After allowance for a 5 per cent deduction for State administration, the gain in the six cities would exceed $600 thousand. One-half of the general property tax rates for 1946 in the six cities would range from $2.21 per $100 valuation in Paterson to $2.78 in Newark. Application of one-half of the State average general property tax rate in 1946 (2.57%) indicates an over-all tax yield of $15 million to $18 million as compared with $11.6 million assessed under the present law.

3. *Distribution of the Total Revenue to Municipalities*

The *Commission* estimates that its recommendations will result in total tax revenues of about $40 million to replace the $28.6 million now raised from the taxation of business tangible personal

TABLE XXI

Estimated Effect of Substituting Ad Valorem Tax at One-half Local Rate on Book Value for Present Property Tax on Business Tangibles Other Than Inventories for Six Cities

(Amounts in Thousands of Dollars)

	Total 6 Cities	*Newark*	*Trenton*	*Elizabeth*	*Paterson*	*Camden*	*Passaic*
1. Sample Corporations (Tables VIII-XV):							
A. Book Values "Other Tangibles" ...	$64,347	$28,474	$4,736	$4,522	$9,488	$4,442	$12,685
B. Assessment Ratio for Tangible Personal Property	......	47.7%	39.1%	31.8%	28.8%	42.0%	32.7%
2. All "Other Tangibles" in Municipality:							
A. Assessed Value (1946)	$95,923	$58,129	$10,312	$10,159	$9,524	$6,432	$1,367
B. Estimated Book Value	232,747	121,864	26,373	31,947	33,069	15,314	4,180
C. Tax Assessed (1946)	5,021	3,232	520	464	421	316	68
3. Estimated Tax Rate Required Upon Book Value to Replace Present Tax	2.16%	2.65%	1.97%	1.45%	1.27%	2.06%	1.63%
4. Estimated "Replacement" Effect:							
A. One-half General Property Tax Rate (1946)	......	2.78%	2.52%	2.29%	2.21%	2.46%	2.48%
B. Tax at ½ General Property[1] Tax Rate Upon Book Value (2B X 4A)	$5,997	$3,388	$665	$732	$731	$377	$104
C. Replacement Tax Exceeds 1946 Tax (4B — 2C)	976	156	145	268	310	61	36

[1] Gross tax subject to 5% deduction for State administration.

property. While this means an over-all increase in tax revenues from business tangibles of about 40 per cent based upon 1946, after deductions of 5 per cent of the tax—$2 million—to be retained by the State for administration, the average increase for all municipalities will be about 33 per cent, but the effect of the change will vary as among the municipalities. The influence of the change in each municipality will depend upon the amount of business done and the value of business tangibles within its jurisdiction as well as the extent to which it now assesses business tangibles.

However, *estimates* by the *Commission* have indicated virtually every municipality would realize more tax revenue than it received in 1946. As shown in Table XXII, the increase for the six largest cities in the State is expected to total about $3.8 million, or 27 per cent of their 1946 tax upon all business tangibles. Also as shown in Table XXII, each part of the recommended replacement is more than adequate when considered individually. Except in Jersey City which reports large assessments upon business inventories, the activity tax at two mills is more than sufficient to replace the 1946 property tax upon inventories. In all of the six cities, and particularly in Jersey City which reports no assessment upon "other business tangibles," the *ad valorem* tax at one-half the general property tax rate upon book value of business tangibles other than inventories is expected to more than replace the 1946 property tax upon this class of property. *After deduction of* 5 *per cent of the tax to be retained by the State for administrative purposes, the net increase in tax revenue for the six cities will be about* 21 *per cent over* 1946.

Estimates were not prepared in as much detail for all municipalities as were those shown in Table XXII for the State's six largest cities. However, these cities accounted for almost one-half of the total tax upon business tangibles in 1946 and they are the municipalities in which the implications of the change are most significant. The fact that the expected over-all net increase in tax revenues for them is only 21 per cent over 1946, as compared with an average of 33 per cent (net) for the whole State, means that the average increase for other municipalities will be something like 45 per cent.

TABLE XXII

ESTIMATED EFFECT OF MODIFYING BUSINESS TANGIBLE PERSONAL PROPERTY TAX IN SIX CITIES (1946)

(Thousands of Dollars)

Item	*Total 6 Cities*	*Newark*	*Jersey City*	*Camden*	*Paterson*	*Trenton*	*Elizabeth*
1. Activity Tax—1945 (Rate .002):							
A. Manufacturing	$4,673.7	$1,690.0	$1,117.6	$755.9	$423.6	$332.9	$353.7
B. Retail Trade	2,043.2	930.7	261.1	166.5	297.1	194.7	193.1
C. Wholesale Trade	2,784.8	1,610.4	673.9	106.7	159.5	139.6	94.7
D. Construction	176.8	61.3	65.5	8.3	14.1	15.6	12.0
E. Services	182.4	83.2	45.5	11.7	17.3	14.3	10.4
F. Amusements	52.6	21.6	11.7	4.7	4.5	6.1	4.0
G. Hotels	17.0	6.9	2.3	2.0	.9	3.2	1.7
Total Tax—1945	$9,930.5	$4,404.1	$2,177.6	$1,055.8	$917.0	$706.4	$669.6
2. Tax on Inventories (1946)	$9,076	$3,399	$3,912	$485	$460	$640	$180
3. Increase (+) or Decrease (—)	+855	+1,005	—1,734	+571	+457	+66	+490
4. Estimated Tax on Other Business Tangibles (1946)	7,893	3,388	2,000[1]	377	731	665	732
(One-half Property Tax Rate)	....	2.78%	3.19%	2.46%	2.21%	2.52%	2.29%
5. Tax on Other Business Tangibles (1946)	$4,953	$3,232	....	$316	$421	$520	$464
6. Increase 1946 (+)	+2,940	+156	+$2,000	+61	+310	+145	+268
7. Total Increase 1946 (+)	+3,795	+1,161	+266	+632	+767	+211	+758
8. Five Per Cent of Tax Retained by State for Administration	891	389	209	72	83	68	70
9. Net Increase 1946 (+)	2,904	772	57	560	684	143	688

[1] Estimate based upon inadequate data for Jersey City.

FARM AND HOUSEHOLD PERSONALTY

The *Commission* has considered the problems of farm and household personalty as separate from the problems of taxation of business personalty. In the case of farm personalty, it has been the practice throughout the State to make a single assessment to the individual farm for its household goods and its farm stock and machinery, some of the latter being used in part for commercial purposes and in part for household purposes. In both household goods and farm livestock and machinery, the amounts of the present tax assessments are relatively small. In the aggregate throughout the State in 1946, they were:

Farm stock and machinery	$450,000
Household goods	5,588,000

While the household goods item appears substantial, it is subject to an extraordinary degree of delinquency, the amount of which cannot be estimated accurately. In some communities, the amount of household assessments is collected as fully as the real estate assessments, but in the larger cities it has been found entirely impractical to administer the present tax on household goods. For example, the city of Newark reports that on the basis of past experience, its result for 1946 will be:

Household Personalty Tax Assessed—$333,716.76.
Amount Uncollectible—$223,078.32.
Amount Cancelled according to law—$21,533.16.
Amount Paid or to be Paid for the Current Year—$89,105.28.
Percentage Uncollectible—73.3%.

The *Commission* has used a questionnaire directed to 85 municipalities which assessed $100,000 or more in total personal property tax in 1946, or in which total personal property tax assessed amounted to 20 per cent or more of the general property tax, to determine whether or not the Newark experience was typical. The results of the questionnaires were not satisfactory for the reason that most municipalities were unable to report separately the extent of delinquency on household goods assessments, as distinguished from total personal property assessments, and even in some cases as distinguished from real estate assessments.

Tax authorities have long recognized that ad valorem taxation of such personalty has been ineffective and there has been an ever-increasing tendency on the part of the States to exempt it either completely or in part from taxation. In nine States this personal property is fully exempt, in most States it is partially exempt and in only nine States is it fully taxable.[1] The justification for exemption is stated by Professor Buehler:

> Household furnishings and personal effects have rarely, if ever, been assessed with any great success. They are not uniform in their characteristics, are often mobile, and are very commonly not reported for taxation. Evasion receives the blessings of the assessors, who do not wish to pry into the secrets of the household and who also have an aversion to becoming unpopular among the taxpayers who elect them to office. The administrative problems of taxes upon this property are grave and numerous and only small revenues can be obtained. There is more and more a tendency to recognize the facts of evasion and legally to exempt household furnishings and personal effects from property taxation. It is argued that this property is of a consumptive, rather than a productive, character, although this is more of an excuse than a justification for exemption. Consumption goods are liable for various specific and general sales taxes and are taxed by governments hungry for revenue when they find it feasible to tax them. But property taxes on these commodities are impracticable, as tax students have long recognized, and efforts to enforce such taxes should be abandoned.[2]

* * *

The *Commission's* findings and conclusions are fully in accord with the general opinion of tax authorities elsewhere. To abolish the tax on household goods, however, without providing any replacement tax would mean that in those municipalities now deriving any substantial amount of revenue from the taxation of household goods, the burden would be shifted to real estate. This would not in effect differ in most communities from the effect of the present practice, which is to assess only real estate owners for personal property tax. In the *Commission's* judgment, however, each community should be free to decide for itself whether it wishes householders to make some direct contribution for the support of local government particularly householders who are renters. The *Commission* has accordingly sought to provide some restricted form of local taxation which might be used by those communities wishing to do so to replace the present revenue from the assessment of household goods.

The use of an occupancy tax has been suggested to the *Commission* by many different assessors, and one form of it has been worked out in some detail by the Association of Essex County Assessors, which submits the following method of procedure:

[1] Alfred C. Buehler, "Personal Property Taxation," in *Property Taxes* (New York: Tax Policy League, Inc., 907 Broadway, New York City, 1940), p. 129.
[2] *Ibid.*

"That we recommend for adoption by the taxing district members of this Association the proposed schedule dated December 4, 1943, as a basis for the assessment of household personal property; the same to be applied not rigidly, but with discretion by the assessors."

PROPOSED UNIFORM HOUSEHOLD PERSONAL PROPERTY ASSESSMENTS FOR ESSEX COUNTY

MONTHLY RENTAL UNIT ROOM SYSTEM

Monthly Rent	*Assessment Per Room*	*Monthly Rent*	*Assessment Per Room*
$ 10. — 20.	$ 10.00	$140. — 150.	$140.00
20. — 30.	20.00	150. — 160.	150.00
30. — 40.	30.00	160. — 170.	160.00
40. — 50.	40.00	170. — 180.	170.00
50. — 60.	50.00	180. — 190.	180.00
60. — 70.	60.00	190. — 200.	190.00
70. — 80.	70.00	200. — 210.	200.00
80. — 90.	80.00	210. — 220.	210.00
90. — 100.	90.00	220. — 230.	220.00
100. — 110.	100.00	230. — 240.	230.00
110. — 120.	110.00	240. — 250.	240.00
120. — 130.	120.00	250. — 260.	250.00
130. — 140.	130.00		

Total Minus $100

Room values to include 1st and 2d floors only.

Third floor or attic rooms to be figured at 50% of 1st and 2d floor room values, unless tenanted.

Above figures do not include jewelry, diamonds, etc.

Example:

6-room house renting for $55.00 per month.

Assessment per room in $50. to 60 range = $50. per room.

$50.00 × 6 = $300. Deducting $100 (exemption by law) leave a net assessment of $200.

A municipally imposed occupancy tax is not particularly common in this country, but it has been used with success in many Canadian cities and has long been an important part of the English taxing system. In this country, the city of New York is the only city which imposes an occupancy tax, and that only on commercial rentals. Since other recommendations contained in this report disposed of the personal property tax problem in so far as business is concerned, this *Commission* has considered an occupancy tax only with respect to its application to residential occupancy.

This type of tax has received favorable comment from leading authorities on taxation. The Committee on Inter-governmental Fiscal Relations in 1943 recommended that the States adopt enabling legislation which would permit cities to supplement the general property tax with a rental tax on occupiers.[3] The occupancy tax in the judgment of the Committee, "could be added as either a replacement or a supplement to the general property tax."[4] In "Where Cities Get Their Money," a publication by the Municipal Finance Officers Association of the United States and Canada, tenants' and occupiers' taxes are treated in some detail. The authors consider the occupancy tax as "an improvement over the household personal property tax which it superseded."[5]

Just as the decision to impose an occupancy tax should rest with the local governing bodies, so should the details of administration, exemptions, and enforcement be left to local decision. The *Commission* would anticipate, however, that some municipalities may desire to levy a uniform occupancy tax, applicable to owners and renters alike, measured by the number of rooms, or by the reserved or imputed rental value of the occupied property, or by any other measure which would so far as possible treat all persons in the same situation equally. No municipality would be obliged to levy the occupancy tax, nor would any municipality be obliged to levy it on both owners and renters if it does not desire to do so. The local governing body will determine this matter in much the same way that it now determines the amount for the local budget and the general property tax rate.

The *Commission* accordingly recommends:

> THAT THE TAXATION OF HOUSEHOLD GOODS AS PROPERTY BE COMPLETELY ABANDONED, AND THAT MUNICIPALITIES BE GIVEN THE POWER TO IMPOSE AS A MATTER OF LOCAL HOME RULE AN OCCUPANCY TAX WHICH WOULD APPLY IN SUCH MANNER AS THE LOCAL GOVERNING BODY MAY DETERMINE.

* * *

Farm Personalty

We have already indicated the relationship between the problem of farm personalty taxation and the taxation of household goods. Beyond this, however, the assessment and taxation of farm stock

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[3] U. S. Congress, 78th, 1st Sess., Sen. Doc. 69, *Federal, State, and Local Government Fiscal Relations* (Washington, D. C.: U. S. Gov. Print. Off., 1943), p. 45.

[4] *Ibid.*, p. 410.

[5] A. M. Hillhouse and Muriel Magelssen, *Where Cities Get Their Money* (Chicago: Municipal Finance Officers Assoc. of the U. S. and Canada, 1945), p. 109.

and machinery presents a problem of local values and usages which the *Commission* does not deem it desirable to disturb at this time. The amount involved, some $450,000 out of a total of $34,649,000, is so small that it does not affect the State-wide solution of the personal property tax problem. And finally, the taxation of farm personalty is so inter-related with the taxation of farm real estate, in that the latter is customarily assessed at only a fraction of its true value, that the *Commission* has found its general recommendations which relate to other forms of personal property unsuited to the conditions under which farm personalty is owned and used. In brief, the land itself is very much like a piece of machinery in industry, and the farm stock and machinery which either work the land or are sustained by the land, present special problems which are not met in the assessment of general business personalty. The local assessor in farm communities can be reasonably expert and accurate in his assessment of farm personalty, as well as farm real estate. To the extent that any inequalities or inequities have developed in this field, the solution appears to lie peculiarly within the hands of the county boards of taxation as presently constituted.

The *Commission* accordingly recommends:

THAT THE TAXATION OF FARM PERSONALTY REMAIN AS AT PRESENT TO BE ADMINISTERED UNDER THE GENERAL PROPERTY TAX.

PART II

CORPORATION BUSINESS TAX ACT (1945)

Following enactment by the Legislature of the Corporation Business Tax Act (*Laws of 1945*, ch. 162) there have been several requests for its modification. The nature of these requests has not changed materially since last year when the *Commission* reported that they fall within the following categories:[1]

> "1) Adjustment of the allocation provision of Section 5(b) of the Corporation Business Tax Act, requiring the net worth of domestic corporations to be allocated on a basis which attributes all intangible personalty to New Jersey. This is urged particularly by corporations which deem it necessary to operate in foreign countries through subsidiaries, as well as all domestic corporations holding large blocks of intangibles.
>
> "2) Permission for corporations to file consolidated returns in reporting their tax liabilities under the act. This is particularly urged by large domestic corporations which operate through subsidiaries in New Jersey, otherwise have few tangible assets in the State, and have experienced a very substantial increase in their State taxes under the new law.
>
> "3) Provision for a special allocation factor for financial corporations, such as personal holding companies and investment companies, which do not fall within the statutory classification of 'regulated investment companies.'
>
> "4) Modification of the gross receipts factor, in allocation of net worth under Section 6, by adjustment of the sales attribution basis for all corporations to give more weight to selling activity and the location of customers."

The *Commission* considered the requests for change last year, but felt that it did not have sufficient information upon which to base recommendations concerning modification of a tax which had never actually been applied. Accordingly the *Commission* reported to the last Legislature:[2]

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[1] N. J. Commission on State Tax Policy, *First Report* (Trenton, February 28, 1946), p. xiv. Hereafter referred to as *First Report* (1946).

[2] *Ibid.*, pp. xiv and xv.

In the enactment of legislation of such far-reaching effects as the Corporation Business Tax Act, it is impossible to foresee all the implications as they may affect individual businesses. Some inequities were implicit in the process of transition from the old property tax. While every care was taken to determine the impact of the new tax on all types of corporate enterprise, and careful estimates made as to the potential yield, it is not possible to speak with full assurance where there is no experience as a guide. The *Commission* has therefore taken the position *that it will recommend no changes in the Corporation Business Tax Act, until a full year's operation under the act has been completed.* At that time, the *Commission* will give the fullest consideration to all taxpayers who may have proposals for modification of the act; and will make such recommendations to the 1947 Legislature as may seem to be appropriate.

"On February 8, however, the *Commission* held a hearing at the request of the Special Committee to Revise the New Jersey Corporation Franchise Tax Law of 1945, of the New Jersey State Chamber of Commerce, to discuss the question of recommending some of the above proposals to the Legislature during the present session. Those speaking for the Committee felt that the present law contained substantial inequities which required excessive payments on the part of some taxpayers, and worked injustices as between domestic and foreign corporations. They further pointed out that inasmuch as a lien applied to the new taxes as of January 1 of each year, the alleged unequal and excessive treatment would continue at least *two* years, unless corrected during the present session.

"While the *Commission* conceded that there might, in some cases, be a foundation to these claims, it lacked, at present, any data upon which to measure the effects of the adjustments proposed. It seemed clear, however, that should the adjustments be allowed, a substantial loss in revenue would accrue to the State, which might have to be corrected by an increase in the rate. The *Commission* was, therefore, unwilling to propose amendments until data arising from a year's experience under the act were available. It did, however, entertain a suggestion from the Committee that the date upon which the lien applied (January 1) be moved forward into the ensuing year (for that year only) so as to give the Legislature an opportunity to make such amendments as it deemed appropriate, and, at the same time, to protect the taxpayer from two years of allegedly excessive taxes by avoiding the application of the lien in 1947 until the Legislature had considered the question. . . ."

Upon the recommendation of the *Commission,* the Legislature postponed the effective date of the lien and the first filing date for 1947 taxes under the Corporation Business Tax Act from January 1 to April 15 (Laws 1946, ch. 307). This made it possible for any changes in the law which the Legislature may adopt prior to April 15 of this year to be applied in determining the current tax liability. While corporations which may realize some tax relief as a result of such changes will have paid under the original act in 1946, they can be protected from paying taxes for two years under an unamended act.

* * *

Operation During 1946

A review of the results obtained from the application of the Corporation Business Tax Act for one year (1946) indicates the following results:

1. *The Total Tax Yield Amounted to $7.1 Million*

As compared with estimates made by the *Commission on Taxation of Intangible Personal Property*—$6.5 million[1]—the tax yield of the Business Corporation Tax Act in 1946, its first year of operation, has been surprisingly close to what was anticipated from it. The yield of the tax in 1946 exceeded the estimate by about 9 per cent.

TABLE I

NEW JERSEY CORPORATION BUSINESS TAX ACT (1945)
ESTIMATED AND ACTUAL EXPERIENCE IN 1946

(Amounts in Thousands of Dollars)

Classification	Commission Estimates[1] Number of Corporations	Amount of Tax	1946 Experience[2] Number of Corporations	Amount of Tax	1946 Tax As % of Estimate
1. Domestic Corporations:					
A. 25 Largest Taxpayers[3]	25	$1,600	25	**$2,048**	**128**
B. Other Domestics Tabulated	28,825	2,900	26,680	3,025	106
C. Other Domestics Not Tabulated[4]	....	....	....	57	...
All Domestics	28,850	$4,500	....	$5,130	114
2. Foreign Corporations:					
A. Foreign Tabulated	3,630	$2,000	3,538	$1,859	97
B. Foreign Not Tabulated[4]	....	....	....	87	...
All Foreign	3,630	$2,000	....	$1,946	97
Total—All Corporations	32,480	$6,500	....	$7,076	109

1 N. J. Commission on Taxation of Intangible Personal Property, Report (March 26, 1945), pp. 65-69.
2 N. J. Department of Taxation and Finance, Corporation Tax Bureau.
3 Originally estimated as those corporations having total net worth of $100 million or more before allocation to New Jersey. However, not all of the twenty-five largest taxpayers are within this size group.
4 Tax collections not accounted for in statistical tabulation.

2. *Distribution of Tax Burden Among Taxpayers*

As shown in Table I, the total tax for domestic corporations in 1946 was $5,130 thousand, or about 14 per cent more than the

1 N. J. Commission on Taxation of Intangible Personal Property, *Report* (March 26, 1945), p. 65; Estimate stated as $6 million to $7 million, p. xxvi.

$4.5 million anticipated by the *Commission.* Most of this discrepancy between expectation and realization for domestic corporations occurred among the 25 largest taxpayers who paid 28 per cent more than was anticipated. In contrast, the total tax for foreign corporations was $1,946 thousand, or about 3 per cent less than the $2.0 million estimated by the *Commission.*

Statistical tabulations of corporation business tax returns filed in 1946 did not include all taxes paid. This resulted from exclusion of some corporations and from tabulations based upon unaudited, and in some instances, preliminary, or incomplete, returns. The tabulations represent 7 per cent fewer domestic corporations and 3 per cent fewer foreign corporations than the *Commission* anticipated would be taxable. While the average tax upon foreign corporations tabulated in 1946 was about 4 per cent less than was anticipated, the average tax for domestic corporations tabulated was about 22 per cent more than was expected. For the 25 largest domestic corporation taxpayers the tax was 28 per cent above expectations and the average tax for all other domestic corporations was about 12 per cent higher than was anticipated.

TABLE II

New Jersey Corporation Business Tax Act (1945)

Distribution of Taxpayers and Tax by Size of Taxable Net Worth in 1946

Amount of Taxable Net Worth	Domestic Corporations Number	Tax (000's)	Average Tax	Foreign Corporations Number	Tax (000's)	Average Tax
1. 0—$104,999	23,756	$685	$29	2,466	$127	$51
2. $105,000—$504,999	2,150	368	171	591	117	198
3. $505,000—$1,004,999	343	195	567	172	97	566
4. $1,005,000—$10,004,999	371	846	2,281	271	635	2,343
5. $10,005,000—$100,004,999	78	1,855	23,786	36	708	19,656
6. $100,005,000 and over	7	1,124	160,518	2	176	87,854
Total—All Corporations	26,705	$5,073	$190	3,538	$1,859	$525

Source: N. J. Department of Taxation and Finance, Corporation Tax Bureau. Includes only corporations tabulated (see Table I).

As shown in Table II, seven domestic corporations account for $1.1 million, or more than one-fifth of the total tax upon all domestic corporations and more than one-seventh of the total tax upon all corporations. The average tax for these seven corporations was $161 thousand. The *Commission* estimated that the 25 largest domestic corporations would pay a total tax of $1.6 million, or 35 per cent of the tax for all domestic corporations. However, in 1946, the 25 largest domestic taxpayers paid taxes totaling a little more than $2 million, or about 40 per cent of all domestic corporation taxes. These 25 corporations accounted for about 70 per cent of the excess of tax yield over tax expectation for domestic corporations and almost four-fifths of the over-all excess for all corporations.

As shown in Table III, manufacturing corporations accounted for almost $2,863 thousand, or 56 per cent of all taxes paid by domestic corporations and for $1,365 thousand, or 73 per cent of all taxes paid by foreign corporations. As the second largest group of taxpayers, finance and real estate corporations represented two-fifths of all domestic taxpayers and accounted for 24 per cent of all taxes paid by domestic corporations and 11 per cent of all taxes paid by foreign taxpayers.

TABLE III

NEW JERSEY CORPORATION BUSINESS TAX ACT (1945)

DISTRIBUTION OF TAXPAYERS AND TAX BY BUSINESS CLASSIFICATION IN 1946

Business Classification	Domestic Corporations Number	Domestic Corporations Tax (000's)	Domestic Corporations Average Tax	Foreign Corporations Number	Foreign Corporations Tax (000's)	Foreign Corporations Average Tax
1. None	896	$65	$73	100	$46	$457
2. Mining and Quarrying	107	95	883	29	11	375
3. Manufacturing	4,784	2,863	598	1,465	1,365	931
4. Public Utilities	833	138	166	163	29	181
5. Retail and Wholesale Trade	6,000	534	89	586	126	215
6. Service	2,202	101	46	204	40	197
7. Finance and Real Estate	10,729	1,206	112	724	209	289
8. Construction	894	55	62	248	30	121
9. Agriculture, Forestry and Fishing	253	16	65	19	3	164
Total—All Corporations	26,698	$5,073	$190	3,538	$1,859	$526

Source: N. J. Department of Taxation and Finance, Corporation Tax Bureau. Includes only corporations tabulated but excludes seven corporations for which information was not reported (see Table I).

These results are consistent with *Commission* expectations. As a replacement tax for the general property tax upon intangible personal property, the corporation business tax has brought into the tax base many financial and real estate corporations with intangibles which were formerly taxable but, in most instances, not taxed. This group includes numerous holding companies which had colonized in Flemington and which had been taxed at low property tax rates. Application of the tax to the net worth of manufacturing corporations corrected an inequity which had grown up in the former New Jersey capital stock tax as an exemption for manufacturing, mining, horticultural and agricultural corporations. Concerning this group, the *Commission on Taxation of Intangible Personal Property* reported:[1]

> "The exemption of manufacturing, mining, horticultural and agricultural corporations from the tax is indefensible. The exemptions were in the original act of 1834, and were included to attract industries to the State. Such exemptions would have no effect whatsoever on an

[1] N. J. Commission on Taxation of Intangible Personal Property, *Report* (March 26, 1945), p. 48.

industrial location today. The tax would, indeed, be a negligible factor in financial planning.

"Provision for the taxation of foreign corporations is discriminatory and unsound. This tax was not imposed until 1937. The intent was to tax the capital stock of a foreign corporation in the same proportion as the ratio between its business activity in New Jersey and its business activity elsewhere. Regardless of legal form, this tax discriminates in effect unfairly against domestic corporations, which are not permitted to allocate."

* * *

Except in the case of a few large domestic corporations, application of the Corporation Business Tax Act in 1946 has produced over-all tax results about as anticipated by the *Commission*. However, it has tended to result in a heavier tax upon New Jersey corporations than upon foreign corporations. This is particularly evident in the case of the larger corporations with substantial holdings of intangible personal property.

3. *Application of Allocation Factors*

About 96 per cent of all domestic corporations and 28 per cent of all foreign corporations taxed under the New Jersey Corporation Business Tax Act in 1946 claimed no inter-State allocation and paid taxes upon the full amount of their adjusted net worth. All of them were not corporations engaged in wholly intra-State activity and thus not entitled to allocate. Many of these taxpayers were small corporations subject to the minimum tax only. A smaller number elected to disregard the allocation because the possible tax saving was not sufficient to justify the added cost of preparing the data.

However, there were some domestic taxpayers whose assets consist largely of intangible personal property and who filed no allocation because they would come under Section 5(b) and find their net worth entirely allocated to New Jersey. As shown in Table IV, there were nineteen domestic corporations with adjusted net worth of more than $10 million which did not allocate. Two of these corporations reported taxable net worth in excess of $100 millon.

Eight domestic corporations and 444 foreign corporations stated that they did no business in New Jersey and that none of their net worth was allocable to the State for tax purposes. Subject to further audit, these 452 corporations paid the minimum corporation business tax for the maintenance of their New Jersey charter or franchise.

Of the 2,104 foreign corporation taxpayers who used the New Jersey allocation, 1,676, or almost four-fifths of them, allocated according to the business factor under Section 6 of the Corporation Business Act. These corporations accounted for 47 per cent of all foreign corporation tax returns and 71 per cent of all taxes paid by foreign corporations. Only 423 foreign corporations allocated according to the asset factor under Section 5(b) and they accounted for about 10 per cent of all taxes paid by foreign corporations. While 38 foreign corporations reported more than $10 million of taxable net worth in New Jersey, only four of them allocated according to the asset factor under Section 5(b).

In contrast to the experience of foreign corporations, 947 or 91 per cent of the 1,040 domestic taxpayers who used the New Jersey allocation used the asset factor under Section 5(b). They represented 3½ per cent of all domestic taxpayers and accounted for over one-half of all taxes paid by domestic corporations. Only 93 domestic corporations allocated according to the business factor under Section 6 and this included only one of the 85 domestic corporations reporting taxable net worth in excess of $10 million.

As shown in Table IV, these comparisons indicate that foreign corporations predominantly used the business allocation factor under Section 6 while domestic corporations predominantly used the asset factor under Section 5(b). While domestic corporations probably have a greater portion of their total tangible assets in New Jersey than do foreign corporations, a larger element in this difference in allocation as between domestic and foreign corporations is the manner in which intangibles of domestics are attributed to New Jersey.

Examination of the returns yielded no evidence that the extent of intangible holdings has any influence upon the allocation factor applied to foreign corporations. Intangibles account for about the same proportion of total assets of corporations under the asset factor as they do under the business factor. However, in the case of domestic corporations, intangibles account for 52 per cent of the total assets of corporations using the asset factor in allocation while they amount to only 18 per cent of the total of those corporations using the business factor.

TABLE IV

New Jersey Corporation Franchise Tax Returns (1946)

Distribution of Returns and Tax by Size of Taxable Net Worth and by Allocation Factor

(Tax in Thousands of Dollars)

Amount of Taxable Net Worth	Allocation 100 Per Cent		Allocation by Assets		Allocation by Business Factor		Allocation None Claimed		Totals All Returns		Per Cent Distribution All Returns	
	Returns	Tax	Returns	Tax	Returns	Tax	Returns	Tax	Returns	Tax	Returns	Tax
A. 26,705 Domestic Corporations:												
1. 0—$104,999	23,260	$668	426	$15	62	$2	8	$.2	23,756	$685	88.9	13.5
2. $105,000—$504,999	1,913	322	217	41	20	4	...	...	2,150	368	8.0	7.2
3. $505,000—$1,004,999	269	151	68	40	6	4	...	...	343	195	1.3	3.8
4. $1,005,000—$10,004,999	196	346	171	495	4	6	...	...	371	846	1.4	16.7
5. $10,005,000—$100,004,999	17	373	60	1,472	1	11	...	...	78	1,855	.3	36.6
6. $100,005,000 and over	2	434	5	690	...	...	...	...	7	1,124	.1	22.2
Totals	25,657	$2,294	947	$2,753	93	$27	8	$.2	26,705	$5,073	100.0	100.0
Per Cent Distribution	96.1	45.2	3.5	54.3	.3	.5	.1	.004	100.0	100.0	...	...
B. 3,538 Foreign Corporations:												
1. 0—$104,999	703	$36	261	$14	1,054	$55	444	$22	2,466	$127	69.7	6.8
2. $105,000—$504,999	166	32	99	21	325	64	...	...	591	117	16.7	6.3
3. $505,000—$1,004,999	47	27	23	13	102	58	...	...	172	97	4.9	5.2
4. $1,005,000—$10,004,999	68	144	36	82	167	409	...	...	271	635	7.7	34.1
5. $10,005,000—$100,004,999	6	74	4	67	26	567	...	...	36	708	1.0	38.1
6. $100,005,000 and over	...	...	...	...	2	176	...	...	2	176	0.0	9.5
Totals	990	$313	423	$196	1,676	$1,328	444	$22	3,538	$1,859[1]	100.0	100.0
Per Cent Distribution	28.0	16.8	11.9	10.5	47.4	71.4	12.5	1.2	100.0	100.0	...	...

[1] Includes five foreign corporations with assets and business factors alike but less than 100%.

As shown in Table V, intangibles in New Jersey amounted to more than the taxable net worth for all sizes of domestic corporations using the asset allocation under Section 5(b) in 1946. On the average for the 947 domestic corporations in this group, the intangibles were 129 per cent of the taxable net worth as compared with 82 per cent for the 423 foreign corporations using the same allocation factor. Whereas intangibles were predominant in the allocation for domestic corporations, the major factor for foreign corporations was gross receipts. Gross receipts allocated to New Jersey represented 226 per cent of taxable net worth for all foreign corporations using either assets or business factor and only 35 per cent of taxable net worth for all domestic corporations using either allocation factor. In terms of gross receipts, tangible property and payrolls allocated to New Jersey, the tax upon domestic corporations is about six times that upon foreign corporations. This results from so much of the total tax paid by domestics coming from the large holding corporations which have nothing more than a charter and statutory office in this State.

The *Commission on Taxation of Intangible Personal Property* was aware of the possibilities of such a result but it anticipated that few ordinary business corporations would allocate according to assets under Section 5(b).

> "The proposed Alternative 2 allocation, according to the ratio of assets in the State to total assets, will very infrequently give a higher allocation factor in-State than the three-way formula for the ordinary business corporation. It is intended primarily to provide an adequate replacement base in the case of corporations having relatively large holdings of intangible personal property, but insufficient activity in New Jersey to produce a reasonably substantial base under the tangible property-gross receipts-wages formula of Alternative 1. Such corporations are the most direct beneficiaries of the abondonment of taxation of intangibles upon an *ad valorem* basis, and for this reason justify the alternative formula. The total assets allocation under Alternative 2 will also minimize the possibilities for tax avoidance under Alternative 1 in the case of domestic corporations.
>
> "Allocation according to total assets will require that all intangible personal property of domestic corporations be deemed to be within the State, but will give full out-of-State recognition to tangible property according to its physical location. This is not only just tax policy in light of New Jersey's intangibles tax history, but places the proposed formula beyond question under the Federal Constitution. It is similar in effect to the allocation of 'corporate excess' in Massachusetts, to the apportionment of capital stock of domestic corporations in Pennsyl-

TABLE V

3,596 Corporation Franchise Tax Returns (1946)

Relationship of Tangibles, Intangibles, Gross Receipts, Total Assets and Payrolls in New Jersey to Taxable Net Worth

By Amount of New Jersey Gross Receipts and By Allocation Factor

(Amounts in Tens of Thousands of Dollars)

New Jersey Gross Receipts and Allocation Factor	Number of Returns	Taxable Net Worth	Intangibles in N. J.	Tangibles in N. J.	Total Assets in N. J.	Gross Receipts in N. J.	Payroll in N. J.	Per Cent of Taxable Net Worth: Intangibles in N. J.	Tangibles in N. J.	Total Assets in N. J.	Gross Receipts in N. J.	Payroll in N. J.
DOMESTIC												
A. Allocation by Assets:												
1. 0—$104,999	680	$2,247,36	$3,185,24	$11,29	$3,196,54	$3,79	$3,84	141.7	0.5	142.2	0.2	0.2
2. $105,000—$504,999	86	124,80	142,78	11,61	154,46	23,57	6,76	114.4	9.3	123.8	18.9	5.4
3. $505,000—$1,004,999	40	39,06	40,96	8,94	49,91	28,27	7,79	104.9	22.9	127.8	72.4	19.9
4. $1,005,000—$10,004,999	106	836,15	927,58	125,21	1,052,85	429,85	98,07	110.9	15.0	125.9	51.4	11.7
5. $10,005,000—$100,004,999	35	866,01	1,025,23	230,40	1,255,58	875,75	218,12	118.4	26.6	145.0	101.1	25.2
6. $100,005,000 and over	....	......	......	......	......	......	......	....	....	....	....	....
Total	947	$4,113,38	$5,321,79	$387,45	$5,709,34	$1,361,23	$334,58	129.4	9.4	138.8	33.1	8.1
B. Allocation by Business Factor:												
1. 0—$104,999	65	$6,03	$3,14	$3,60	$6,80	$47	$24	52.1	59.7	112.8	7.8	4.0
2. $105,000—$504,999	11	2,78	1,94	1,75	3,69	3,08	53	69.8	62.9	132.7	110.8	19.1
3. $505,000—$1,004,999	5	4,99	3,43	4,84	8,24	3,54	76	68.7	97.0	165.1	70.9	15.2
4. $1,005,000—$10,004,999	11	5,41	4,68	4,92	9,62	26,56	5,16	86.5	90.9	177.8	490.9	95.4
5. $10,005,000—$100,004,999	1	13,23	13,39	8,16	21,56	44,99	3,29	101.2	61.7	163.0	340.1	24.9
6. $100,005,000 and over	....	......	......	......	......	......	......	....	....	....	....	....
Total	93	$32,44	$26,58	$23,27	$49,91	$78,64	$9,98	81.9	71.7	153.9	242.4	30.8
C. All Corporations Except Those Reporting 100% Allocation:*												
1. 0—$104,999	753	$2,253,39	$3,188,38	$14,89	$3,203,34	$4,26	$4,08	141.5	0.7	142.2	0.2	0.2
2. $105,000—$504,999	97	127,58	114,72	13,36	158,15	26,65	7,29	113.4	10.5	124.0	20.9	5.7
3. $505,000—$1,004,999	45	44,05	44,39	13,78	58,15	31,81	8,55	100.8	31.3	132.0	72.2	19.4
4. $1,005,000—$10,004,999	117	841,56	932,26	130,13	1,062,47	456,41	103,23	110.8	15.5	126.2	54.2	12.3
5. $10,005,000—$100,004,999	36	879,24	1,038,62	238,56	1,277,14	920,74	221,41	118.1	27.1	145.3	104.7	25.2
6. $100,005,000 and over	....	......	......	......	......	......	......	....	....	....	....	....
Total	1,048	$4,145,82	$5,348,37	$410,72	$5,759,25	$1,439,87	$344,56	129.0	9.9	138.9	34.7	8.3

FOREIGN												
A. Allocation by Assets:												
1. 0—$104,999	287	$42,37	$37,36	$21,31	$58,73	$5,30	$5,14	88.2	50.3	138.6	12.5	12.1
2. $105,000—$504,999	57	19,08	12,52	19,14	31,67	14,78	8,49	65.6	100.3	166.0	77.5	44.5
3. $505,000—$1,004,999	24	16,69	9,10	15,00	24,09	18,03	5,34	54.5	89.9	144.3	108.0	32.0
4. $1,005,000—$10,004,999	46	59,42	45,99	48,20	94,20	166,54	42,72	77.4	81.1	158.5	280.3	71.9
5. $10,005,000—$100,004,999	9	95,89	87,18	46,77	133,95	225,25	39,91	90.9	48.8	139.7	234.9	41.6
6. $100,005,000 and over	....	......	......	......	......	......	......	....	....	....	....	....
Total	423	$233,45	$192,15	$150,42	$342,64	$429,90	$101,60	82.3	64.4	146.8	184.2	43.5
B. Allocation by Business Factor:												
1. 0—$104,999	816	$53,65	$11,14	$16,27	$27,76	$20,74	$15,11	20.8	30.3	51.7	38.7	28.2
2. $105,000—$504,999	363	43,53	8,38	22,26	30,71	96,61	25,06	19.3	51.1	70.5	221.9	57.6
3. $505,000—$1,004,999	144	43,11	10,48	24,63	35,06	103,87	27,21	24.3	57.1	81.3	240.9	63.1
4. $1,005,000—$10,004,999	295	469,98	75,09	268,32	343,43	957,40	225,72	16.0	57.1	73.1	203.7	48.0
5. $10,005,000—$100,004,999	51	537,31	100,51	370,27	470,76	1,214,33	243,56	18.7	68.9	87.6	226.0	45.3
6. $100,005,000 and over	7	489,26	150,51	351,85	502,38	1,404,57	391,29	30.8	71.9	102.7	287.1	80.0
Total	1,676	$1,636,84	$356,11	$1,053,60	$1,410,10	$3,797,52	$927,95	21.8	64.4	86.1	232.0	56.7
C. All Corporations Except Those Reporting 100% Allocation:**												
1. 0—$104,999	1,551	$96,09	$48,52	$37,62	$86,56	$26,06	$20,26	50.5	39.2	90.1	27.1	21.1
2. $105,000—$504,999	420	62,61	20,90	41,40	62,38	111,39	33,55	33.4	66.1	99.6	177.9	53.6
3. $505,000—$1,004,999	168	59,80	19,58	39,63	59,15	121,90	32,55	32.7	66.3	98.9	203.8	54.4
4. $1,005,000—$10,004,999	342	529,63	121,18	316,79	438,00	1,125,14	268,90	22.9	59.8	82.7	212.4	50.8
5. $10,005,000—$100,004,999	60	633,20	187,69	417,04	604,71	1,439,58	283,47	29.6	65.9	95.5	227.3	44.8
6. $100,005,000 and over	7	489,26	150,51	351,85	502,38	1,404,57	391,29	30.8	71.9	102.7	287.1	80.0
Total	2,548	$1,870,59	$548,38	$1,204,33	$1,753,18	$4,228,64	$1,030,02	29.3	64.4	93.7	226.1	55.1

* Includes 8 which report no allocation.

** Includes 444 which report no allocation and 5 which report both factors equal but less than 100%.

TABLE VI

New Jersey Corporation Business Tax Returns (1946)

Adjusted Net Worth and Taxable Net Worth As Per Cent of Net Worth—Domestic and Foreign Corporations

Allocation Factor and Business Classification	*Domestic Corporations* *Number of Returns*	*Domestic Corporations* *% of Net Worth* *Adjusted Net Worth*	*Domestic Corporations* *% of Net Worth* *Taxable Net Worth*	*Foreign Corporations* *Number of Returns*	*Foreign Corporations* *% of Net Worth* *Adjusted Net Worth*	*Foreign Corporations* *% of Net Worth* *Taxable Net Worth*
A. All Returns						
1. None	896	109.9	59.5	100	149.1	39.9
2. Mining and Quarrying	107	100.8	60.3	29	101.7	1.5
3. Manufacturing	4,784	100.5	62.9	1,465	103.3	11.8
4. Public Utilities	833	105.6	39.8	163	109.3	4.1
5. Retail and Wholesale Trade	6,000	113.3	86.1	586	105.1	5.5
6. Service	2,202	112.6	99.4	204	101.2	15.1
7. Finance, Insurance and Real Estate	10,729	90.0	87.7	724	109.8	21.3
8. Construction	894	104.7	86.1	248	102.5	19.3
9. Agriculture, Forestry and Fishing	253	114.1	89.7	19	101.1	9.1
Totals—All Returns	26,698[1]	99.7	68.8	3,538[2]	104.3	11.0
B. Allocation 100%						
1. None	870	134.4	134.4	41	140.4	140.4
2. Mining and Quarrying	82	111.4	111.4	3	133.3	133.3
3. Manufacturing	4,300	97.3	97.3	344	126.7	126.7
4. Public Utilities	767	131.2	131.2	55	103.3	103.3
5. Retail and Wholesale Trade	5,790	105.9	105.9	125	107.8	107.8
6. Service	2,128	112.3	112.3	62	99.9	99.9
7. Finance, Insurance and Real Estate	10,617	87.7	87.7	317	64.4	64.4
8. Construction	861	110.1	110.1	38	106.5	106.5
9. Agriculture, Forestry and Fishing	240	108.6	108.6	5	103.7	103.7
Totals	25,657	96.6	96.6	990	84.6	84.6

C. Allocation by Assets						
1. None	25	102.8	37.5	12	134.6	68.4
2. Mining and Quarrying	23	100.3	57.8	8	133.6	13.2
3. Manufacturing	460	101.9	48.7	182	105.5	20.7
4. Public Utilities	58	101.6	26.1	15	102.9	3.4
5. Retail and Wholesale Trade	175	117.3	75.6	66	141.7	29.1
6. Service	71	113.6	62.6	17	100.4	8.6
7. Finance, Insurance and Real Estate	92	91.3	87.6	90	110.3	5.6
8. Construction	31	102.0	74.0	29	101.3	55.9
9. Agriculture, Forestry and Fishing	12	127.9	45.1	4	131.4	5.7
Totals	947	101.1	56.0	423	109.5	18.4
D. Allocation by Business Factor						
1. None	..	...	...	33	171.0	22.6
2. Mining and Quarrying	2	100.0	52.0	12	100.8	1.2
3. Manufacturing	24	101.3	33.8	789	103.0	10.7
4. Public Utilities	6	187.7	120.0	74	109.9	3.5
5. Retail and Wholesale Trade	35	116.5	94.0	330	103.9	4.4
6. Service	3	100.0	32.4	94	100.9	12.7
7. Finance, Insurance and Real Estate	20	154.9	113.5	201	137.5	8.6
8. Construction	2	101.8	50.9	133	102.7	9.9
9. Agriculture, Forestry and Fishing	1	100.0	95.2	10	100.7	4.7
Totals	93	107.0	43.5	1,676	104.4	9.1

Source: New Jersey Department of Taxation and Finance, Corporation Tax Bureau.

[1] Includes one corporation reporting allocation zero; data unavailable for the other seven.

[2] Includes 444 corporations reporting no allocation and 5 corporations for which both factors are alike but less than 100%.

vania, and to the allocation of income used until recently under the New York franchise tax.

"In order to prevent unfair or even unconstitutional results in given cases, the rigidity of the allocation formulas is relieved by a provision authorizing the tax director to adjust the amount of allocable net worth upon the showing of an inequitable result under the formula. It is believed that such a provision is necessary under the decisions of the United States Supreme Court." [1]

While the *Commission* feels that the presence in New Jersey of a few large holding companies justifies a tax base which results in a fair tax upon intangible personal property, it also recognizes that operation of allocation factors under Section 5(b) of the Corporation Business Tax Act (1945) has resulted in an undue tax burden upon domestic corporations as compared with foreign corporations. Experience under the act indicates the tax has reached beyond replacement of the intangibles tax and has unduly affected New Jersey corporations as compared with foreign corporations.

4. *Net Worth Adjustments*

Under the New Jersey Corporation Business Tax Act (1945) adjustments to net worth before allocation include additions of the amount of debts owed to holders of 10 per cent or more of the capital stock, subtractions for subsidiary capital and addition or subtraction of the difference between book values as market values of securities owned. As shown in Table VI, the net effect upon the tax base of all adjustments together is small. The adjusted net worth for all domestic corporations in 1946 was only 3/10 of 1 per cent less than the unadjusted net worth and that for foreign corporations was 4 per cent greater than the adjusted net worth.

However, the effect of the adjustments to net worth varies widely as among individual corporations and groups of corporations. Also as shown in Table VI, total adjusted net worth of 10,729 domestic finance, insurance and real estate corporations was 10 per cent below the unadjusted net worth, while that for 253 domestic agricultural, forestry and fishing corporations was 14 per cent above the unadjusted net worth. For 25,657 domestic corporations allocating all of their net worth to New Jersey, the total adjusted net worth was 3.4 per cent less than unadjusted net worth, while that for 93 domestic corporations using the business

[1] Commission on Taxation of Intangible Personal Property, *Report* (March 26, 1945), pp. 78 and 79.

TABLE VII

New Jersey Corporation Business Tax Returns (1946)

Net Worth Adjustments for Domestic and Foreign Corporations By Size of Taxable Net Worth

(Amounts in Tens of Thousands of Dollars)

Amounts of Taxable Net Worth	Net Worth	Additions to Net Worth: Due Stock-holders	Additions to Net Worth: Security Values (Net)	Subtractions from Net Worth: Subsidi-ary Capital	Subtractions from Net Worth: Security Values (Net)	Adjusted Net Worth	Discrep-ancy[1]
A. 26,705 Domestic Corporations							
1. 0—$104,999	$372,47	$96,80	....	$1,95	$5,37	$446,81	$—15,14
2. $105,000—$504,999	449,77	64,48	$2,33	3,22	...	499,36	—14,00
3. $505,000—$1,004,999	243,41	27,70	1,93	2,24	...	268,51	— 2,29
4. $1,005,000—$10,004,999	1,673,55	96,41	26,56	10,48	...	1,776,50	— 9,54
5. $10,005,000—$100,004,999	4,615,69	120,66	62,77	280,26	...	4,518,84	— 2
6. $100,005,000 and over	3,487,30	....	....	168,85	14,96	3,303,51	+ 2
Totals—26,705 Corporations.	$10,842,19	$406,05	$73,26	$467,00	...	$10,813,53	$—40,97
B. 3,538 Foreign Corporations							
1. 0—$104,999	$3,037,70	$158,26	$33,59	$7,34	...	$3,218,34	$— 3,87
2. $105,000—$504,999	2,179,48	127,54	40,15	9,56	...	2,329,06	— 8,55
3. $505,000—$1,004,999	1,770,63	45,79	29,17	20,12	...	1,825,08	— 39
4. $1,005,000—$10,004,999	6,695,30	330,75	58,36	94,23	...	6,989,68	— 50
5. $10,005,000—$100,004,999	5,364,25	411,92	90,60	12,70	...	5,854,04	— 3
6. $100,005,000 and over	1,189,62	....	1	292,32	...	897,30	— 1
Totals—3,538 Corporations..	$20,236,98	$1,074,26	$251,88	$436,27	...	$21,113,50	$—13,35

[1] Accounted for by deficits in net worth tabulated as "0" and by rounding.

Source: N. J. Department of Taxation and Finance, Corporation Tax Bureau.

allocation factor under Section 5(b) was 7 per cent more than their unadjusted net worth.

Additions to net worth of foreign corporations vary from 1 per cent for the 19 engaged in agriculture, forestry and fishing to about 10 per cent for the 724 in finance, insurance and real estate. For the 990 foreign corporations allocating all of their net worth to New Jersey the total adjusted net worth was 15.4 per cent less than the unadjusted net worth, while that for 423 foreign corporations using the assets allocation factor was about 10 per cent more than the unadjusted net worth.

Considered individually, the effect of the various adjustments to net worth are not the same for all corporations. In general, the addition for amounts owed to stockholders of 10 per cent or more of the capital stock is most significant for small corporations, while the deduction for subsidiary capital is most significant for large corporations. Such results are due to the ability of stockholders to meet corporate capital needs of smaller corporations and the concentration of subsidiary capital investments in large corporations having large capital resources. The net effect of adjustments for differences between book value and market value was an addition to net worth for almost all size groups of corporations. Shown in Table VII, these conditions are what would be expected in a year such as 1946 when security markets were favorable.

Also as shown in Table VII, deductions for subsidiary capital from the net worth of domestic corporations more than offset the addition to net worth of amounts owed to stockholders. However, this over-all condition results from large deductions of subsidiary capital owned by corporations reporting taxable net worth of more than $10 million and which accounted for 96 per cent of subsidiary capital deductions for all domestic corporations. In the case of foreign corporations, the deductions for subsidiary capital were about 40 per cent of the additions for debts owed to stockholders. About 67 per cent of all deductions for subsidiary capital of foreign corporations occurred in two corporations reporting taxable net worth of more than $100 million.

Operation of the net worth adjustment provisions under the Corporation Business Tax Act (1945) has brought into the tax base debts owed to stockholders of closely held corporations and also has provided substantial relief from "double taxation" for corporations holding capital stock of subsidiary corporations also subject to the tax.

Recommendations

All questions relative to requested changes in the Corporation Business Tax Act (1945) cannot be answered in terms of an appraisal of its operation in 1946. However, the *Commission* has considered each of the requests in detail and has attempted wherever possible to determine their application within the structure of the tax.

Results of these considerations and the recommendations of the *Commission* are summarized as follows:

1. *Adjustment of the Allocation Provision of Section 5(b)*

Application of the allocation factor under Section 5(b) of the Corporation Business Tax Act (1945) caused most New Jersey corporations to allocate under it in 1946. As shown in Table IV, 91 per cent of all domestic corporations using any allocation used the asset factor under Section 5(b). In contrast, only 20 per cent of all foreign corporations using any allocation factor used the assets factor under Section 5(b).

While general business corporations actually operating in New Jersey tend to have a large portion of their tangible assets within the State, it is in the allocation of intangible personal property that the greatest discrepancy occurs. This is particularly evident in the case of corporations which hold large amounts of intangibles and which have little or no business activity within the State. New Jersey is the State of incorporation for several large holding or semi-holding corporations which fall within this category and which have only a statutory office in the State.

Problems inherent in the taxation of intangibles owned by holding companies are no novelty in New Jersey. Prior to enactment of the Corporation Business Tax Act (Ch. 162, L. 1945) and its companion measure exempting most intangibles from *ad valorem* taxation (Ch. 163, L. 1945), holding companies were in constant danger of "tax lightning" in the form of taxation upon their intangibles at general property tax rates. Scattered incidents of "tax lightning" led to the "colonization" of about 170 corporations—a large number of which were holding companies—in Flemington (Hunterdon County) where they were assessed upon the full amount of their intangibles but realized a very low general property tax rate ($0.43 per $100 valuation in 1944). Collectively, they had sufficient tax ratables to require only a small tax rate to meet all governmental costs in a small town and county.[1]

[1] N. J. Commission on Taxation of Intangible Personal Property, *Report* (March 26, 1945), pp. 13-16.

Recommendations of the *Commission on Taxation of Intangible Personal Property*[2] and adoption by the Legislature of the Corporation Business Tax Act (Laws 1945, ch. 162) were conditioned by their environment. Economically it was necessary to protect business against the constant threat of "tax lightning" and politically it was necessary that the Flemington corporations be taxed about as they were under the general property tax. In this connection, the *Commission* reported:[3]

> "The tax program recommended by the *Commission* will result in taxes for 52 Flemington corporations about equal to what they are now paying in franchise and personal property taxes. Because the Flemington tax upon intangibles is generally thought to be a reasonable one, the *Commission* regards these results as favorable. They show that as measured by these 52 Flemington corporations, the program will result in a tax roughly equivalent to the present corporate franchise tax and a reasonable tax upon intangible personal property."

As a replacement for the general property tax upon intangible personal property, the Corporation Business Tax Act (1945) properly reflects corporate held intangibles in its base. In a property tax State such as New Jersey, it is impractical to abandon some measure of tax upon the property of holding companies chartered in the State. While it is desirable to look to activity rather than property for business tax revenues, there must be some compromise in the case of corporations holding valuable charters but engaging in no activity by which a tax can be measured.

It has been suggested that inclusion of all intangibles in the assets of corporations for purposes of allocating net worth to New Jersey reaches beyond the replacement of general property taxes upon intangibles because many forms of intangibles were formerly exempt from taxation as property. In many instances the amount of net worth allocated to New Jersey exceeds the value of intangibles formerly taxable as general property. In this respect, it should be pointed out that the corporation business tax is measured by net worth and not by intangibles or by any other particular type of property. It is assessed at a rate (eight-tenths of one mill on first $100 million) which is one-fifth as large as that applied to intangibles in Flemington ($0.43 per $100 valuation) in 1944 and only one-sixty-fourth as large as the average general property tax rate in 1946 ($5.15 per $100 valuation). Complete application of the "replacement" principle would thus require

[2] *Ibid.*, pp. 74-76.
[3] *Ibid.*, p. 76.

that the net worth tax base be very much in excess of the intangible general property tax base with which it is compared. The *Commission* concludes that the criticism that the corporation business tax constitutes an undue tax burden upon intangibles is not valid.

To preserve a substantial measure of tax upon New Jersey holding companies and other corporations which hold large amounts of intangibles and, at the same time, to provide greater equalization of tax treatment as between domestic corporations and foreign corporations, the *Commission* recommends:

> The Allocation of Net Worth According to the Proportion of Total Assets In and Out of the State, Under Section 5(b) of the Tax Act, Should be Amended so as to Require Domestic Corporations Owning Intangible Personal Property Which Has a Business Situs Outside the State to Include Only 50 Per Cent of Such Intangibles as Assets Within New Jersey.
>
> This Would Reduce Present State Revenue by $1.5 Million—But the State Treasury Would be Protected Against Loss Through the Provision for Withholding by the State of 5 Per Cent of the Revenues to Accrue Under the Proposals of Part I of This Report.

Effect of the recommendation will be toward reducing the corporation business tax paid by domestic corporations subject to allocation by assets under Section 5(b) and having intangibles with out-of-State situs. It will not affect the tax assessed upon domestic corporations subject to allocation by the business factor under Section 6, or those having no intangible personal property with situs outside the State, and it will in no way change the tax assessed upon foreign corporations.

Corporation business tax returns filed by domestic corporations in 1946 did not indicate the amount of intangible personal property which has acquired situs outside the State. For this reason, they do not provide sufficient basis for determining the exact effect of the *Commission's* recommendation. However, except in the case of a few corporations for which information was available, the *Commission* has prepared estimates on the assumption that each corporation would be entitled to allocate one-half of its intangibles outside New Jersey. Such an estimate indicates the maximum tax reduction likely to result from the recommended change in the allocation factor under Section 5(b).

Based upon 1946 experience, the *Commission* estimates that its recommendation will result in reducing corporation business tax revenues by about $1.4 million to $1.5 million. As shown in Table VIII, almost $1.2 million, or 80 per cent of the reduction is expected to occur among 84 domestic corporations reporting taxable net worth in excess of $10 million. After the change, these 84 corporations would account for about 50 per cent of the total tax for all domestic corporations as compared with a little more than 58 per cent in 1946. Domestic corporations in all size groups above that which determines the minimum tax of $25 would be eligible to benefit under the amended allocation.

TABLE VIII

ESTIMATED EFFECT OF MODIFYING ALLOCATION FACTOR UNDER SECTION 5(b) FOR 26,604 NEW JERSEY CORPORATIONS

(Amounts in Thousands of Dollars)

Size of Taxable Net Worth	Number of Corporations	1946 Tax	Amended Tax	Possible Reduction
A. Exceeds $100 million	7	$1,124	$701[1]	$423
B. $10 million—$100 million	77	1,845	1,093[1]	752
C. $1 million—$10 million	367	841	640[2]	201
D. $105 thousand—$1 million	2,467	554	500[2]	54
E. Less than $105 thousand	23,686	683	650[2]	33
	26,604	$5,047	$3,584	$1,463

[1] Estimates based upon examination of tax returns. Excludes corporations allocating under Section 6 or claiming no allocation.
[2] Estimated from group tabulations without reference to individual tax returns.

The *Commission* has given serious consideration to the matter of increasing the corporation business tax rates in order to offset the loss in tax revenues expected to result from modification of the assets allocation factor under Section 5(b). Under the act, the present tax rates upon adjusted net worth allocated to New Jersey are:

Up to and including	$100,000,000	.0008
Next	100,000,000	.0004
Next	100,000,000	.0003
In excess of	300,000,000	.0002

After making allowance for the small corporations which pay the minimum tax at $25 for domestics and $50 for foreigns, an increase of about 31 per cent in over-all rates would be required to maintain the tax at the 1946 level. However, the maximum tax reduction which any domestic corporation can realize under the modified allocation formula is 50 per cent of its 1946 tax. Corporations having taxable net worth in excess of $100 million and smaller corporations holding any assets in New Jersey other than intangibles cannot realize the full maximum reduction of 50 per cent. As shown in Table VIII, the average reduction for 26,604 domestic corporations which may benefit is expected to be about 29 per cent of their 1946 tax. The average expected reduction for the seven largest corporations is 38 per cent. A 31 per cent increase in all tax rates would reduce the maximum possible benefit from 50 per cent of the 1946 tax to about 35 per cent. It would cause few corporations to benefit from the change and it would cause many domestic corporations and all foreign corporations to be taxed more heavily than they were in 1946.

As shown in Table IX, the *Commission* has estimated the effect of changing the tax rate on the first $100 million of taxable net worth from eight-tenths of one mill to one mill. Such a change would reduce the expected loss in tax revenue from $1.4 million shown in Table VIII to about $300 thousand, or $400 thousand. It would cause the tax for domestic corporations to be about $700 thousand less than in 1946 and that for foreign corporations to be about $400 thousand more than in 1946.

Also as shown in Table IX, an increase in the tax rate on the first $50 million of taxable net worth from eight-tenths mill to 1.2 mills would produce more than enough revenue to offset the ex-

TABLE IX

ESTIMATED EFFECT OF MODIFIED ALLOCATION FACTOR UNDER SECTION 5(b) AND INCREASED TAX RATES FOR ALL CORPORATIONS TABULATED

(Amounts in Thousands of Dollars)

Corporations	Number of Corporations	1946 Tax	Amended Tax: 1 Mill on 1st $100 Million	Amended Tax: 1.2 Mills 1st $50 Million
1. Domestic Corporations:				
A. 100% and Asset Allocation by Size of Taxable Net Worth[1]				
(1) Exceeds $100 million	7	$1,124	$813	$841
(2) $10 million—$100 million	77	1,845	1,366	1,630
(3) $1 million—$10 million	367	841	800	960
(4) Less than $1 million	26,153	1,237	1,300	1,450
Sub-total	26,604	$5,047	$4,279	$4,881
B. All Other Domestic Corporations	101	$27	$33	$40
Total—All Domestic Corporations	26,705	$5,074	$4,312	$4,921
2. Foreign Corporations by Size of Taxable Net Worth:				
(1) Exceeds $100 million	2	$176	$216	$216
(2) $10 million—$100 million	36	708	885	1,050
(3) Less than $10 million	3,500	975	1,190	1,400
Total—Foreign Corporations	3,538	$1,859	$2,291	$2,666
Total—All Corporations	30,243	$6,933	$6,603	$7,587

1 By size of taxable net worth in 1946 before change in allocation factor.

pected loss. However, such a change in rate would transfer a substantial portion of the total tax to smaller corporations and to foreign corporations. Characteristic of a property tax State, New Jersey's tax structure is noticeably regressive and such a change in the corporation business tax rates would make it more so. It would provide tax relief for large corporations holding intangibles but it would also increase the taxes for most small corporations and for all foreign corporations.

The *Commission* is aware of the necessity to preserve tax revenue sources for the State and its municipalities in this period of increased service requirements. But it does not feel justified in recommending that a large part of the corporation tax be shifted from the large holding companies to the many small domestic operating corporations or to foreign corporations just for the sake of preserving the tax yield.

However, application of the corporation business tax in 1946 resulted in a heavier tax in terms of gross receipts, tangible property and payrolls in New Jersey for corporations allocating according to the asset factor under Section 5(b) than for corporations allocating according to the business factor under Section 6. As shown in Table V, this discrepancy appears for both domestic corporations and foreign corporations.

The apparent discrepancy in tax burden as between foreign corporations and domestic corporations (see Table V) resulted from differences in treatment of intangibles in the asset factor under Section 5(b) and from the greater application of the business factor under Section 6 by foreign corporations. Adoption of the *Commission's* first recommendation will result in greater uniformity as between domestic corporations and foreign corporations in the application of the asset factor under Section 5(b).

2. *Modification of Gross Receipts Factor*

It has been suggested that the sales element of the gross receipts factor for allocating net worth to New Jersey under Section 6 of the Corporation Business Tax Act be modified to give more weight to the location of customers. As it is now applied, Section 6 provides for allocation of net worth to New Jersey according to a three factor formula based upon (A) the location of real and tangible personal property, (B) the receipts of the taxpayers and (C) the wages, salaries and other personal service compensation. Thus the receipts factor represents only one-third of the total allocation fraction.

The receipts factor is described in the act as:

> "The receipts of the taxpayer, computed on the cash or accrual basis according to the method of accounting used in the computation of its net income for Federal tax purposes, arising during such period from
>
> (1) sales of its tangible personal property located within the State at the time of the receipt of or appropriation to the orders,
>
> (2) sales of any such property not located at the time of the receipt of or appropriation to the orders at any permanent or continuous place of business maintained by the taxpayer without the State, where the orders were received or accepted within the State,
>
> (3) services performed within the State,
>
> (4) rentals from property situated, and royalties from the use of patents or copyrights, within the State,
>
> (5) all other business receipts earned within the State,
>
> divided by the total amount of the taxpayer's receipts, similarly computed, arising during such period from all sales of its tangible personal property, services, rentals, royalties and all other business receipts, whether within or without the State;"
>
> (Laws 1945, ch. 162, sec. 6B).

As shown in Table X, sales of tangible personal property located within New Jersey at the time of sale accounts for almost 95 per cent of all New Jersey receipts for domestic corporations allocating according to the business factor and for about 90 per cent for foreign corporations. The influence of sales of tangible personal property not situated in New Jersey is negligible in the total receipts factor. Basically, therefore, the gross receipts factor is determined largely by the manner in which sales of tangible goods situated in New Jersey are handled.

The New Jersey State Chamber of Commerce has recommended to the *Commission* that:[1]

> "The sales factor in the apportionment formula prescribed in Section 6 discriminates against companies which conduct a large part of their manufacturing activity in the State of New Jersey but sell the products manufactured therein outside the State. The apportionment formula prescribed in Section 6 treats as New Jersey sales, sales of tangible personal property located within the State at the time of the receipt of or appropriation to the orders, regardless of where the sales are made. This combined with the other two factors in the formula gives excessive weight to manufacturing activity in the State."

[1] N. J. State Chamber of Commerce, *Suggested Changes to the New Jersey Corporation Franchise Tax Law* (Ch. 162, P. L. 1945), (Newark, Jan. 17, 1946).

TABLE X

Corporation Franchise Tax Returns (1946) for Corporations Using Business Allocation Factor Relationship of Services, Sales and Rentals of Tangible Personal Property in New Jersey to Total New Jersey Receipts

By Amount of New Jersey Receipts

(Amounts in Tens of Thousands of Dollars)

								Per Cent of Total New Jersey Receipts					
Amount of New Jersey Receipts	Number of Returns	Total Receipts in N. J.	Sales N. J. Tangibles	Sales Tangibles Accepted	N. J. Services	N. J. Rentals	All Others	Total Receipts in N. J.	Sales N. J. Tangibles	Sales Tangibles Accepted	N. J. Services	N. J. Rentals	All Others
DOMESTIC CORPORATIONS													
Allocation by Business Factor:													
1. 0—$104,999	65	$47	$11	$5	$9	$19	$3	100.0	23.4	10.6	19.2	40.4	6.4
2. $105,000—$504,999	11	3,08	2,03	....	74	20	11	100.0	65.9	...	24.0	6.5	3.6
3. $505,000—$1,004,999	5	3,54	2,19	11	70	....	54	100.0	61.8	3.1	19.8	...	15.3
4. $1,005,000—$10,004,999	11	26,56	25,26	1,23	....	....	7	100.0	95.1	4.6	...	...	0.3
5. $10,005,000—$100,004,999	1	44,99	44,99	....	....	....	....	100.0	100.0	...	...	...	...
6. $100,005,000 and over	....	......	......	....	....	....	....	....	...	...	...	...	...
Total	93	$78,64	$74,58	$1,39	$1,53	$39	$75	100.0	94.8	1.8	1.9	0.5	1.0
FOREIGN CORPORATIONS													
Allocation by Business Factor:													
1. 0—$104,999	816	$20,74	$9,71	$1,48	$4,91	$78	$3,86	100.0	46.8	7.1	23.7	3.8	18.6
2. $105,000—$504,999	363	96,61	62,67	7,33	14,09	2,19	10,33	100.0	64.8	7.6	14.6	2.3	10.7
3. $505,000—$1,004,999	144	103,87	80,08	4,80	12,40	24	6,35	100.0	77.1	4.6	12.0	0.2	6.1
4. $1,005,000—$10,004,999	295	957,40	809,02	59,70	34,57	5,32	48,79	100.0	84.5	6.2	3.6	0.6	5.1
5. $10,005,000—$100,004,999	51	1,214,33	1,079,46	20,43	77,82	2,28	34,34	100.0	88.9	1.7	6.4	0.2	2.8
6. $100,005,000 and over	7	1,404,57	1,374,79	4,79	20,59	1,29	3,11	100.0	97.9	0.3	1.5	0.1	0.2
Total	1,676	$3,797,52	$3,415,73	$98,53	$164,38	$12,10	$106,78	100.0	90.0	2.6	4.3	0.3	2.8

TABLE XI

Relationship Between Taxable Net Worth and Total Assets in New Jersey for Domestic and Foreign Corporations

By Allocation Factor and Size of Taxable Net Worth

(Amounts in Tens of Thousands of Dollars)

	Domestic				Foreign			
Allocation Factor and Amount of Taxable Net Worth	*Number of Returns*	*Taxable Net Worth*	*Assets in N. J.*	*Net Worth As % of Assets*	*Number of Returns*	*Taxable Net Worth*	*Assets in N. J.*	*Net Worth As % of Assets*
A. 100% Allocation								
1. 0—$104,999	23,260	$396,62	$868,86	45.6	703	$15,49	$51,92	29.8
2. $105,000—$504,999	1,913	403,26	632,73	63.7	166	39,54	63,45	62.3
3. $505,000—$1,004,999	269	189,07	291,93	64.8	47	33,53	42,17	79.5
4. $1,005,000—$10,004,999	196	432,04	599,60	72.1	68	179,98	325,64	55.3
5. $10,005,000—$100,004,999	17	466,08	726,39	64.2	6	92,91	121,78	76.3
6. $100,005,000 and over	2	1,416,61	1,541,01	91.9	...	....	....	...
Total	25,657	$3,303,68	$4,660,52	70.9	990	$361,45	$604,96	59.7
B. Allocation by Assets								
1. 0—$104,999	426	$14,10	$29,31	48.1	261	$5,88	$13,90	42.3
2. $105,000—$504,999	217	52,02	83,92	62.0	99	26,16	41,51	63.0
3. $505,000—$1,004,999	68	49,57	76,23	65.0	23	16,11	26,77	60.2
4. $1,005,000—$10,004,999	171	618,37	828,80	75.6	36	102,02	157,22	64.9
5. $10,005,000—$100,004,999	60	1,839,83	2,564,22	71.8	4	83,28	103,24	80.7
6. $100,005,000 and over	5	1,539,49	2,126,86	72.4	...	....	....	...
Total	947	$4,113,38	$5,709,34	72.0	423	$233,45	$342,64	68.1
C. Allocation by Business Factor								
1. 0—$104,999	62	$1,75	$2,74	63.9	1,054	$25,38	$21,43	118.4
2. $105,000—$504,999	20	5,53	8,50	65.1	325	79,97	68,74	116.3
3. $505,000—$1,004,999	6	4,51	6,86	65.7	102	72,14	61,28	117.7
4. $1,005,000—$10,004,999	4	7,42	10,25	72.4	167	511,73	431,46	118.6
5. $10,005,000—$100,004,999	1	13,23	21,56	61.4	26	708,35	647,73	109.4
6. $100,005,000 and over	...	....	....	...	2	239,27	179,46	133.3
Total	93	$32,44	$49,91	65.0	1,676	$1,636,84	$1,410,10	116.1

To meet this criticism of the sales factor as it is defined in the Corporation Business Tax Act, it has been suggested that New Jersey sales be redefined to include:

(1) all sales initiated and completed within the State,

(2) one-half of all sales initiated within the State and terminated outside the State,

(3) one-half of all sales initiated outside the State and terminated within the State.

The *Commission* is sympathetic to the criticism of the sales factor as it is applied and has considered the suggested change. However, it has been unable to obtain adequate data with which to appraise the effect of the modification. In the absence of complete information and in consideration of other changes recommended, the *Commission* recommends:

> THAT THE SALES FACTOR IN THE BUSINESS ALLOCATION FORMULA UNDER SECTION 6 OF THE CORPORATION BUSINESS TAX ACT REMAIN UNCHANGED PENDING FURTHER STUDY AND INVESTIGATION.

3. *Consolidated Returns*

The Corporation Business Tax Act (1945) provides that:

> "Every domestic or foreign corporation which is not hereinafter exempted shall pay an annual franchise tax . . . for the privilege of having or exercising its corporate franchise in this State, or for the privilege of doing business, employing or owning capital or property, or maintaining an office in this State. And such franchise tax shall be in lieu of all other State, county or local taxation upon or measured by intangible personal property used in business by corporations liable to taxation under this act."
>
> (Laws 1945, ch. 162, sec. 2.)

Thus, under the act, all corporations chartered in New Jersey and all foreign corporations qualified to do business in New Jersey are taxable. The tax is assessed for the corporate privilege and in lieu of taxation as property of corporate owned intangibles. Corporations which operate as a single enterprise under a single charter are taxed for a single privilege according to their size as measured by net worth. Corporations which choose to operate through subsidiaries exercise more than a single privilege and they are taxed accordingly. In rare instances multiple corporate units pay less tax than they would as a single unit. In general, however, the tax upon multiple corporate units exceeds the tax which would be assessed upon the group as a single unit.

Use of consolidated returns under the Corporation Business Tax Act would have the effect of grouping two or more corporations and assessing a franchise tax upon their combined net worth after elimination of inter-corporate accounts. The resulting tax would depend upon group holdings and group activity and would not reflect a payment for individual corporate charters or privileges. For large families of corporations such as those controlled by some of New Jersey's holding companies, it would virtually eliminate the tax for corporate privileges exercised by any but the parent corporation. Because consolidation would combine allocation factors as well as balance sheet accounts, it would enable corporate families operating on a national or international basis to escape all but a nominal tax in New Jersey.

The subject of double or multiple taxation is one which has various definitions and implications. Particularly in respect to taxation of corporations, it has been so interpreted as to produce curious, if not mischievous, results. Basically, the actual amount of physical wealth is much smaller than the aggregate equities in it and in this sense a large portion of all tax assessments are "multiple taxation." For example, a tax upon the wages and product of a manufacturer is duplicated by a tax upon the wages and inventory of the wholesaler and retailer who sell the product. Similarly, taxes paid by a corporation are duplicated or supplemented by taxes paid upon the shares or dividends by stockholders. In the course of our economic life, taxes are regularly compounded in this way. While the compounding is ordinarily ignored, it has acquired special significance in cases where two or more of the stages are held in common ownership such as that reflected in parent-subsidiary corporation relationships. There is no reason for this special significance other than the greater ease with which the compounding can be demonstrated.

However, the Corporation Business Tax Act does provide that corporations may deduct up to one-half of their ownership of stock of subsidiaries which also pay the corporation business tax in New Jersey:

> "Any taxpayer which holds capital stock of a subsidiary during all or part of any year may, for the purposes of the tax imposed by this act, deduct from its net worth such proportion, not exceeding fifty per centum (50%), of the average value of such holdings less net liabili-

ties (if any) to subsidiaries, as the ratio of the subsidiary's taxable net worth, for the same year under this act, to its entire net worth; . . . For the purpose of this section, a subsidiary shall be deemed to be any corporation in which a taxpayer is the beneficial owner of at least eighty per centum (80%) of the total combined voting power of all classes of stock entitled to vote and of at least eighty per centum (80%) of the total number of shares of all other classes of stock except non-voting stock which is limited and preferred as to dividends."

(Laws 1945, ch. 162, sec. 9.)

This provision in the Corporation Business Tax Act recognizes the element of "double taxation" and eliminates between 50 per cent and all of it so far as it applies to taxes assessed under the act. As shown in the following example, only one-half of the subsidiary capital is "doubly taxed" when both the parent and the subsidiary are both situated entirely within New Jersey (as between parent corporation and subsidiary A). Where the subsidiary is less than 50 per cent in New Jersey, there is no "double taxation" of subsidiary capital under the act (as between parent corporation and subsidiaries B and C). Because consolidation combines allocation factors as well as capital accounts, it can result in reducing the tax base by more than is justified by elimination of all "double taxation" under the act (as between individual returns and consolidated returns).

EXAMPLE OF APPLICATION OF NET WORTH TAX ACT TO PARENT AND SUBSIDIARY CORPORATIONS

	Parent Corporation 100% N. J.	Subsidiary Corporations A 100% N. J.	B 10% N. J.	C 0% N. J.	Consolidated Returns 37% N. J.
Assets:					
Stock in A	$1,000	....	....	....	....
Stock in B	1,000	....	....	....	....
Stock in C	1,000	....	....	....	....
Other Assets	....	$1,000	$1,000	$1,000	$3,000
Total Assets	$3,000	$1,000	$1,000	$1,000	$3,000
Liabilities	....	....	....	....	....
Net Worth	$3,000	$1,000	$1,000	$1,000	$3,000
Subsidiary Deduction:					
50% of A	$500	....	....	....	....
10% of B	100	....	....	....	....
0% of C	....	....	....	....	....
Taxable Net Worth	$2,400	$1,000	$100	....	$1,100

Taxable net worth:	
without allowance for subsidiary deduction	$4,100
as provided in act	3,500
with allowance for consolidated returns	1,100

As shown in Table XII, capital stock of subsidiary corporations represented almost 18 per cent of all assets reported in 1946 by domestic corporations and about 7 per cent of all assets reported by foreign corporations. However, the importance of subsidiary ownership is concentrated among the larger taxpayers. In the case of seven domestic corporations reporting taxable net worth in excess of $100 million, subsidiary stock averages 43 per cent of total assets. In contrast, the average holdings of subsidiary stock accounts for only six-tenths of 1 per cent of the assets reported by corporations with taxable net worth of less than $105 thousand.

Also as shown in Table XII, deductions for subsidiary capital totaled $467 million for domestic corporations, thus offsetting about 17 per cent of the $2,681 million of subsidiary stock included in their total assets. In the case of foreign corporations, deductions for subsidiary capital totaled $436 million and offset 21 per cent of the subsidiary stock included as assets. While these ratios vary widely as among individual corporations and groups of corporations, they indicate substantial adjustments under the act for corporations holding stock of subsidiaries.

TABLE XII

30,243 CORPORATION FRANCHISE TAX RETURNS (1946)

STOCK OF SUBSIDIARIES, SUBSIDIARY CAPITAL AND AMOUNTS DUE STOCKHOLDERS BY TAXABLE NET WORTH

(Amounts in Tens of Thousands of Dollars)

Amount of Taxable Net Worth	Number of Corporations	Stock of Subsidiaries Book Value	Stock of Subsidiaries As % of Assets	Deductions For Subsidiary Capital	Additions For Amount Due Stockholders
Domestic:					
1. 0—$104,999	23,756	$5,77	.6	$1,95	$96,80
2. $105,000—$504,999	2,150	15,97	2.0	3,22	64,48
3. $505,000—$1,004,999	343	9,71	2.3	2,24	27,70
4. $1,005,000—$10,004,999	371	110,48	4.7	10,48	96,41
5. $10,005,000—$100,004,999	78	754,88	11.9	280,26	120,66
6. $100,005,000 and over	7	1,784,16	43.4	168,85	......
Total	26,705	$2,680,97	17.9	$467,00	$406,05
Foreign:					
1. 0—$104,999	2,466	$189,38	3.6	$7,34	$158,26
2. $105,000—$504,999	591	134,44	3.7	9,56	127,54
3. $505,000—$1,004,999	172	129,59	5.2	20,12	45,79
4. $1,005,000—$10,004,999	271	763,59	8.0	94,23	330,75
5. $10,005,000—$100,004,999	36	802,66	10.4	12,70	411,92
6. $100,005,000 and over	2	32,00	2.2	292,32	......
Total	3,538	$2,051,66	6.8	$436,27	$1,074,26

However, additions to net worth for debts owed to stockholders of 10 per cent or more of the capital stock totaled $406 million for domestic corporations and $1,074 million for foreign corporations. To the extent that these debts represent amounts owed to taxable parent corporations by their taxable subsidiaries, these adjustments for debts offset the deductions for subsidiary capital. For domestic corporations, the additions for debts offset 87 per cent of all deductions for subsidiary capital and for foreign corporations they amount to almost two and one-half times the subsidiary capital deductions.

While these data as tabulated from the 1946 corporation business tax returns are not adequate to determine the exact effect of consolidated returns, they do indicate the implications of such a revision. *First,* consolidated returns would result in a greatly reduced tax base and tax. It would virtually eliminate the tax liability of holding corporations and a large part of the reduction in tax base would occur among large corporations which account for a major portion of the tax. *Second,* consolidated returns would grant reduced group tax rates for charters to families of corporations and thus depart from the payment for each corporate privilege or charter. Against this background the *Commission* recommends:

> THAT PROVISIONS OF THE CORPORATION BUSINESS TAX ACT (1945) WHICH DO NOT PERMIT THE FILING OF CONSOLIDATED RETURNS REMAIN UNCHANGED.

4. *Provision for Minimum Tax Based Upon Assets*

The Corporation Business Tax Act (1945) provides a minimum tax of $25 for domestic corporations and $50 for foreign corporations. At tax rates described in the act, this means the minimum tax applies to all domestic corporations with adjusted net worth allocated to New Jersey amounting to less than $31,250 and to all foreign corporations with less than $62,500. More than 80 per cent of all domestic corporations and almost 70 per cent of all foreign corporations paid the minimum tax in 1946.

Most of the minimum tax corporations were small corporations with small net worth and small operations. Particularly among the foreign corporations, some of them were larger corporations with small New Jersey operations and for which the New Jersey allocation was slight. However, a limited number of them were corporations which had substantial assets and business activity in

New Jersey but which also had little or no net worth. Because they operate on borrowed capital, their assets are offset by liabilities and, in some instances, they even report a negative net worth.

Corporations which are largely or entirely financed by borrowed capital hold assets and conduct business in the same manner as do those financed largely or entirely by equity capital. Deficit corporations exercise the same privilege to do business in New Jersey and they require the same public services as do corporations which have few or no debts.

The *Commission* finds that the Corporation Business Tax Act should be adjusted to provide a more suitable tax base for corporations holding substantial assets but reporting little or no net worth. While provisions of the act requiring adjustment of net worth to include debts owed to holders of 10 per cent or more of the capital stock provide some correction for discrepancies of this kind, they do not in every instance result in a suitable tax base for corporations operating largely upon borrowed capital. Accordingly, the *Commission* recommends:

> THAT THE MINIMUM TAX PROVISIONS UNDER THE CORPORATION BUSINESS TAX ACT (1945) BE SUPPLEMENTED BY AN ADDITIONAL PROVISION THAT THE TAX FOR ANY SINGLE CORPORATION SHALL IN NO INSTANCE BE LESS THAN AN AMOUNT DERIVED BY MULTIPLYING ITS TOTAL ASSETS ALLOCATED TO NEW JERSEY BY .0002 (TWO-TENTHS OF ONE MILL).

Effect of the recommendation will be toward increasing the corporation business tax paid by domestic and foreign corporations for which the taxable net worth in New Jersey amounts to less than one-fourth (25 per cent) of the total assets in New Jersey. For the few corporations reporting taxable net worth in excess of $100 million, this ratio will increase depending upon the amount of such excess. As shown in Table II, there were nine corporations with taxable net worth of more than $100 million in 1946. After adoption of the recommended change in allocation factor under Section 5(b) there will probably be only five corporations in this group. The *Commission* estimates that the recommended minimum tax provision will not affect any of them.

Further study by the *Commission* has indicated that only three of the 78 domestic corporations reporting taxable net worth of $10 million to $100 million in 1946 will be affected by the minimum tax based upon assets. The total tax for these three corporations will probably increase by $7,110 from $92,474 to $99,584.

As shown in Table XI, the average ratio between net worth and assets in New Jersey was well above the suggested 25 per cent minimum for domestic and foreign corporations in every size group. The lowest average occurs among 23,260 domestic corporations allocating 100 per cent of their net worth to New Jersey and reporting taxable net worth of less than $105,000. For this group taxable net worth averages more than 45 per cent of assets in New Jersey. However, application of the minimum tax at two-tenths of one mill would not be effective upon domestic corporations having assets in New Jersey valued at less than $125,000 because they would pay the basic minimum tax of $25. The average value of assets for the 23,260 smallest domestic corporation taxpayers is less than $38,000 and the recommended minimum tax based upon assets would affect very few if any of them.

While some slight additional tax revenue will result from adoption of the recommended corporation business tax minimum based upon assets, the *Commission* believes it will not be significant in the overall tax yield. Its adoption is recommended as a measure to minimize tax avoidance by a small number of corporations and not as a revenue measure.

5. *Investment and Personal Holding Companies*

The original legislation in 1945 provided for special treatment of regulated investment companies, that is, companies subject to Federal regulation under the Investment Companies Act of 1940, provided such companies had elected to come under the provisions of Supplement Q of the Internal Revenue Code. This special treatment was made on the meritorious ground that the particular type of company involved provided an investment medium for the small investor and was subject to public supervision, as distinguished from other investment companies. It has since been urged upon the *Commission* that the requirement of submission to Supplement Q makes an unfair discrimination against regulated investment companies which are also subject to public supervision but which have not for one reason or another elected to come under Supplement Q.

The merits of the case presented by regulated investment companies are somewhat related to the question of expediency in the taxation of all investment companies, including the so-called personal holding companies. This type of business normally desires to center its activities in the New York financial market, and the principal office of such a business may readily be moved from

Jersey City to New York City, and vice versa. Most of the large taxpayers, or potential taxpayers, are Delaware corporations and their only activity usually is represented by the maintenance of a small office and staff, provision for receipt and delivery of securities, and maintenance of bank deposits and other types of banking business, a type of business which is concentrated among the banks located in Jersey City. To the extent that our tax law creates a tax liability equal to or in excess of that in New York, this type of company and the financial business it brings to New Jersey tends to move out of the State.

The problem of dealing with investment companies tax-wise is thus not so much a matter of the reasonableness of the tax itself, or even of the loss entailed in making adjustments, since the entire tax yield provided by this class of company is affected when the companies move out of the State. Essentially the problem is that of reaching a working level of taxation which will enable New Jersey business to compete in the New York metropolitan financial market. Experience over the past year has shown that a substantial number of the type of financial corporations under consideration have removed from the State during the year.

It has been proposed to the *Commission* that all investment companies be placed upon the same basis as regulated investment companies. The effect would be to provide an allocation factor, not now present, whereby the allocation of net worth would depend upon the residence of stockholders. While this suggestion may have some merit, and would solve the problem of the foreign investment companies, it is unacceptable for the reason that it would afford no relief to the personal holding company which is owned by New Jersey residents.

Various possible solutions of the problem, directed toward a common treatment for regulated investment companies, non-regulated investment companies, and personal holding companies, whether domestic or foreign corporations, have been considered by the *Commission*. The *Commission* has also found that the present "floor" of 10 per cent of net worth to be allocated to New Jersey by regulated investment companies which are now specially treated, has become, in effect, the actual basis of tax for the reason that the allocation factor determined by residence of stockholders almost always produces a factor of less than 10 per cent in New Jersey. This result suggests an effective solution for all three types of investment companies, a solution which will require an upward revision of the minimum allocation and a careful definition of investment companies to exclude the great holding corporations which are also incorporated under the laws of New Jersey.

The *Commission* accordingly recommends:

> That the Present Allocation Factor for All Investment Companies and Personal Holding Companies, Whether Domestic or Foreign Corporations, Be Revised. All Such Companies Should Be Assessed for Franchise Tax Measured by 25 Per Cent of Their Net Worth at the Same Rates as Other Corporations. In the Alternative, Such Corporations May Elect to Be Taxed Under Section 5(b) as It Is Proposed to Be Amended.

MINORITY REPORT

MARCH 17, 1947.

His Excellency, Governor Alfred E. Driscoll, and Members of the One Hundred Seventy-first Legislature:

I submit herewith a minority report. This report is the same as a memorandum which I addressed to the Governor at his request.

I am of the belief that the present taxing statutes are ineffective and have not been enforced. In this memorandum, which is the minority report, I have pointed out how a uniform equitable taxing system can be enacted at a State level of assessment and collection.

In this report I have attempted to set forth a modern method whereby tangible personal property may be taxed with fairness and accuracy; a method which brings, incidentally, additional revenues; a method which will give additional revenue to each municipality; will give relief to those municipalities where it is most needed; *will avoid any new taxes;* will provide relief for real estate and furnish revenue to municipalities to meet increasing costs of municipal services.

I agree with the conclusions of the Commission with respect to Part II thereof as to adjustment in the corporation business tax act.

Respectfully submitted,

JACOB S. GLICKENHAUS.

MEMORANDUM TO GOVERNOR DRISCOLL

I understand that the present plan of the *Commission* is to impose a gross receipts tax at a two mill rate, together with a tax on machinery and equipment, at a rate of one-half of the prevailing local tax, not to exceed average State rate; which taxes are to be substituted for the present tax system; the revenues to be returned to the municipalities where raised to replace the present $28.6 millions now raised on business tangible personal property. This is the plan the *Commission* now proposes.

A "gross receipts" tax, such as recommended by the *Commission,* is an "opening wedge" to the enactment of a general State sales tax or a State income tax. A "gross receipts" tax is in fact a sales or an income tax; applied to service organizations it is an income tax based on gross income; applied to wholesalers, retailers and manufacturers such a "gross receipts" tax is in fact a sales tax. The citizens of New Jersey have too often expressed their disapproval of any form of a sales or income tax, regardless of the name applied to it. The "gross receipts" tax, if enacted into law, will create a sales or income tax under the guise of a mercantile license tax. I remember only too well the pledge, during the last campaign, that no new taxes would be imposed; that particularly sales and income taxes were definitely opposed. I remember, only too well, in the primary campaign the pledge to the people that there would be no sales or income tax, and, vividly, I recall the newspaper advertisements in New York and North Jersey newspapers to the effect that a vote for Hoffman was a vote for a sales or income tax. My memory also recalls that both political parties pledged themselves against any new taxes and particularly against a sales or income tax.

A "gross receipts" tax base is a most unstable base. The statisticians of the *Commission* show that the gross receipts for 1945 are estimated at $12 billion and that the gross receipts in 1939 in New Jersey amounted to the sum of $6 billion. Emphasis is placed on the fact that the 1945 figures constitute an excessively inflated base.

At this point I should like to set forth the results of my own investigation, as an indication of the greatly inflated 1945 gross receipts base and to indicate the instability of such a base. I am using Newark as an example because it is the industrial and mercantile center of New Jersey.

The value of products manufactured in the City of Newark in 1939, according to the Bureau of Census report (page 653 for year 1939), was $426,162,505.00.

The Newark Evening News survey, Chart 302, Section 1, Market, listing the 20 leading cities in order of industrial volume as to the value of manufactured products, lists Newark as twelfth with a value of manufactured products in 1943 of $1,052,620,000.00 and said chart further shows a ratio (1943 to 1939) of 246.8.

"The Newark Market," a publication of the Newark Committee on Economic Development, indicates the following figures with respect to wholesale sales and retail sales in Newark:

Wholesale Sales	*Retail Sales*
1939—$397,832,000	1940—$249,000,000
1943—$715,057,000	1943—$393,000,000

"Sales Management," page 158 (May 1946) gives the following further statistics for Newark:

Wholesale Sales	*Retail Sales*
1945—$805,180,000	1945—$465,317,000

As an example of the "gross receipts" tax being based on an unstable base, I recite the following as applicable to the State of New Jersey:

Value of Products Manufactured in New Jersey

1939—$3,428,947,188.00. (Source, page 621—Report of Bureau of Census.)
1945—$6,800,000,000.00. (Estimate of *Commission.*)

The removal of the present tangible personal property base and the substitution of a new base involving gross receipts will throw an additional heavy tax burden on real estate. Municipal bodies will thereby be restricted to levies against real estate as the sole remaining property from which revenues can be raised. It should be borne in mind that intangibles have been removed from the tax base. The program of the *Commission* will practically remove tangibles from the tax base of municipalities and leave only real estate and recourse to the State by the municipalities as its only revenue raising basis.

County tax rates are based on ratables. Ratables include real and personal property. The removal of the personal property base will result in the cost of county government falling only on real estate ratables, if no compensation is made to counties for removal of that base. In Essex County, for example, removing personal property from the ratables will raise the county tax rate by 11 points, all of which will be borne by real estate.

The *Commission* suggests that municipalities be permitted to impose an "occupancy tax" in lieu of the present personal property tax on household furniture. This tax would be imposed on tenants of dwellings and would be collected as part of the rent. I am unalterably opposed to this. This is a new tax. It is a poor substitute for the present tax. Under the plan I suggest it would be eliminated entirely.

Present trends indicate that the tenants of dwellings may, in the near future, bear an additional rental cost.

I do not see how, under present conditions, we can advocate an "occupancy" tax or any other new tax.

I do believe that the present tax structure can be overhauled, made equitable, placed on a fair basis and made enforceable.

Up to this year, no one could possibly estimate the extent of business tangible personal property in this State. The returns on the "Business Net Worth" tax have, for the first time, provided data upon which a safe estimate can be determined.

In a letter to me under date of February 17, 1947, Mr. James A. Arnold, Jr., statistician for the *Commission,* states as follows:

"The Corporation Tax Bureau has added the tangible personal property items reported in net worth tax returns from corporations with total assets amounting to $100,000 or more. Where an allocation was made, the tangibles in New Jersey were used. All tangibles reported by 100 per cent corporations were used. Results of this tabulation show book values as follows:

Inventory	$1,092 million
Machinery and Equipment	348 million
Other Tangibles	28 million
Total	$1,468 million

In addition, there was a total of all tangible property—land, improvements and personal—amounting to $99 million for which no breakdown was reported. Kingsley has estimated that corporations having total assets less than $100,000 will have tangible personal property totalling about $100 million. This means all corporations together have tangibles with book value totalling something like 1.6 billion. I am testing these estimates against various standards. After inclusion of unincorporated business, the total will probably be something like $2 billion.

Tabulation of corporations which reported book values and assessed values of tangible personal property shows the following results:

(Amounts in Thousands of Dollars)

	Domestic	*Foreign*	*Total*
Number of corporations	5,413	785	6,198
Book value:			
Inventory	$290,504	$197,306	$487,810
Other	179,890	66,237	246,127
Total	$470,394	$263,543	$733,937
Assessed value	171,015	86,502	257,517
Assessment ratio	36.4%	32.8%	35.1%

Audited abstracts of tax ratables released by the State Tax Department (Local Tax Division) show gross personal property ratables as follows:

Household Goods	$174.7 million
Farm Stock and Machinery	10.8 million
Business Inventories	322.0 million
Other Business Tangibles	228.8 million
Total	$736.3 million

We have found discrepancies in these totals for five counties and we are running them down. However, the differences are small and their net effect will be slight.

Rough estimates which have thus far stood several tests indicate that total business gross receipts as we have discussed them now amount to something like $12 billion annually distributed as follows:

Retail Trade	$3 billion
Wholesale Trade	2 billion
Manufacturing	6 billion
All other	1 billion
Total	$12 billion

These data probably do not answer all questions, but they show the framework within which we must work. Following your suggestions today, I will be glad to discuss them with you at your convenience.

Sincerely yours,

James A. Arnold, Jr."

The total business tangibles, therefore, amount to $2 billion on the basis of book values.

The audited abstracts of tax ratables, referred to in Mr. Arnold's letter, indicate the lack of taxation, or uniformity of taxation of these tangibles.

All business tangibles today pay $28.6 million in taxation throughout the State at an average rate of $5.15 per hundred (1946).

A Suggested Approach

(1) Let us start with the figure of $2 billion representing "book values" of business tangibles in the State of New Jersey.

(2) Of this $1.6 billion are reported by corporations.

(3) Of this $400 million are privately or partnership owned.

(4) A rate of $2 per $100 would yield $40 million to replace $28.6 million now collected.

Note: This rate is only set up in order to indicate possibilities of approach.

(5) Due to the fact that exact figures are presently unavailable as to the extent and value of business tangibles in each municipality, a formula whereby additional moneys would be secured by each municipality, can be evolved along these lines:

A. Make compensation to counties for removal of personalty base.

B. Ascertain the proportion that each municipality raised in 1946 on its business tangibles within its confines to the $28.6 million raised throughout the State. For example, if a municipality raised $4 million on its business tangibles, with reference to $28.6 million raised throughout the State, its proportion is approximately 1/7th.

C. Give to each municipality its proportion of the estimated yield under the new plan. Thus, if $40 million is raised under a new plan, the municipality would get 1/7th of $40 million in lieu of 1/7th of $28.6 million.

Third—Each municipality would then receive an increase in revenue under this plan.

(1) This plan, in addition to giving more revenue to each municipality would give relief to those municipalities where it is most needed.

(2) The rate fixed would be a State rate and remove competition on tax rates among the municipalities.

(3) The plan could be predicated on "true values"—allowing the tax commissioner to adopt the "book value" as "true value" unless he thought that "true value" would exceed "book value."

(4) The plan approximates the Ohio Plan. A study of this plan brought forth the following comment by Touche, Niven & Co., who investigated it:

"As a result of the foregoing, we satisfied ourselves that in Cincinnati the net book values of the personal property are actually reported by the taxpayers and, with the exceptions noted, constitute the 'true values' which are assessed values:

"In Ohio tangible property is assessed at 'true value' and taxed at rates varying with the locality. In Cincinnati the rate was $20 per thousand for 1945, which was one of the highest rates in the State."

(5) This plan would avoid any new tax.

(6) It would provide uniform application of the tax in the State.

(7) It would raise additional revenues and would provide relief where most needed.

(8) It would reform, at a State level of assessment and collection, a tax structure which has fallen into decay, and provide a State-wide equitable basis of taxation.

(9) The additional revenues could be applied to the relief of the real estate burden.

(10) It would relieve the State of pressure by municipalities for State aid in cost of education and other services.

I have shown the above as a framework within which a sound tax policy can be erected. There may be many refinements and suggestions offered to make it a more workable plan.

There is no pride of authorship in this plan. I am not the author. Suggestions along this line have been made previously.

Mr. Leo Rosenblum, President, Hudson County Board of Taxation, pages 28-31 (Hearings on Intangible Tax):

"Tangible personal property cannot be assessed properly unless it is administered by a specialized and efficient assessing department. Local assessors cannot do the job and they should be relieved.

"It is suggested that any new intangibles tax law be implemented and protected by a change in our present tangible personal property tax law. It is, therefore, recommended that the State Tax Commissioner also assess all tangible personal property at true value, and at the following rates:

Machinery and equipment	$3 per hundred
Inventory	$2 per hundred."

Mr. John F. O'Brien, Hearings, pages 77-78 and 85:

"It may be well that tangible personal property should also be placed in the hands of the State Tax Commission for more equitable and uniform treatment."

As part of my suggestions, I recommend that the tax on household personalty be abandoned.